

**HB**

**30001**

**(FILE 1)**



*Official Business*

**Twenty-Fifth Alaska Legislature**  
**HOUSE CALENDAR**  
Fourth Special Session - Thirteenth Day  
Monday - July 21, 2008 - 4:00 p.m.

Invocation: Chaplain Designee

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**SECOND READING OF HOUSE BILLS**

**HB 3001**

"An Act approving issuance of a license by the commissioner of revenue and the commissioner of natural resources to TransCanada Alaska Company, LLC and Foothills Pipe Lines Ltd., jointly as licensee, under the Alaska Gasline Inducement Act; and providing for an effective date."

**BILL CARRIES OVER TO FOURTH SPECIAL SESSION**  
**PENDING RULES REPORT**

**P. 3178**

# STATE OF ALASKA



## *Executive Proclamation by Sarah Palin, Governor*

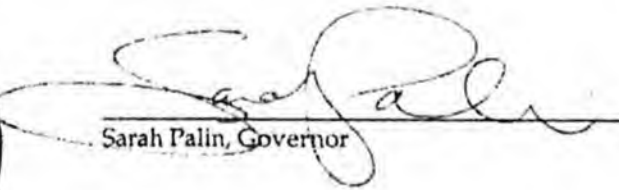
Under the authority of art. II, sec. 9, and art. III, sec. 17, of the Alaska Constitution, and in the public interest, I call the Twenty-Fifth Legislature of the State of Alaska into its third special session at Juneau, Alaska in the legislative chambers on June 3, 2008 at 5:00 p.m. to consider the following subject:

any action taken by the commissioner of natural resources and the commissioner of revenue under AS 43.90, the Alaska Gasline Inducement Act.

Dated at Juneau, Alaska this 28<sup>th</sup> day of March, 2008.

Done by:



  
Sarah Palin, Governor

SARAH PALIN  
GOVERNOR  
GOVERNOR@GOV.STATE.AK.US



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STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

June 3, 2008

The Honorable John Harris  
Speaker of the House  
Alaska State Legislature  
State Capitol, Room 208  
Juneau, AK 99801-1182

Dear Speaker Harris:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that provides for the approval of the license proposed to be issued by the commissioner of the Department of Natural Resources and the commissioner of the Department of Revenue under the Alaska Gasline Inducement Act (AGIA), AS 43.90.

In May 2007, AGIA was passed by the Alaska State Legislature with a nearly unanimous vote. The purpose of AGIA, as stated in AS 43.90.010, is to encourage expedited construction of a natural gas pipeline that:

- facilitates commercialization of North Slope gas resources in the state;
- promotes exploration and development of oil and gas resources on the North Slope in the state;
- maximizes benefits to the people of the state from the development of oil and gas resources in the state; and
- encourages oil and gas lessees and other persons to commit to ship natural gas from the North Slope to a gas pipeline system for transportation to markets in this state or elsewhere.

AGIA meets this purpose through provisions establishing an Alaska Gasline Inducement Act license and the state's terms for maximizing benefits to the people of Alaska during and after pipeline construction.

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In exchange for meeting the state's requirements, the successful AGIA license applicant is entitled to certain inducements that will facilitate project development. An AGIA license entitles the licensee up to \$500 million in state matching funds for qualified expenditures to offset some of the initial risk borne by the project developer. AGIA also provides for an AGIA coordinator and expedited project review and action by state agencies.

AGIA also provides for "resource inducements" to encourage North Slope oil and gas producers to commit gas for shipment on the pipeline. An oil and gas leaseholder that commits to ship gas in the pipeline in the first binding open season will be entitled to favorable changes to the state's royalty valuation method and a freeze on gas tax rates for the gas shipped through firm transportation contracts acquired during the first binding open season; the tax freeze may be applied within ten years following commencement of commercial operations.

In accordance with AS 43.90.120, on July 2, 2007, the commissioner of the Department of Revenue and the commissioner of the Department of Natural Resources (commissioners) commenced a public process to request applications for an AGIA license. Five applications were received in response to the request for applications (RFA). Under AS 43.90.140, the commissioners reviewed each application to determine whether it was consistent with the terms of the RFA and met the requirements listed in AS 43.90.130.

On January 4, 2008, the commissioners determined the application submitted by TransCanada Alaska Company, LLC and Foothills Pipe Lines, Ltd., (TC Alaska) met the requirements for completeness under AGIA. The application submitted by TC Alaska satisfied all the mandatory requirements in the statute and the application was eligible for further evaluation to determine whether the project would sufficiently maximize the benefits to the people of the state to merit issuance of a license under AGIA.

The commissioners provided notice and a 60-day public comment period for the complete application as required by AGIA. In accordance with AS 43.90.160, the commissioners published notice on January 4, 2008, inviting public comment on TC Alaska's application to build a natural gas pipeline under the terms of AGIA. The 60-day public comment period ended March 6, 2008. More than 300 comments were received.

AGIA requires the commissioners to issue a determination with written findings if they determine that a proposed natural gas pipeline project "will sufficiently maximize the benefits to the people of this state and merits issuance of a license under this chapter..." AS 43.90.180(a).

In accordance with AS 43.90.170, the commissioners fully evaluated TC Alaska's application to determine whether TC Alaska's proposed project would maximize the benefits to Alaskans and merited issuance of the AGIA license. To aid the evaluation, the commissioners compared TC Alaska's proposed project with liquefied natural gas (LNG) project options. The commissioners also compared the TC Alaska project to an alternative overland project recently announced by BP and ConocoPhillips, commonly known as the Producer Project.

Following this extensive evaluation process and consideration of public comments, the commissioners determined that the natural gas pipeline project proposed by TC Alaska sufficiently maximizes benefits to the people of this state and merits issuance of an AGIA license.

In accordance with AS 43.90.180, on May 27, 2008, the commissioners issued a determination, with written findings addressing the basis for the determination. The commissioners also published notice of intent to issue an AGIA license, and today forwarded the notice along with the findings, supporting documentation, and the determination to the presiding officers of each house of the Legislature.

The commissioners findings regarding the TC Alaska proposal included the following:

- Alaskans will benefit from TC Alaska having committed to regularly expand its pipeline to meet demand for additional capacity on reasonable commercial terms, which is essential to opening the North Slope to competitive natural gas exploration and development;
- Alaskans will benefit from short-term construction jobs and from long-term careers as new natural gas fields are developed because the path to market has been built;

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- Alaskans will benefit from TC Alaska having committed to tariff structure requirements of AGIA that are designed to ensure the lowest possible tariffs, that maximize state revenues, that provide true open access to all potential shippers, and that accommodate expansions;
- Alaskans will benefit from the opportunity that the TC Alaska project creates for a "Y line" liquefied natural gas project and the "bullet line" to Southcentral Alaska;
- Alaskans will benefit from the potential for lower energy costs as natural gas is made available to communities throughout Alaska through offtake points along the pipeline route and spur lines;
- Alaskans will benefit from TC Alaska's proposed distance-sensitive rates, which ensure that Alaskans will pay just the costs incurred to ship gas from the North Slope to one of the five off-take points within Alaska;
- Alaskans will benefit from TC Alaska's project plan being reasonably likely to succeed, in that it is technically reasonable, feasible, and specific and includes (1) the use of technology that TC Alaska is now using to operate pipelines in climates similar to Alaska's, and (2) an obtainable schedule for regulatory approval in Canada;
- Alaska will benefit from TC Alaska's proposed commercial terms being reasonable and likely to attract commitments for shipments of natural gas during the first open season; and
- The TC Alaska project will generate more long-term jobs than either a liquefied natural gas (LNG) option or the Producer Project, because of TC Alaska's commitments to expansion and real open access that will open the North Slope basin to competition.

Upon receipt of the commissioners findings and determination, AS 43.90.190(a) calls for the rules committee of each house of the Legislature to introduce a bill "in the committee's respective chamber that provides for the approval of the license proposed to be issued by the commissioners." In accordance with this statute, I am transmitting for the Legislature's consideration, a bill that, if passed by the Legislature within 60 days of the presiding officers' receipt of the commissioners' findings and determination, will approve the issuance of the AGIA license proposed by the commissioners to TC Alaska.

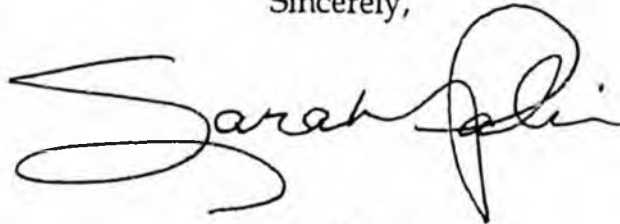
The Honorable John Harris  
June 3, 2008  
Page 5

The proposed license is an integrated document that incorporates all provisions, terms, conditions, contingencies, obligations, rights, and requirements of AGIA, the RFA, and TC Alaska's application.

Issuance of the AGIA license to TC Alaska will greatly enhance Alaska's chances to commercialize the vast natural gas resources on Alaska's North Slope through the construction of a gas pipeline, and to do it in a way that protects the interests of Alaska and the nation, now and well into the future.

I urge your prompt and favorable action on the bill.














Sincerely,

A handwritten signature in black ink, appearing to read "Sarah Palin". The signature is fluid and cursive, with a large initial "S" and a distinct "P" at the end.

Sarah Palin  
Governor

Enclosure

**House or Senate Minutes/Recordings**Bill : **HB3001**Dates: **01/01/1981 to 12/01/2080**

06/04/2008 9:03 AM House RULES	<a href="#">Minutes</a>  <a href="#">Audio</a>
06/04/2008 10:03 AM House RULES	<a href="#">Minutes</a>  <a href="#">Audio</a>
06/04/2008 10:03 AM Senate SENATE SPECIAL COMMITTEE ON ENERGY	<a href="#">Minutes</a>  <a href="#">Audio</a>
06/05/2008 9:03 AM House RULES	<a href="#">Minutes</a>  <a href="#">Audio</a>
06/05/2008 9:03 AM Senate SENATE SPECIAL COMMITTEE ON ENERGY	<a href="#">Minutes</a>  <a href="#">Audio</a>
06/08/2008 1:06 PM House RULES	<a href="#">Minutes</a>  <a href="#">Audio</a>
06/08/2008 1:06 PM Senate SENATE SPECIAL COMMITTEE ON ENERGY	<a href="#">Minutes</a>  <a href="#">Audio</a>
06/12/2008 10:03 AM House RULES	<a href="#">Minutes</a>  <a href="#">Audio</a>
06/12/2008 10:03 AM Senate SENATE SPECIAL COMMITTEE ON ENERGY	<a href="#">Minutes</a>  <a href="#">Audio</a>
06/16/2008 9:19 AM House RULES	<a href="#">Minutes</a>  <a href="#">Audio</a>
06/16/2008 9:19 AM Senate SENATE SPECIAL COMMITTEE ON ENERGY	<a href="#">Minutes</a>  <a href="#">Audio</a>
06/26/2008 1:01 PM House RULES	<a href="#">Minutes</a>  <a href="#">Audio</a>
06/26/2008 1:01 PM Senate SENATE SPECIAL COMMITTEE ON ENERGY	<a href="#">Minutes</a>  <a href="#">Audio</a>

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## Alaska State 25th Legislature Third Special Session Documents

Third Special Session Supporting Documents as presented on a daily basis.

If you have questions, please call the Legislative Information Office at 907-465-4648.

Date	Document
June 3rd, 2008	3rd Special Session Proclamation.pdf
June 4th, 2008	060408 LBA Econ One.pdf
June 4th, 2008	060408 LBA Muse Stencil - Impact Final Assessment.pdf
June 5th, 2008	060508 LBA Dickinson License Determination.pdf
June 6th, 2008	060608 AGIA Statute & RFA Refresher Special Session Joint Committee.pdf
June 6th, 2008	060608 TransCan AGIA Application Special Session Joint Committee.pdf
June 7th, 2008	060708 USGS (Long Version) Natural Gas Expl. Potential Special Session Joint Committee.pdf
June 7th, 2008	060708 USGS Natural Gas Expl. Potential Special Session Joint Committee.pdf
June 8th, 2008	060608 AGIA Training Strategic Plan Special Session Joint Committee.pdf
June 8th, 2008	060608 Short & Long Term Employment Special Session Joint Committee.pdf
June 8th, 2008	060808 Legal Issues Affecting Prod. Participa. Special Session Joint Commi'tee.pdf
June 9th, 2008	060908 AGIA Incentives & Mandates Special Sessin Joint Committee.pdf
June 9th, 2008	060908 Challenges Alaskan LNG Special Session Joint Session.pdf
June 9th, 2008	060908 FERC Letter.pdf
June 9th, 2008	060908 LNG NPV Analysis Special Session Joint Committee.pdf
June 9th, 2008	060908 Prod. Incentives to Expand Special Session Joint Committee.pdf
June 10th, 2008	061008 Analysis of Project Costs Etc. Special Session Joint Committee.pdf
June 10th, 2008	061008 FERC Press Release.pdf
June 10th, 2008	061008 Financial Review of TC & Proposal Special Sesson Joint Committee.pdf
June 10th, 2008	061008 LNG NPV Analysis Special Session Joint Committee.pdf
June 10th, 2008	061008 LNG Project Costs & Schedule Special Session Joint Committee.pdf
June 10th, 2008	061008 Net Present Value Analysis special Session Joint Committee.pdf
June 12th, 2008	061208 AGPA Fairbanks Special Session Joint Committee.pdf
June 12th, 2008	061208 AK Nat Gas Needs & Market 2008 Special Session Joint Session.pdf
June 12th, 2008	061208 ANGDA Fairbanks Special Session Joint Committee.pdf
June 12th, 2008	061208 Enstar Fairbanks Special Session Joint Committee.pdf
June 13th, 2008	061308 AGIA Training Strategic Plan Special Session Joint Committee.pdf
June 13th, 2008	061308 AGIA Written Findings & Summary May 2008 Special Session Joint Committee.pdf
June 13th, 2008	061308 DOT Infrastructure Improvements Needed Special Session Joint Committee.pdf
June 13th, 2008	061308 Employment Modeling Special Session Joint Committee.pdf
June 13th, 2008	061308 Explorer View Gas Pipeline Special Session Joint Committee.pdf
June 14th, 2008	061408 AGIA Fairbanks Summary Special Session Joint Committee.pdf
June 14th, 2008	061408 TransCan Statewide Hearing Presenta. for Special Session Joint Committee.pdf
June 16th, 2008	061608 FERC Process Special Session Joint Hearing.pdf
June 16th, 2008	061608 Denali Project FERC Letter Special Session Joint Committee.pdf
June 16th, 2008	061608 RCA Special Session Joint Committee.pdf
June 17th, 2008	061708 AOGCC Cathy Foerster Testimony Special Session Joint Committee.pdf
June 17th, 2008	061708 BP Written Testimony on Pt. Thomson Special Session Joint Committee.pdf
June 17th, 2008	061708 Chevron Pt. Thomson Special Session Joint Committee.pdf
June 17th, 2008	061708 AOGCC Allowable Gas Offtake Prudhoe Bay Special Session Joint C ommittee.pdf
June 17th, 2008	061708 AOGCC North Slope Gas Sales Special Session Joint Committee.pdf
June 17th, 2008	061708 AOGCC Pool Rules for Pt. Thomson Field Special Session Joint Co mmittee.pdf

June 17th, 2008	<u>061708 Appendix to Pt. Thomson Res. Assess. DNR Special Session Joint Committee.pdf</u>
June 17th, 2008	<u>061708 DNR Glossary of Oil &amp; Gas Terms Special Session Joint Committee.pdf</u>
June 17th, 2008	<u>061708 ExxonMobil Pt. Thomson Special Committee Joint Hearing.pdf</u>
June 17th, 2008	<u>061708 Nan Thompson - Div. O&amp;G Pt. Thomson Remarks Special Sesion Joint Committee.pdf</u>
June 17th, 2008	<u>061708 Pt. Thomson Resource Assessment - DNR Special Session Joint Committee.pdf</u>
June 17th, 2008	<u>061708 Pt Thomson Unit Map Special Session Joint Committee.pdf</u>
June 18th, 2008	<u>061808 Black &amp; Veatch - Methodology Utilized Special Session Joint Committee.pdf</u>
June 18th, 2008	<u>061808 Black &amp; Veatch Net Present Value Special Session Joint Committee.pdf</u>
June 18th, 2008	<u>061808 DNR &amp; PetroTel Response to Questions Special Session Joint Committee.pdf</u>
June 18th, 2008	<u>061808 DNR High Pressure Gas ReInjection Special Session Joint Committee.pdf</u>
June 18th, 2008	<u>061808 Gov Hickel Remarks Special Session Joint Committee.pdf</u>
June 19th, 2008	<u>061908 FERC Press Release on TAPS Tariff Special Session Joint Committee.pdf</u>
June 19th, 2008	<u>061908 Summary of Comm. Findings &amp; Determin. Special Session Joint Committee.pdf</u>
June 19th, 2008	<u>061908 TransCan Statewide Hearing Presenta. for Special Session Joint Committee.pdf</u>
June 20th, 2008	<u>062008 ANGDA Changes to RCA statues on in-state open season Special Session Joint Committee.pdf</u>
June 20th, 2008	<u>062008 ANGDA It's the Open Season Special Session Joint Committee.pdf</u>
June 20th, 2008	<u>062008 ANRTL Gas to Liquids Special Session Joint Committee.pdf</u>
June 20th, 2008	<u>062008 EconOne Potential LNG Project Special Session Joint Committee.pdf</u>
June 20th, 2008	<u>062008 Enstar Special Session Joint Committee.pdf</u>
June 20th, 2008	<u>062008 SAIC AK Natural Gas Needs Special Session Joint Committee.pdf</u>
June 20th, 2008	<u>062008 SAIC AK Natural Gas Needs Updated Special Session Joint Committee.pdf</u>
June 20th, 2008	<u>062008 AK Gasline Port Authority Special Session Joint Committee.pdf</u>
June 24th, 2008	<u>062408 AGIA Summary, Findings &amp; Determination Special Session Joint Committee.pdf</u>
June 24th, 2008	<u>062408 TransCan Statewide Hearing Presenta. for Special Session Joint Committee.pdf</u>
June 26th, 2008	<u>062608 AGIA Summary, Findings &amp; Determination Special Session Joint Committee.pdf</u>
June 26th, 2008	<u>062608 TransCan Statewide Hearing Presenta. for Special Session Joint Committee.pdf</u>
July 1st, 2008	<u>070108 AGIA Summary, Findings &amp; Determination Special Session Joint Committee.pdf</u>
July 1st, 2008	<u>070108 TransCan Statewide Hearing Presenta. for Special Session Joint Committee.pdf</u>
July 8th, 2008	<u>070808 AGIA Summary, Findings &amp; Determination Special Session Joint Committee.pdf</u>
July 8th, 2008	<u>070808 TransCan Statewide Hearing Presenta. for Special Session Joint Committee.pdf</u>
July 9th, 2008	<u>070908 AK Gasline Port Authority Special Session Joint Committee.pdf</u>
July 9th, 2008	<u>070908 Point Thomson Unit Agreement Section 21 Special Session Joint Committee.pdf</u>
July 9th, 2008	<u>070908 Pt Thomson S. Porter LB&amp;A Consultant Special Session Joint Committee.pdf</u>
July 10th, 2008	<u>071008 CBI Mediation Presenta. Special Session Joint Committee.pdf</u>
July 10th, 2008	<u>071008 Denali Project Special Session Joint Committee.pdf</u>
July 10th, 2008	<u>071008 Exxon Mobil Special Session Joint Committee.pdf</u>
July 10th, 2008	<u>071008 Exxon Mobil Written Testimony Special Session Joint Committee.pdf</u>

July 10th, 2008	<a href="#">071008 Kalt Report provided by Exxon Mobil to Special Session Joint Committee.pdf</a>
July 10th, 2008	<a href="#">071008 TransCan. Alaska Pipeline Workforce Plan Special Session Joint Committee.pdf</a>
July 13th, 2008	<a href="#">071308 Bennett Jones Report Special Session Joint Committee.pdf</a>
July 13th, 2008	<a href="#">071308 Keith Bergner Bio Special Session Joint Committee.pdf</a>
July 13th, 2008	<a href="#">071308 Lawson Lundell The Crown's Duty to Consult &amp; Accommodate Special Session Joint Hearing.pdf</a>
July 13th, 2008	<a href="#">071308 Lawson Lundell The Duty to Consult What Does it Mean to Project Special Session Joint Committee.pdf</a>
July 14th, 2008	<a href="#">071408 APEGGA Letter to TransCan. Handout at Special Session Joint Committee.pdf</a>

For additional information, including correspondence with consultants, memos, and other work documents provided to the Legislature, go to [Legislative Budget and Audit Committee](#), click on Gasline Proposals, then click on Gasline Document Logs.

Send questions and comments to [Webmaster](#).





**ALASKA STATE LEGISLATURE**  
**HOUSE RULES COMMITTEE**  
**REPRESENTATIVE JOHN COGHILL, CHAIRMAN**  
State Capitol Juneau, AK 99801-1182 (907) 465-3719  
1292 Sadler Way, Fairbanks AK 99701 (907) 456-5081

Date: July 14, 2008  
To: Suzi Lowell, Chief Clerk  
From: Representative John Coghill, Chairman *John Coghill*  
House Rules Committee  
Re: House Rules Committee Meeting Notice

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The following meeting is scheduled:

**Monday, July 21<sup>st</sup>** - 2:00 p.m. Room 120 State Capitol

**HB 3001** "An Act approving issuance of a license by the commissioner of revenue and the commissioner of natural resources to TransCanada Alaska Company, LLC and Foothills Pipe Lines Ltd., jointly as licensee, under the Alaska Gasline Inducement Act; and providing for an effective date."

AMENDMENT #1

OFFERED IN THE HOUSE  
TO: HB 3001

BY REPRESENTATIVE <sup>Johnson</sup>~~REYNOLDS~~

1 Page 1, line 1, following "Act":

2 Insert "relating to the extension of inducements to a natural gas pipeline project  
3 that would transport natural gas from the North Slope to a market in the state ~~or for~~  
4 ~~export from the state by marine transportation;~~"

5

6 Page 1, following line 5:

7 Insert a new bill section to read:

8 "\* Section 1. AS 43.90.440(a) is amended to read:

9 (a) Except as otherwise provided in this chapter, the state grants a licensee  
10 assurances that the licensee has exclusive enjoyment of the inducements provided  
11 under this chapter before the commencement of commercial operations. If, before the  
12 commencement of commercial operations, the state extends to another person  
13 preferential royalty or tax treatment or grant of state money for the purpose of  
14 facilitating the construction of a competing natural gas pipeline project in this state  
15 other than a natural gas pipeline project that is wholly within the state and  
16 transports natural gas to a market in the state ~~or for export from the state by~~  
17 marine transportation, and if the licensee is in compliance with the requirements of  
18 the license and with the requirements of state and federal statutes and regulations  
19 relevant to the project, the licensee is entitled to payment from the state of an amount  
20 equal to three times the total amount of the expenditures incurred and paid by the  
21 licensee that are qualified expenditures for the purposes of AS 43.90.110 that the  
22 licensee incurred in developing the licensee's project before the date that the state first  
23 extended preferential treatment to another person. The payment under this subsection

1 is subject to appropriation. Upon payment by the state of the amount owed under this  
2 section, the licensee shall, at no additional cost to the state, assign to the state or the  
3 state's designee all engineering designs, contracts, permits, and other data related to  
4 the project that were acquired by the licensee during the term of the license. The  
5 payment under this subsection is in full satisfaction of all claims the licensee may  
6 bring in contract, tort, or other law related to the events that gave rise to the payment."

7

8 Page 1, line 6:

9 Delete "Section 1"

10 Insert "Sec. 2"

11

12 Renumber the following bill section accordingly.

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

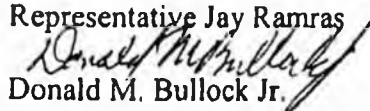
State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

July 14, 2008

**SUBJECT:** Amending the assurances to a licensee after a proposed licensee has been recommended by the commissioners (Amendment to HB 3001; Work Order No. 25-GH3055\A.2)

**TO:** Representative Jay Ramras

**FROM:**   
Donald M. Bullock Jr.  
Legislative Counsel

Enclosed is the amendment you requested that alters the assurances the state offered to proposed licensees when the request for applications was issued by the commissioner of revenue and the commissioner of natural resources (together, "commissioners") under AS 43.90.120. Please read this amendment carefully to ensure that it is consistent with your intent.

Under AS 43.90.190, the power of the legislature after receiving a determination that a proposed license should be issued is limited to either approving or disapproving the issuance. If the legislature nevertheless changes the terms and conditions under which the original license applications were solicited, a court could find that the proposed licensee has been deprived of its right to due process.<sup>1</sup> There is also the risk, under the separation of powers doctrine,<sup>2</sup> that the commissioners may nevertheless issue the license under the terms of AGIA as originally enacted, with or without legislative approval of the proposed project being considered by the legislature.

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<sup>1</sup> A change in the requirements for a license at this point has an effect that goes back to the commissioners' request for applications. Had the change been incorporated in the initial request for applications, there could have been a difference in who applied for the license and the nature of the proposed projects. Although the applicants were required to waive the right to appeal the issuance of a license to another applicant under AS 43.90.130(16), it is my opinion that if the process and requirements for the license are changed by the legislature, the courts would consider a constitutionally-based challenge to the process.

<sup>2</sup> The doctrine of separation of powers between the executive and legislative branches is based on the constitutional allocation of power in art. II, sec. 1, and art. III, sec. 1, Constitution of the State of Alaska.

You may wish to consider a conditional effective date or applicability for the proposed amendment. Should you choose to make the change in the assurances effective or applicable only if the legislature fails to approve the issuance of the license proposed by the commissioners, the risk of a due process challenge may be diminished.

**The effect of an amendment to AGIA.**

There is no authority within AS 43.90 for the legislature to do anything with regard to a license proposed to be issued by the commissioners other than to approve or disapprove the issuance of the license. AS 43.90.190(a) requires the rules committee in each house of the legislature to "introduce a bill in the committee's respective chamber that provides for the approval of the license proposed to be issued by the commissioners." Two things are particularly noteworthy in this mandate. First, the bill is to provide for the *approval* of the license, and not a bill "relating to the issuance of a license"; if the bill passes, AS 43.90.190(b) requires the commissioners to "issue the license as soon as practicable after the effective date of the Act approving the issuance of the license." Second, the issue before the legislature is the "approval of the license proposed to be issued by the commissioners," not some other license or variation. Rhetorically, if the legislature tries to change the terms and conditions, including changing the assurances, is the bill that passes the "license proposed to be issued by the commissioners," or a different license?

A bill amending AGIA would also be subject to the governor's veto. Under AS 43.90.190(b), the commissioners are required to issue the contract as soon as possible after the effective date of the Act approving the license. If a bill amending AGIA becomes law, it may be challenged and the changes to AGIA severed from the approval; if the bill is vetoed, there is the possibility that the commissioners could proceed to issue the contract under the terms of AGIA as originally enacted, and defend their action under the separation of powers doctrine described below.

**Due process issues raised by a change in the assurances.**

This amendment raises an issue under the due process clauses in art. I, sec. 7 of the state constitution and amendment V of the U.S. constitution. A court could find that the change in assurances is material and deprives the licensee of the right to due process.

The proposed change to the assurance provision may be interpreted by the proposed licensee to increase the risk that there would be insufficient North Slope gas to make a pipeline project that crosses the border with Canada economical. The change comes after the commissioners requested applications, various persons considered or applied for the license, proposed projects were designed, and the commissioners submitted a proposed licensee to the legislature for approval. If the amendment is adopted, the licensee (the proposed licensee at this point) should be given the opportunity to withdraw its application.

**Separation of powers – the potential for issuing a license without legislative approval or without the change to the assurances offered by the amendment.**

When it comes to legislative approval of executive branch contracts, and the license under AGIA is a contract, the Attorney General's office has long held that legislative approval is a violation of the separation of powers. The Attorney General's office stated its views quite plainly in the following excerpt from a 1981 informal opinion:<sup>1</sup>

In approving individual contracts, the legislature does not exercise a lawmaking function. Consequently, in the absence of a constitutional grant of such power or some unique circumstance that we cannot presently contemplate, a statute requiring legislative approval of an individual contract is a violation of the separation of powers. See *Chadha v. Immigration and Naturalization Service*, 634 F.2d 408 (9th Cir. 1980). In *Public Defender Agency v. Superior Court, Third Judicial District*, 534 P.2d 947 (Alaska 1975), the Alaska Supreme Court held that the doctrine of separation of powers, though not expressly set out in the Alaska Constitution, is clearly implied. See also Minutes of the Alaska Constitutional Convention 1955-56, at 2228-29. Furthermore, the court has expressly recognized that it was a purpose of the framers of the Alaska Constitution to create a strong executive branch of government. *Bradner v. Hammond*, 553 P.2d 1 (Alaska 1976).

The separation of powers issues arises under art. III, sec. 1 (powers of the governor), and art. II, sec. 1 (powers of the legislature), Constitution of the State of Alaska. A governor may waive the separation of powers and involve the legislature in a process to which the legislature would otherwise be excluded but the governor's mind may change. Such was the case in *Bradner v. Hammond*, wherein the court noted in a footnote:<sup>4</sup>

The attorney general candidly admitted at oral argument that examination of practice between the legislative and executive branches since statehood indicates that the executive has at least acquiesced to legislative confirmation of certain subcabinet officials. However, he argued that the political reality of a legislature dominated by the same party as that of the governor, as well as the minor interference such intervention created,

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<sup>1</sup> 1981 Inf. Alaska Atty. Gen. Op. (file no. J66-159-82), November 3. The Attorney General's office has reiterated this position at least two other times in opinions. See 1985 Inf. Alaska Atty. Gen. Op. (file no. 166-065-86), August 13, and 1987 Inf. Alaska Atty. Gen. (file no. 663-88-0094), September 17 (noting "the position of the Department of Law has consistently been that such requirements of legislative approval are unconstitutional as a violation of the doctrine of separation of powers").

<sup>4</sup> 553 P.2d 1, 5 n. 5 (Alaska 1976).

indicates that the executive stance in the past should not be read as a "constitutional interpretation by a coordinate branch of government," but rather as a product of a realistic ordering of executive goals at the time.

Despite the precedence of governors submitting subcabinet appointments to the legislature for confirmation, when the issue was presented to the court of whether confirmation was required under the state constitution, the court found that the executive could make those appointments without legislative confirmation.

With regard to AGIA, Governor Palin wanted the legislature to participate in the process leading to the issuance of a license and appears to have initially waived the constitutional power to enter into a contract without legislative confirmation. In the AGIA bills introduced at the request of the governor -- HB 177 and SB 104 -- the governor proposed that the legislature could stop the issuance of a license. In both bills, the proposed AS 43.90.200(a) and (b) described the legislative involvement as follows:

**Sec. 43.90.200. Legislative action; issuance of license.** (a) A determination and notice of intent to issue a license under AS 43.90.190 is a final agency action, effective under this chapter on the 30th legislative day after the date of referral to the legislature, unless the notice of intent is disapproved by joint resolution of the legislature. After the determination and notice of intent are effective under this subsection, the commissioners may issue the license under this chapter.

(b) If the legislature disapproves the notice of intent to issue a license before the 30th legislative day after referral, the commissioners may commence another public process under AS 43.90.130 to request applications.

In the initial proposal for legislative involvement, the legislature could stop the issuance of a license by passing a joint resolution; if the legislature did nothing, the commissioners could issue the license. In other words, the legislature had only "red light" power -- only the power to stop the license.

As consideration of the legislation progressed, legislative involvement was changed from being able to stop the issuance of a license, by passing a joint resolution, to requiring the legislature to approve the issuance of a license in the form of a bill. The change in vehicle from a joint resolution to a bill was required because the legislature would or will be taking action that has a binding effect on those outside of the legislature.<sup>5</sup> Thus the

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<sup>5</sup> See, *State v. A.L.I.V.E. Voluntary*, 606 P.2d 769, 773 (Alaska 1980) (when the legislature wishes to act in an advisory capacity it may act by resolution; however, when it means to take action having a binding effect on those outside the legislature it may do so only by following the enactment procedures).

legislative power was changed from "red light" to "green light" -- the ultimate power to go forward with the license became contingent upon legislative approval.

While it may be argued that the authority for the executive to issue a license under AGIA as originally enacted is not fully granted until the proposed license is approved by the legislature, there may still be a challenge to this approach under the separation of powers doctrine. Should the commissioners issue the license without legislative approval or without the change in assurances offered by your amendment, and the legislature or another party challenges the license, the commissioners could argue that issuing a license that is consistent with the original statutory requirements (other than the requirement of legislative approval) is authorized by the constitution under the separation of powers doctrine. If, after the contract has been implemented, a court finds the commissioners' argument persuasive, art. I, sec. 15, Constitution of the State of Alaska, would prohibit the legislature from passing a law that impairs the obligation of that contract by trying to change the terms of the license.

In the course of considering whether the executive has the power to issue the license without legislative approval, the court may also address whether the legislative approval in AS 43.90.190 is unconstitutional. Despite the severability provision in AGIA,<sup>6</sup> the court could find that the legislative approval requirement was such an integral part of the intent of the legislature in enacting AGIA that the requirement could not be severed.<sup>7</sup> However, given the elaborate requirements for the qualification of a licensee, the duties of the executive to solicit and evaluate proposed pipeline projects, and the enactment of a severability clause (as opposed to relying on the generally applicable severance clause in

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<sup>6</sup> Sec. 8, ch. 22, SLA 2007.

<sup>7</sup> The court discussed legislative intent for an Act and the severability of a provision of that Act in *Alaskans for a Common Language, Inc. v. Kritz* as follows:

[T]he court's severance powers are restrained by the same constraints that fence its powers to adopt limiting constructions: "If a court finds a statute or portions of it unconstitutional, it has the power to strike it down or sever the invalid portion. It does not have the power to redraft the statute as that is the province of the legislature." *Thus, not only must the remaining portion of a severed statute be "valid as a law by itself," but it must also "give effect to the apparent intention of the legislature" that enacted the original provision.* Just as a court must do when it considers adopting a narrowing construction, a court contemplating severance must initially determine that "severing the invalid portion will not do violence to the intent of the legislature." If the court determines instead that "by sustaining only a part of a statute, the purpose of the act is changed or altered, the entire act is invalid."

170 P.3d 183, 219 (Alaska 2007) (emphasis added) (citations omitted).

Representative Jay Ramras

July 14, 2008

Page 6

AS 01.10.030), it is likely that the court would sever the legislative approval provision and uphold the remainder of the Act.

**Conclusion**

AGIA is a law like any other law subject to amendment and revision by the legislature. However, you should carefully consider the constitutional implications of a material amendment to the terms and conditions required by AGIA and the risk that a license may nevertheless be issued without the amendments under the doctrine of separation of powers.

Making the proposed amendment conditioned upon the rejection of the proposed license being considered by the legislature may reduce the risk of a due process challenge. The change would be effective if new license applications are solicited.

If I may be of further assistance, please advise.

DMB:ljw  
08-295.ljw

Enclosure

AMENDMENT #2

OFFERED IN THE HOUSE

BY REPRESENTATIVE SAMUELS

TO: HB 3001

1 Page 1, line 3, following "Act;":

2 Insert "prohibiting the commissioner of natural resources from issuing a state  
3 lease for a right-of-way for a natural gas pipeline project that has not been issued a  
4 certificate of public convenience and necessity;"

5

6 Page 1, following line 5:

7 Insert new bill sections to read:

8 **\*\* Section 1. AS 38.35.015 is amended to read:**

9 **Sec. 38.35.015. Powers of the commissioner.** The commissioner has all  
10 powers necessary and proper to implement the policy, purposes, and provisions of this  
11 chapter, so as to subserve, as the exercise of reasoned discretion determines, the public  
12 interest, convenience, and necessity, including but not limited to

13 (1) granting leases of state land for pipeline right-of-way purposes,  
14 except that a lease for right-of-way purposes for a natural gas pipeline may not  
15 be granted before that pipeline has received a certificate of public convenience  
16 and necessity from the Regulatory Commission of Alaska or the Federal Energy  
17 Regulatory Commission, as appropriate;

18 (2) leasing, purchasing, or otherwise acquiring (including condemning  
19 by declaration of taking) easements or other interests in land in this state for the  
20 purpose of utilizing or granting leases of the land, easements, or interests for pipeline  
21 right-of-way purposes;

22 (3) purchasing interests in pipelines in accordance with options  
23 included in right-of-way leases;

1 (4) investigating any matters concerning any lessee with a view to  
2 assuring compliance by it with its right-of-way lease, this chapter, and any other  
3 applicable state or federal law;

4 (5) developing from time to time and maintaining a comprehensive  
5 master plan for pipeline transportation development;

6 (6) developing and promoting programs to foster efficient, economical,  
7 and safe pipeline transportation services in the state;

8 (7) coordinating the activities of the commissioner under this chapter  
9 with the transportation and other relevant activities of other public agencies and  
10 authorities;

11 (8) constructing, extending, enlarging, improving, repairing, acquiring,  
12 operating, or engaging in transportation, service, or sale by any pipeline or providing  
13 fo. these by contract, lease, or other arrangement on those terms that the commissioner  
14 may consider necessary, convenient, or desirable with any agency, corporation, or  
15 person, including but not limited to any carrier or any state agency, when the  
16 commissioner determines that a lessee carrier is not willing to undertake and complete  
17 the action within a reasonable time, and to sell, lease, grant, and dispose of any  
18 property constructed or acquired in the exercise of this power.

19 \* Sec. 2. AS 38.35.100(a) is amended to read:

20 (a) The commissioner shall promptly determine, in a written finding, on an  
21 application filed under AS 38.35.050, whether the applicant is fit, willing, and able to  
22 perform the transportation or other acts proposed in a manner that will be required by  
23 the present or future public interest. In making a determination, the commissioner  
24 shall consider whether or not

25 (1) the proposed use of the right-of-way will unreasonably conflict  
26 with existing uses of the land involving a superior public interest;

27 (2) the applicant has the technical and financial capability to protect  
28 state and private property interests;

29 (3) the applicant has the technical and financial capability to take  
30 action to the extent reasonably practical to

31 (A) prevent any significant adverse environmental impact,

1 including but not limited to erosion of the surface of the land and damage to  
2 fish and wildlife and their habitat;

3 (B) undertake any necessary restoration or revegetation; and

4 (C) protect the interests of individuals living in the general area  
5 of the right-of-way who rely on fish, wildlife, and biotic resources of the area  
6 for subsistence purposes;

7 (4) the applicant has the financial capability to pay reasonably  
8 foreseeable damages for which the applicant may become liable on claims arising  
9 from the construction, operation, maintenance, or termination of the pipeline;

10 (5) the applicant has agreed that, in the construction and operation of a  
11 pipeline within the right-of-way, the applicant will comply with, and require  
12 contractors and their subcontractors to comply with, applicable and valid laws and  
13 regulations regarding the hiring of residents of the state then in effect or that take  
14 effect subsequently; and

15 (6) if the proposed use of the right-of-way is for the construction  
16 and operation of a natural gas pipeline, the applicant has received a certificate of  
17 public convenience and necessity for that pipeline issued by the Regulatory  
18 Commission of Alaska or the Federal Energy Regulatory Commission, as  
19 appropriate.

20 \* Sec. 3. AS 38.35.100(b) is amended to read:

21 (b). If the commissioner makes the determinations under (a) of this section  
22 favorably to the applicant, then the commissioner may grant the whole or part of the  
23 application. If the commissioner makes the determinations under (a)(1) - (5) of this  
24 section favorably to the applicant but determines that the applicant is not then fit,  
25 willing, and able to perform under the application, the commissioner may grant the  
26 application under a conditional lease subject to conditions established by the  
27 commissioner that will ensure that the applicant will, within a prescribed period of  
28 time not exceeding 10 years, establish that the applicant is fit, willing, and able, under  
29 (a) of this section, to perform the transportation or other acts that will be required by  
30 the present or future public interest. An applicant is not entitled to a notice or  
31 authorization to proceed to construction, or its equivalent, under a conditional lease

1           until the commissioner determines in writing that the applicant has satisfactorily  
2           established that the applicant is then fit, willing, and able to perform under (a) of this  
3           section. Otherwise, the commissioner shall deny the application. If the commissioner  
4           finds under (a)(6) of this section that a certificate of public convenience and  
5           necessity has not been issued to the applicant, he commissioner may not grant  
6           the application."

7

8       Page 1, line 6:

9           Delete "Section 1"

10          Insert "Sec. 4"

11

12       Page 1, following line 11:

13          Insert a new bill section to read:

14        "\* Sec. 5. The uncodified law of the State of Alaska is amended by adding a new section to  
15        read:

16                PROVISIONS NOT SEVERABLE. Notwithstanding AS 01.10.030, secs. 1 - 4 of this  
17        Act are not severable."

18

19        Renumber the following bill section accordingly.

AMENDMENT #3

OFFERED IN THE HOUSE  
TO: HB 3001

BY REPRESENTATIVE JOHNSON

1 Page 1, line 3, following "Act;":

2 Insert "prohibiting the reimbursement of qualified expenditures before the  
3 commissioner of natural resources finds that certain gas will be available to the project  
4 on or before the commencement of commercial operations;"

5

6 Page 1, following line 11:

7 Insert new bill sections to read:

8 "\* Sec. 2. The uncodified law of the State of Alaska is amended by adding a new section to  
9 read:

10 AVAILABILITY OF POINT THOMSON GAS BEFORE REIMBURSEMENT OF  
11 QUALIFIED EXPENDITURES. (a) The commissioner of revenue and the commissioner of  
12 natural resources may not reimburse the licensee for qualified expenditures under  
13 AS 43.90.110(a)(1) before the commissioner of natural resources finds that natural gas  
14 produced from the Point Thomson Unit will be available for transportation by the project on  
15 or before the commencement of commercial operations.

16 (b) A dispute between the commissioner of natural resources, the licensee, and the  
17 owners and operators of the Point Thomson Unit over the issue of whether natural gas from  
18 the Point Thomson Unit will be available for transportation by the project on or before the  
19 commencement of commercial operations shall be resolved under AS 44.62.330 - 44.62.630  
20 (Administrative Procedure Act) or other form of alternative dispute resolution agreed to by  
21 the licensee, the owners and operators of the Point Thomson Unit, and the commissioner of  
22 natural resources, in consultation with the attorney general.

23 (c) In this section,

1                   (1) "commencement of commercial operations," "licensee," and "project" have  
2 the meanings given in AS 43.90.900;

3                   (2) "Point Thomson Unit" means the Point Thomson Unit defined by the  
4 Department of Natural Resources on the effective date of this Act.

5       \* Sec. 3. The uncodified law of the State of Alaska is amended by adding a new section to  
6 read:

7                   PROVISIONS NOT SEVERABLE. Notwithstanding AS 01.10.030, secs. 1 and 2 of  
8 this Act are not severable."

9

10       Renumber the following bill section accordingly.

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101


State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

July 21, 2008

**SUBJECT:** Amendment relating to availability of Point Thomson gas  
(Amendment A.6 to HB 3001; Work Order No. 25-GH3055\A.6)

**TO:** Representative Craig Johnson  
Attn: Debbie Higgins

**FROM:**   
Donald M. Bullock Jr.  
Legislative Counsel

Enclosed is the amendment you requested requiring a determination that Point Thomson gas will be available to the project before qualified expenses are reimbursed. Please read this amendment carefully to ensure that it is consistent with your intent.

The amendment includes a nonseverability clause that was added after my discussion with Debbie. If a court were to strike down the provision regarding the availability of Point Thomson gas, the legislative approval of the license would also fail.

If I may be of further assistance, please advise.

DMB:med  
08-314.med

Enclosure

AMENDMENT

#4

OFFERED IN THE HOUSE  
TO: HB 3001

BY REPRESENTATIVE SAMUELS

1 Page 1, line 3, following "Act;":

2 Insert "requiring certain indemnification from TransCanada Alaska Company,  
3 LLC and Foothills Pipe Lines Ltd., jointly as licensee, before the state reimburses  
4 qualified expenditures;"

5  
6 Page 1, following line 11:

7 Insert new bill sections to read:

8 "\*\* Sec. 2. The uncodified law of the State of Alaska is amended by adding a new section to  
9 read:

10 INDEMNIFICATION FOR LIABILITIES TO WITHDRAWN PARTNERS. (a) The  
11 commissioner of revenue and the commissioner of natural resources may not reimburse the  
12 licensee for qualified expenditures under AS 43.90.110(a)(1) before the licensee indemnifies  
13 the state against any loss of revenue because of a liability of the licensee to withdrawn  
14 partners. The indemnification is required regardless of whether the state receives its royalty  
15 share of the production of natural gas in kind or in value. In this subsection, "licensee"  
16 includes the licensee and a successor in interest to the licensee subject to AS 43.90.

17 (b) As soon as practicable after the license is issued, the commissioner of revenue, in  
18 consultation with the commissioner of natural resources and the attorney general, shall

19 (1) review the partnership agreement and other documents associated with the  
20 Alaskan Northwest Natural Gas Transportation Company, commonly referred to a ANNGTC;

21 (2) identify the partners and the successors in interest to the partners in the  
22 Alaskan Northwest Natural Gas Transportation Company;

23 (3) determine the extent of any liability or potential liability of the licensee to

1 each partner or successor to a partner based on any partnership agreement or other agreement  
2 between the partners of the Alaskan Northwest Natural Gas Transportation Company;

3 (4) determine the effect on revenue to the state should the licensee be found  
4 liable to a partner or successor to a partner under the partnership agreement and other  
5 agreements between the partners and their successors in the Alaskan Northwest Natural Gas  
6 Transportation Company; the effect on revenue to the state includes

7 (A) the costs associated with delays in the construction of the project;

8 (B) an effect on the tariff;

9 (C) an effect on the state's taxes and royalties;

10 (D) the effect on a person acquiring an ownership interest in the  
11 project; and

12 (E) other effects on revenue to the state identified by the  
13 commissioner; and

14 (5) determine the form and amount of indemnification required to be provided  
15 by the licensee to the state to shield the state from the possible effects on revenue determined  
16 under (4) of this subsection.

17 (c) A dispute between the commissioner of revenue and the licensee over the extent of  
18 any liability of the licensee determined under this section and the form and amount of  
19 indemnification required by the licensee shall be resolved under AS 44.62.330 - 44.62.630  
20 (Administrative Procedure Act) or other form of alternative dispute resolution agreed to by  
21 the licensee and the commissioner of revenue, in consultation with the attorney general.

22 (d) The commissioner of revenue shall report to the legislature the finding of a  
23 potential liability of the licensee to a partner or successor in interest to a partner of the  
24 Alaskan Northwest Natural Gas Transportation Company, the potential effect on revenue to  
25 the state, and the form and amount of indemnification required to be provided to the state by  
26 the licensee. The report shall be made before the 10th day of the first special or regular  
27 session of the legislature after the determination by the commissioner of revenue of the form  
28 and amount of required indemnification.

29 (e) In this section,

30 (1) "licensee" and "project" have the meanings given in AS 43.90.900;

31 (2) "withdrawn partners" means the partners and successors in interest to the

1 partners of the Alaskan Northwest Natural Gas Transportation Company identified by the  
2 commissioner of revenue in (b)(2) of this section.

3 \* Sec. 3. The uncodified law of the State of Alaska is amended by adding a new section to  
4 read:

5 PROVISIONS NOT SEVERABLE. Notwithstanding AS 01.10.030, secs. 1 and 2 of  
6 this Act are not severable."

7

8 Renumber the following bill section accordingly.

# LEGAL SERVICES

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LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

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FAX (907) 465-2029  
Mail Stop 3101

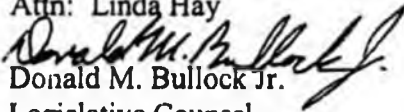
State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

July 16, 2008

**SUBJECT:** Adding a condition precedent to the reimbursement of qualified expenditures (HB 3001; Work Order No. 25-GH3055\A.3)

**TO:** Representative Ralph Samuels  
Attn: Linda Hay

**FROM:**   
Donald M. Bullock Jr.  
Legislative Counsel

Enclosed is the amendment to HB 3001 you requested. The amendment requires the commissioner of revenue to determine the amount of any indemnity the licensee must provide before the reimbursement of qualified expenditures by the state. Please read the amendment carefully to ensure that it is consistent with your intent. Also, please be aware of the issues raised by this amendment.

The amendment makes the commissioner of revenue the lead individual with regard to the indemnification requirement. The commissioner of revenue is required to consult with both the commissioner of natural resources and the attorney general so that all legal and revenue implications are considered. Disputes over the liability and indemnification issue are to be resolved under the Administrative Procedure Act or an alternative form of dispute resolution agreed to by the parties. The amendment also requires the commissioner of revenue to make a report of findings and determinations to the legislature.

The amendment adds a condition precedent before the reimbursement of qualified expenditures by the state under AS 43.90.110(a)(1). There was no disclosure of a condition precedent in the request for applications published by the commissioner of revenue and the commissioner of natural resources under AS 43.90.120 or elsewhere in AS 43.90. The amendment retroactively changes the requirements of the license to make the offer by the state something other than what the proposed licensee and others proposed to accept.

The additional condition proposed by the amendment effectively amends AS 43.90.110(a)(2) by requiring a new commitment by the licensee. This commitment is not included in the "license proposed to be issued by the commissioners" that has been

Representative Ralphn Samuels  
July 16, 2008  
Page 2

submitted to the legislature for approval under AS 43.90.190. Under AS 43.90.190, the legislature's involvement at this point is to either approve or reject the proposed license.<sup>1</sup>

To avoid due process issues that may be raised by changing the rules midstream, if the Alaska Gasline Inducement Act (AGIA) needs amendment to secure the licensee and project that maximizes the benefits to the people of the state, the current proposed license should be rejected, AGIA amended, and new applications solicited under the amended terms and conditions.

If I may be of further assistance, please advise.

DMB:med  
08-310.med

Enclosure

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<sup>1</sup> Because the proposed amendment changes the conditions of the offer the licensee accepted and affects the probability of success of the project, perhaps different from what was anticipated by the two commissioners when they found the project was in the state's best interests, you may wish to consider whether the licensee should be given the opportunity to withdraw its license application.

AMENDMENT # 5

OFFERED IN THE HOUSE

BY REPRESENTATIVE SAMUELS

TO: HB 3001

1 Page 1, line 3, following "Act;":

2 Insert "requiring TransCanada Alaska Company, LLC and Foothills Pipe Lines  
3 Ltd., jointly as licensee, to fully disclose and tender to the commissioner of natural  
4 resources all documents and other information provided to, exchanged with, or received  
5 from the state relating to contract negotiations with the state during 2004 regarding the  
6 construction of a natural gas pipeline to transport natural gas from the North Slope  
7 before the state reimburses qualified expenditures;"

8

9 Page 1, following line 11:

10 Insert new bill sections to read:

11 "\*\* Sec. 2. The uncodified law of the State of Alaska is amended by adding a new section to  
12 read:

13 DISCLOSURE OF INFORMATION RELATING TO 2004 CONTRACT  
14 NEGOTIATIONS WITH THE STATE. (a) The commissioner of revenue and the  
15 commissioner of natural resources may not reimburse TransCanada Alaska Company, LLC,  
16 and Foothills Pipe Lines Ltd., jointly as licensee, for qualified expenditures under  
17 AS 43.90.110(a)(1) before the licensee fully discloses and tenders all documents and other  
18 information provided to, exchanged with, or received from the state during 2004 relating to  
19 contract negotiations with the state regarding the construction of a natural gas pipeline to  
20 transport natural gas from the North Slope. In this subsection, "licensee" includes the licensee  
21 and a successor in interest to the licensee subject to AS 43.90.

22 (b) The chief executive officers of TransCanada Alaska Company, LLC, and Foothills  
23 Pipe Lines Ltd., or other person authorized to act on behalf of each, shall certify by sworn

1 affidavit that all documents and other information provided to, exchanged with, or received  
2 from the state during 2004 relating to contract negotiations with the state regarding the  
3 construction of a natural gas pipeline to transport natural gas from the North Slope have been  
4 fully disclosed and tendered to the commissioner of natural resources.

5 (c) The commissioner of natural resources shall receive and review the documents  
6 and other information described in (a) of this section and the affidavit required by (b) of this  
7 section. Following review, the commissioner of natural resources shall notify the chair or the  
8 vice-chair of the Legislative Budget and Audit Committee after making a finding

9 (1) that all documents and other information have been received and that  
10 TransCanada Alaska Company, LLC, and Foothills Pipe Lines Ltd., are entitled to receive the  
11 reimbursement for qualified expenditures under AS 43.90.110(a)(1); or

12 (2) that TransCanada Alaska Company, LLC, and Foothills Pipe Lines Ltd.,  
13 after having been given a reasonable period in which to disclose and tender the documents  
14 and other information required by this section, have failed to make the required disclosures  
15 and tender of documents and other information required under this section.

16 (d) After notifying the chair or the vice-chair of the Legislative Budget and Audit  
17 Committee of a finding under (c)(1) of this section, the commissioner of natural resources  
18 shall provide a copy of all documents and other information received to the Legislative  
19 Budget and Audit Committee. The Legislative Budget and Audit Committee shall make all  
20 documents and other information received from the commissioner of natural resources under  
21 this subsection available to the public, regardless of any claim of confidentiality, protection as  
22 a trade secret, or other limitation.

23 (e) A dispute between the commissioner of natural resources and the licensee over the  
24 disclosure and submission of information required by this section shall be resolved under  
25 AS 44.62.330 - 44.62.630 (Administrative Procedure Act) or other form of alternative dispute  
26 resolution agreed to by the licensee and the commissioner of natural resources, in consultation  
27 with the attorney general.

28 (f) In this section, "licensee" has the meaning given in AS 43.90.900.

29 \* Sec. 3. The uncodified law of the State of Alaska is amended by adding a new section to  
30 read:

31 PROVISIONS NOT SEVERABLE. Notwithstanding AS 01.10.030, secs. 1 and 2 of

- 1 this Act are not severable."
- 2
- 3 Renumber the following bill section accordingly.

# LEGAL SERVICES

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STATE OF ALASKA

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FAX (907) 465-2029  
Mail Stop 3101

State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

July 21, 2008

**SUBJECT:** Public disclosure of contract negotiations (Amendment A.8 to HB 3001; Work Order No. 25-GH3055\A.8)

**TO:** Representative Ralph Samuels  
Attn: Linda Hay

**FROM:** Donald M. Bullock Jr. *KK for DMB*  
Legislative Counsel

Enclosed is the amendment based on amendment 25-GH3055\A.4 that would require the commissioner of natural resources to deliver a copy of all documents and other information received to the Legislative Budget and Audit Committee. The Legislative Budget and Audit Committee would then make everything received available to the public without restriction. Please review this amendment carefully to ensure that it is consistent with your intent.

Note that this amendment raises an issue under the privacy clause of the Alaska Constitution in art. I, sec. 22.

If I may be of further assistance, please advise.

DMB:ljw  
08-302.ljw

Enclosure



# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

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FAX (907) 465-2029  
Mail Stop 3101

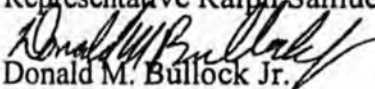
State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

January 23, 2008

**SUBJECT:** Process for legislative approval of a license under AS 43.90  
(Work Order No. 25-LS1375)

**TO:** Representative Ralph Samuels

**FROM:**   
Donald M. Bullock Jr.  
Legislative Counsel

You asked whether the legislature may approve the issuance of a license under the Alaska Gasline Incentive Act (AS 43.90) (AGIA) and make the approval subject to a particular condition or contingency. You also asked how the legislature disapproves or approves of the issuance of a license.

Under AGIA, the legislature is required to either approve or disapprove the issuance of a license for a gas pipeline project. Approval is accomplished by passing a bill that accepts the administration's recommendation of a licensee. Disapproval is accomplished by defeating a bill that would approve the issuance of the license or by doing nothing.

The process for legislative approval of the issuance of a license under AGIA is set forth in AS 43.90.190. That section reads as follows:

**Sec. 43.90.190. Legislative approval; issuance of license. (a)**

After the presiding officer of each house of the legislature receives a determination from the commissioners under AS 43.90.180, the rules committee of each house of the legislature shall introduce a bill in the committee's respective chamber that provides for the approval of the license proposed to be issued by the commissioners.

(b) If a bill approving the issuance of the license passes the legislature within 60 days after the last date a presiding officer receives a determination by the commissioners under AS 43.90.180, the commissioners shall issue the license as soon as practicable after the effective date of the Act approving the issuance of the license.

(c) Notwithstanding a legislative rule that prohibits the carryover of a bill after the end of a special session or after the end of a regular session of a legislature, a bill introduced under (a) of this section that is not passed or not withdrawn, defeated, vetoed, or indefinitely postponed shall be carried over to any subsequent regular or special legislative session convened during the 60-day period described in (b) of this section

in the same reading or status it was in at the time of adjournment. However, a bill introduced under (a) of this section may not be carried over to the first regular session of a legislature.

(d) If the legislature fails to approve the issuance of the license, the commissioners

(1) may not issue the license that the legislature failed to approve; and

(2) may request new applications for a license under AS 43.90.120.

Under AS 43.90.190, the issuance of a license is subject to legislative approval and the approval must be in the form of a bill. If the legislature fails to approve the license, AS 43.90.190(d)(1) removes the authority of the commissioners to issue a license. The approval scheme in AS 43.90.190 was designed to allocate powers under AGIA in such a way that both the executive branch and the legislative branch can participate without contravening the separation of powers provisions in art. II, sec. 1, and art. III, sec. 1, Constitution of the State of Alaska.

Generally, the power to contract on behalf of the state is centered in the executive branch, while the authority to enter into a contract is created by the legislature.<sup>1</sup> AS 43.90.190 conditions the power to issue a license upon the approval by the legislature of the proposed license--if there is no approval, there is no power to issue the license. The legislature also has the power of appropriation, a power that must be exercised to fund the monetary inducement offered under AGIA.

Approval of the license by the legislature is discretionary. In the course of the review, some legislators may find that they disagree with the commissioner's determination and disapprove the application because the application does not propose a project that will sufficiently maximize the benefits to the people of the state.<sup>2</sup> Others, in the course of the legislative review, may find that AGIA should be amended to allow the consideration of additional applicants that were not qualified for consideration under AGIA as it was originally enacted. What happens after the disapproval by the legislature is up to the legislature. If the legislature does nothing, AS 43.90.190(d)(2) authorizes the commissioners to request new applications. If the legislature amends AGIA, new applications could be solicited with new criteria.

In conclusion, the legislative consideration of the issuance of a license under AGIA is limited to the approval or disapproval of the license. However, the legislature also has

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<sup>1</sup> Of course, the legislature may also enter into contracts on its own behalf, and does so as a separate branch of state government. For example, the legislature, through the legislative council, leases office space for legislators and the legislative information offices.

<sup>2</sup> See AS 43.90.180(a).

Representative Ralph Samuels  
January 23, 2008  
Page 3

the power to amend AGIA if it finds that the existing law does not result in a project that the legislature finds is in the best interest of the state.

If I may be of further assistance, please advise.

DMB:med  
08-039.med

# FISCAL NOTE

**STATE OF ALASKA**  
**2008 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: HB 3001  
 (H) Publish Date: 6/3/08

Identifier (file name): 3001-DNR-O&G-05-28-08 Dept. Affected: Natural Resources  
 Title: Alaska Gasline Inducement Act License RDU: Resource Development  
 Component: Oil and Gas Development  
 Sponsor: Rules Committee  
 Requester: Governor Component Number: 439

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
<b>OPERATING EXPENDITURES</b>								
Personal Services								
Travel								
Contractual								
Supplies								
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>								
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<b>CHANGE IN REVENUES ( )</b>								
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts								
1003 GF Match								
1004 GF								
1005 GF/Program Receipts								
1037 GF/Mental Health								
Other Interagency Receipts								
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2008) cost: \_\_\_\_\_

**POSITIONS**

Full-time								
Part-time								
Temporary								

**ANALYSIS:** (Attach a separate page if necessary)

This bill would give approval for issuance of a license by the commissioners of the departments of Natural Resources and Revenue under the Alaska Gasline Inducement Act (AGIA). The success of the state's gasline project could mean billions of dollars in future state revenues.

Prepared by: Kevin Banks, Acting Director  
 Division: Division of Oil and Gas  
 Approved by: Tom Irwin, Commissioner  
Natural Resources

Phone 269-8800  
 Date/Time May 28, 2008  
 Date May 28, 2008

# FISCAL NOTE

**STATE OF ALASKA**  
**2008 LEGISLATIVE SESSION**

Fiscal Note Number: 2  
 Bill Version: HB 3001  
 (H) Publish Date: 6/3/08

Identifier (file name): 08-0055-DOR-DAS-5-27-08 Dept. Affected: 04 Revenue  
 Title: AGIA License Approval RDU: Admin and Support  
 Component: Admin Services  
 Sponsor: Rules  
 Requester: Governor Component Number: 125

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
<b>OPERATING EXPENDITURES</b>								
Personal Services								
Travel								
Contractual								
Supplies								
Equipment								
Land & Structures								
Grants & Claims								
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>		<b>500,000.0</b>						
-----------------------------	--	------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>								
-------------------------------	--	--	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts								
1003 GF Match								
1004 GF								
1005 GF/Program Receipts								
1037 GF/Mental Health								
<b>TOTAL</b>								

Estimate of any current year (FY2008) cost: \_\_\_\_\_

**POSITIONS**

Full-time								
Part-time								
Temporary								

**ANALYSIS:** (Attach a separate page if necessary)

Passage of this bill approves the issuance of a license by the Commissioners of Revenue and Natural Resources to TransCanada Alaska Company, LLC and Foothills Pipe Lines, LTD., jointly as licensee, under the Alaska Gasline Inducement Act. The approval of this license along with the appropriation of \$500 million in a separate bill entitles TransCanada Alaska Company, LLC and Foothills Pipe Lines, LTD to reimbursement of up to \$500 million of qualified expenditures under regulations adopted by the Department of Revenue (15 AAC 90.010- 15 AAC 90.030). The Department of Revenue will make these reimbursements with the cooperation of the Alaska Gasline Inducement Act coordinator in the Office of the Governor and with technical advice from the Department of Natural Resources. No additional staffing or funding will be required by the Department of Revenue as a result of the passage of this bill.

Prepared by: Jerry Burnett  
 Division: Admin Services  
 Approved by: Jerry Burnett  
Department of Revenue

Phone 465-2312  
 Date/Time 5/26/08 12:00 AM  
 Date 5/26/2008

## **HB3001 Subcommittee Report**

The House Rules Committee – HB 3001 – was referred to a subcommittee:

Rep. Harris – chair  
Rep. Samuels  
Rep. Kerttula

We have completed an extensive public hearing process:

- All members of the House were invited to attend...
- All meetings were held jointly with the Senate...
- All meetings were done with full public notice...
  - We travelled across the state...

We commend this bill back to the full Rules Committee...

# LEGAL SERVICES

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Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

July 14, 2008

**SUBJECT:** Questions relating to the Alaska Natural Gas Development Authority (ANGDA) (Work Order No. 25-LS1746)

**TO:** Representative John Coghill  
Chair of the House Rules Committee  
Attn: Rynniva Moss

**FROM:** Alpheus Bullard *LAB*  
Legislative Counsel

You have asked a number of questions relating to the powers of the Alaska Natural Gas Development Authority (ANGDA) to pursue a natural gas pipeline project. In responding to your inquiry, I have taken the liberty below of answering your question of July 10th in three parts.

*Does ANGDA have the authority to pursue the development of a pipeline project that would transport gas north from Cook Inlet and may it expend funds on a project other than one intended to transport gas from the North Slope?*

No existing statute provides ANGDA the authority to bring Cook Inlet gas from Cook Inlet north to market or to expend funds on a pipeline project other than one intended to transport gas from the North Slope. AS 41.41.010 establishes ANGDA. AS 41.41.010(a) provides:

[t]here is established the Alaska Natural Gas Development Authority, *the purpose of which is to provide one or more of the following services and functions in order to bring natural gas from the North Slope to market, including*

- (1) the acquisition and conditioning of North Slope natural gas;
- (2) the design and construction of the pipeline system;
- (3) the operation and maintenance of the pipeline system;
- (4) the design, construction, operation, of other facilities necessary for delivering the gas to market and to Southcentral Alaska; and
- (5) the acquisition of natural gas market share sufficient to ensure the long-term feasibility of the pipeline system project.

(Emphasis added.) The authority's powers are codified at AS 41.41.200. AS 41.41.200(5) grants the authority to acquire real and personal property for a project site. AS 41.41.200(7) allows the authority to issue bonds and otherwise incur

indebtedness in order to pay for the costs of a project. "Project" is defined for the purposes of AS 41.41 as

[. . .] the gas transmission pipeline, together with all related property and facilities, to extend from the Prudhoe Bay area on the North Slope of Alaska either to tidewater at a point on Prince William Sound and the spur line from Glennallen to the Southcentral gas distribution grid or to tidewater at a point on Cook Inlet,<sup>1</sup> and includes planning, design, and construction of the pipeline and facilities as described in AS 41.41.010(a)(1) - (5).

AS 41.41.990(3) (emphasis added). It is possible that a pipeline that initially would serve to bring gas from Cook Inlet north to market and subsequently be used to bring gas from the North Slope south could be construed as (1) a pipeline project that brings North Slope gas to market or (2) as an action necessary to "acqui[re] natural gas market share sufficient to ensure the long-term feasibility of the pipeline project" (see AS 41.41.010(a)(5)). Notwithstanding practical and policy considerations that might favor such arguments, legally, these seem a stretch. However, nothing precludes the legislature from changing the purposes, scope of authority, or powers of the authority through legislation.

***What authority does ANGDA have to partner with a private pipeline company?***

Under AS 41.41.200, ANGDA may enter into contracts with a private individual or entity in furtherance of its corporate purposes.<sup>2</sup> The corporate purposes of the authority are provided by AS 41.41.010(a) (above). The corporate purposes of ANGDA to bring North Slope gas to tidewater is likely to be interpreted by a court as sufficient authority for ANGDA to enter into a variety of contractual relationships with a private pipeline company.

***Could ANGDA choose to pursue a joint venture project with a single private company without soliciting competitive bids?***

While it is my legal opinion that ANGDA may contract with a private company to further its corporate purposes, it is also my opinion that any such contracts<sup>3</sup> must be awarded through competitive bid.

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<sup>1</sup> The "or to Cook Inlet" language was added by HB 417 of the 23rd Legislature (Chapter 138, SLA 04), "An Act amending the definition of 'project' in the Act establishing the Alaska Natural Gas Development Authority; and providing for an effective date."

<sup>2</sup> See AS 41.41.200(5) and (9).

<sup>3</sup> AS 36.30.990(7) defines "contract" to mean "all types of state agreements, regardless of what they may be called, for the procurement or disposal of supplies, equipment for the state fleet, services, professional services, or construction."

Representative John Coghill

July 14, 2008

Page 3

AS 36.30.100 provides "[e]xcept as otherwise provided in this chapter [AS 36.30. State Procurement Code], or unless specifically exempted by law, an agency contract shall be awarded by competitive sealed bidding." ANGDA is an "agency" under this title.<sup>4</sup>

This argument that ANGDA is required to employ a competitive bidding process is supported<sup>5</sup> by the information presented to the electorate, the body which enacted ANGDA. The 2002 election pamphlet "statement in support" of the ANGDA initiative provided:

[t]he Authority this initiative would establish would be similar to the Alaska Permanent Fund Corporation with a governing body to set policy, a small administrative structure and the actual work to design and build the project contracted out by bid to private companies who are experts in their field and who are held strictly accountable.

Any "partnership" or "joint venture" involving ANGDA and a private company is more than likely to be interpreted by a court as subject to the same competitive bidding requirement as any other agency contract.

If I can be of further assistance, please do not hesitate to contact me.

TLAB:ljw  
08-292.ljw

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<sup>4</sup> AS 36.30.990(1) provides that a public corporation is an agency for purposes of the procurement code. ANGDA is a public corporation within the Department of Revenue. AS 41.41.010(b).

<sup>5</sup> In construing ballot measures, which must be approved by the voters, it is necessary to look to the meaning that the voters would have placed on the statute in question. See State v. Lewis, 559 P.2d 630 (Alaska 1977). In regard to ballot measures proposed by initiative, there is not much in the way of legislative history for determining the intent of the voters. All that is available is the voters' pamphlet. However, the voters' pamphlet is a powerful tool for determining the electorate's intent. See also Gibson v. State, 930 P.2d 1300 (Alaska App. 1997) (the court looked to the history of a constitutional amendment before the Legislature and the "statement in support" language, which appeared in the voters' pamphlet, for assistance in determining whether the amendment intended to accomplish the result proposed by the plaintiff).

Alaska State House of Representatives  
Twenty-Fifth Legislature  
Fourth Special Session

RCS# 738  
Item 2

7-23-08  
13:01:28

*(add fld)*  
HB 3001--RECONSIDERATION  
Third Reading  
House Letter of Intent

Yeas: 39 Buch, Chenault, Cissna, Coghill, Crawford,  
Dahlstrom, Doll, Doogan, Edgmon, Fairclough,  
Foster, Gara, Gardner, Gatto, Gruenberg,  
Guttenberg, Harris, Hawker, Holmes, Johansen,  
Johnson, Joule, Kawasaki, Keller, Kelly,  
Kerttula, LeDoux, Lynn, Meyer, Neuman, Olson,  
Ramras, Roses, Salmon, Samuels, Seaton,  
Stoltze, Thomas, Wilson

Nays: 0

Excused: 1 Nelson

Absent: 0

Alaska State House of Representatives  
Twenty-Fifth Legislature  
Fourth Special Session

RCS# 737  
Item 2

7-23-08  
12:49:12

HB 3001--RECONSIDERATION  
Third Reading  
Effective Date

Yeas:	25	Buch, Cissna, Coghill, Crawford, Doll, Doogan, Edgmon, Gara, Gardner, Gatto, Gruenberg, Guttenberg, Holmes, Joule, Kawasaki, Keller, Kelly, Kerttula, Lynn, Meyer, Salmon, Seaton, Stoltze, Thomas, Wilson
Nays:	14	Chenault, Dahlstrom, Fairclough, Foster, Harris, Hawker, Johansen, Johnson, LeDoux, Neuman, Olson, Ramras, Roses, Samuels
Excused:	1	Nelson
Absent:	0	

Alaska State House of Representatives  
Twenty-Fifth Legislature  
Fourth Special Session

RCS# 736  
Item 2

7-23-08  
12:48:30

HB 3001--RECONSIDERATION  
Third Reading  
Final Passage

Yeas:	23	Buch, Cissna, Coghill, Crawford, Doll, Doogan, Edgmon, Gara, Gardner, Gatto, Gruenberg, Guttenberg, Holmes, Joule, Kawasaki, Keller, Kel' , Kerttula, Lynn, Meyer, Salmon, Seaton, Thomas
Nays:	16	Chenault, Dahlstrom, Fairclough, Foster, Harris, Hawker, Johansen, Johnson, LeDoux, Neuman, Olson, Ramras, Roses, Samuels, Stoltze, Wilson
Excused:	1	Nelson
Absent:	0	

Alaska State House of Representatives  
Twenty-Fifth Legislature  
Fourth Special Session

RCS# 734  
Item 3

7-22-08  
21:00:21

HB 3001  
Third Reading  
Effective Date

Yeas:	28	Buch, Cissna, Coghill, Crawford, Doll, Doogan, Edgmon, Foster, Gara, Gardner, Gatto, Gruenberg, Guttenberg, Harris, Holmes, Joule, Kawasaki, Keller, Kelly, Kerttula, Lynn, Meyer, Nelson, Salmon, Seaton, Stoltze, Thomas, Wilson
Nays:	12	Chenault, Dahlstrom, Fairclough, Hawker, Johansen, Johnson, LeDoux, Neuman, Olson, Ramras, Roses, Samuels
Excused:	0	
Absent:	0	

Alaska State House of Representatives  
Twenty-Fifth Legislature  
Fourth Special Session

RCS# 733  
Item 3

7-22-08  
20:59:36

HB 3001  
Third Reading  
Final Passage

Yeas:	24	Buch, Cissna, Coghill, Crawford, Doll, Doogan, Edgmon, Gara, Gardner, Gatto, Gruenberg, Guttenberg, Holmes, Joule, Kawasaki, Keller, Kelly, Kerttula, Lynn, Meyer, Nelson, Salmon, Seaton, Thomas
Nays:	16	Chenault, Dahlstrom, Fairclough, Foster, Harris, Hawker, Johansen, Johnson, LeDoux, Neuman, Olson, Ramras, Roses, Samuels, Stoltze, Wilson
Excused:	0	
Absent:	0	

Alaska State House of Representatives  
Twenty-Fifth Legislature  
Fourth Special Session

RCS# 729  
Item 3

7-22-08  
16:27:57

HB 3001  
Second Reading  
Amendment No. 1

Yeas:	9	Chenault, Hawker, Johansen, Johnson, Neuman, Olson, Ramras, Roses, Samuels
Nays:	30	Buch, Cissna, Coghill, Crawford, Dahlstrom, Doll, Doogan, Edgmon, Fairclough, Foster, Gara, Gardner, Gatto, Gruenberg, Guttenberg, Harris, Holmes, Joule, Kawasaki, Keller, Kerttula, LeDoux, Lynn, Meyer, Nelson, Salmon, Seaton, Stoltze, Thomas, Wilson
Excused:	0	
Absent:	1	Kelly

Alaska State House of Representatives  
Twenty-Fifth Legislature  
Fourth Special Session

RCS# 730  
Item 3

7-22-08  
17:17:51

HB 3001  
Second Reading  
Amendment No. 2

Yeas: 15 Chenault, Dahlstrom, Fairclough, Harris,  
Hawker, Johansen, Johnson, Kawasaki, LeDoux,  
Meyer, Neuman, Olson, Ramras, Roses, Samuels

Nays: 25 Buch, Cissna, Coghill, Crawford, Doll, Doogan,  
Edgmon, Foster, Gara, Gardner, Gatto,  
Gruenberg, Guttenberg, Holmes, Joule, Keller,  
Kelly, Kerttula, Lynn, Nelson, Salmon, Seaton,  
Stoltze, Thomas, Wilson

Excused: 0

Absent: 0

Alaska State House of Representatives  
Twenty-Fifth Legislature  
Fourth Special Session

RCS# 731  
Item 3

7-22-08  
17:21:04

HB 3001  
Second Reading  
Amendment No. 3

Yeas: 11 Chenault, Hawker, Johansen, Johnson, Meyer,  
Neuman, Olson, Ramras, Roses, Samuels, Wilson

Nays: 27 Buch, Cissna, Coghill, Crawford, Dahlstrom,  
Doll, Doogan, Edgmon, Foster, Gara, Gardner,  
Gatto, Gruenberg, Guttenberg, Harris, Holmes,  
Joule, Kawasaki, Keller, Kelly, Kerttula,  
LeDoux, Lynn, Nelson, Seaton, Stoltze, Thomas

Excused: 0

Absent: 2 Fairclough, Salmon

Alaska State House of Representatives  
Twenty-Fifth Legislature  
Fourth Special Session

RCS# 732  
Item 3

7-22-08  
17:34:28

HB 3001  
Second Reading  
Amendment No. 4

Yeas: 17 Chenault, Dahlstrom, Fairclough, Harris,  
Hawker, Johansen, Johnson, LeDoux, Meyer,  
Neuman, Olson, Ramras, Roses, Samuels,  
Stoltze, Thomas, Wilson

Nays: 23 Buch, Cissna, Coghill, Crawford, Doll, Doogan,  
Edgmon, Foster, Gara, Gardner, Gatto,  
Gruenberg, Guttenberg, Holmes, Joule,  
Kawasaki, Keller, Kelly, Kerttula, Lynn,  
Nelson, Salmon, Seaton

Excused: 0

Absent: 0

# LEGAL SERVICES

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Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

July 23, 2008

**SUBJECT:** Concurrence in an effective date for HB 3001

**TO:** Representative John Coghill  
Chair of the House Rules Committee  
Attn: Rynniewa Moss, Legislative Aide

**FROM:** Tamara Brandt Cook  
Director

ABC

*(1) The House has transmitted to the Senate HB 3001 with effective date failed. If the Senate passes HB 3001 with the effective date added, does that create a situation where the House would have to vote to concur with the effective date clause or would the effective date clause fail?*

Under Uniform Rule 41(a) when a bill passed in one house is amended in the other, the bill is returned to the first house with a request to concur in amendments. If the Senate amends HB 3001 by adding an effective date and that is the only amendment, despite the vote set out in Uniform Rule 41, the vote required to adopt the Senate amendment is at least two-thirds of the House membership because, under art. II, sec. 18 of the state constitution, that is the vote required to adopt an effective date. Furthermore, if the House fails to concur in the Senate amendment or, even, fails to take up the question of concurring in the amendment, the substance of HB 3001 will have been adopted by both houses without an effective date.

The Superior Court has had occasion to consider the relationship between passage of the substantive portions of a bill and its effective date in connection with the enactment of ch. 177, SLA 1980 (SCS HB 207 am S (H. failed eff. date)). In that instance, the bill was enrolled and transmitted to the governor. On July 1, 1980, the attorney general advised the governor that the House and Senate did not pass the same bill, as one version had an effective date and one did not, and the governor, acting on that advice, returned the bill to the House unsigned. The governor's transmittal letter is set out in 1980 House Journal 2240, and 1980 Senate Journal 1781. Legislative counsel advised that under art. II, secs. 17 and 18, Constitution of Alaska, the bill became law without the governor's signature. By judgment dated March 19, 1981, in Alaska Legislative Council v. Hammond, Case No. 4 FA-80-1689, the superior court for the fourth judicial district upheld the validity of the enactment. In this case, Judge VanHoomissen found that:

Representative John Coghill

July 23, 2008

Page 2

[the] failure of a special effective date clause in one house of the Alaska Legislature does not trigger a requirement that the other house concur in order for the bill itself to be effective.

The constitutional provision regarding adoption of a special effective date by two-thirds vote is similar to the provision in art. IV, sec. 15 with respect to the amendment of the rules of court by two-thirds vote. The court of appeals has ruled that if one house adopts a court rule change that is part of a longer bill and the other house does not adopt the court rule change but adopts the remainder of the bill, the first house need not concur in the second house's action. The houses are considered to have adopted the same bill (the bill minus the sections that changed court rules) for the purposes of sending a version to the governor for signature. Galbraith v. State, 693 P.2d 880 (Alaska App. 1985). Given the fact that court rule changes relate to the substantive effect of an Act, while effective date provisions relate only to when the Act becomes law, the superior court's judgment in Alaska Legislative Council v. Hammond is correct. A necessary ingredient in these rulings is the fact that the failure of or change to an effective date is not an amendment to the substantive provisions of the bill and that the legislature has the constitutional right to adopt substantive provisions by majority vote of the members.

Lastly, I note that the Senate might respond to the failure of the effective date in HB 3001 by passing the Senate version, with its effective date, to the House for consideration rather than amending the House bill and requesting concurrence.

TBC:med  
08-326.med

# LEGAL SERVICES

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## MEMORANDUM

July 24, 2008

**SUBJECT:** Conference committee consideration of an effective date  
(HB 3001)

**TO:** Representative John Coghill  
Chair of the House Rules Committee  
Attn: Rynniva Moss, Legislative Aide

**FROM:** Tamara Brandt Cook *TBC*  
Director

As a follow up to my memorandum dated July 23, 2008, you ask about the status of a bill that is sent to a conference committee when the only difference between the House passed version and the Senate passed version of the bill is the effective date. It is my conclusion that it is not appropriate for the legislature to use the conference committee process when the only difference between bills is the effective date but the substance of the bills is exactly the same.

The effective date clause of a bill, and the reference to a special effective date in the title of the bill, is required by Uniform Rule 39(f) of the Uniform Rules, implementing art. II, sec. 18, Constitution of Alaska. The constitution states:

SECTION 18. Effective date. Laws passed by the legislature become effective ninety days after enactment. The legislature may, by concurrence of two-thirds of the membership of each house, provide for another effective date.

As I pointed out in the earlier memorandum, the Superior Court has concluded that failure of an effective date by one house when the effective date has passed in the other does not prevent enactment of the substance of the bill, without the effective date, by the majority vote required for passage of bills under art. II, sec. 14. (Alaska Legislative Council v. Hammond, Case No. 4 FA-80-1989, March 19, 1981) (See also ARCO Alaska, Inc. v. State, 824 P.2d 708 (Alaska 1992), holding that a retroactive clause takes effect upon approval of a majority vote of the members of each house despite failure of the effective date.)

A necessary ingredient in these rulings is the fact that the failure of an effective date is not an amendment to the bill itself. Obviously, if the second house adds a special effective date to a bill, that action amounts to an amendment and the first house has the opportunity to consider concurrence in that amendment under Uniform Rule 41(a).

Representative John Coghill

July 24, 2008

Page 2

However, if the first house fails to concur there no need for that house to return the bill to the second house with a request to recede from its amendment because the effective date will automatically be deleted from the bill--exactly the result that would be obtained if the second house receded. Thus the conference procedure set out in Uniform Rule 42 simply has no application when the only difference between bill versions involves an effective date.

You ask about the status of HB 3001 if, despite the foregoing analysis, the House and Senate embark upon the conference committee process and no conference committee report is adopted before adjournment of the special session. This situation will place the status of HB 3001 in doubt and should be avoided. The question will be whether the action of adopting HB 3001 by either house has been completed when the bill remains live for additional action as a result of the parliamentary move of engaging in the conference process. It is my opinion that a court would most likely conclude that, because all the constitutional requirements for passage of the bill have been accomplished and neither body has taken action to rescind its passage of the bill, upon adjournment the bill will have passed both bodies in identical form without an effective date. In short, the status of HB 3001 as legislation that has passed both houses will not have changed simply because the bill has been placed in a conference committee. Upon adjournment sine die, the opportunity of the legislature to change the status of HB 3001 will have ended.

TBC:med

08-330.med

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101

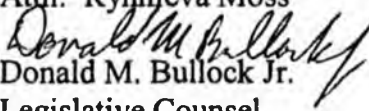

State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

July 24, 2008

**SUBJECT:** Options for the administration if the bill approving the issuance of the AGIA license passes without an effective date (HB 3001)

**TO:** Representative John Coghill, Jr.  
Attn: Rynnjeva Moss

**FROM:**   
Donald M. Bullock Jr.  
Legislative Counsel  
- and -  
Tamara Brandt Cook  
Director 

HB 3001 passed the House on reconsideration on July 23, 2008. The bill had an immediate effective date that failed to obtain the required two-thirds vote and was therefore deleted from the bill.

You asked what options are available to the administration if a bill that passes the legislature approving the issuance of the license under the Alaska Gasline Inducement Act (AGIA) fails to have an effective date that is within nine months after the AGIA license application deadline.<sup>1</sup> You asked the question in the context of the request for applications (RFA) by the commissioner of natural resources and the commissioner of revenue (commissioners) that required an applicant to commit "that the Application will remain valid for nine (9) months after the Application Deadline, or until an AGIA License is issued, whichever is sooner."<sup>2</sup>

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<sup>1</sup> AS 43.90.190(b) requires legislative approval for the issuance of the license within 60 days after the date the speaker and the president received notice from the commissioners:

(b) If a bill approving the issuance of the license passes the legislature within 60 days after the last date a presiding officer receives a determination by the commissioners under AS 43.90.180, the commissioners shall issue the license as soon as practicable after the effective date of the Act approving the issuance of the license.

August 2, 2008, is the 60th day after the notice was received.

<sup>2</sup> Request for Applications, Alaska Gasline Inducement Act, sec. 1.13.2 (Rev. Oct. 26, 2007). The Request for Applications is hereafter referred to as "RFA."

Representative John Coghill, Jr.

July 24, 2008

Page 2

Next month, August 2008, is the last month of the nine-month period during which TransCanada Alaska Company, LLC and Foothills Pipe Lines Ltd., jointly as licensee (together, "TransCanada") were required to continue to hold out their application to the commissioners as valid.

In its application submitted in response to the RFA, TransCanada "confirms that the Application will remain valid for nine (9) months after the Application Deadline, or until an AGIA License is issued, whichever is earlier."<sup>3</sup> If the bill approving the issuance of the license passes the legislature before August 3, 2008, but the bill does not have an effective date that is before September 1, 2008, TransCanada's commitment to hold out its application as valid will have expired. The effect of that expiration is not clear, and is therefore subject to speculation.

The crux of the issue presented in this situation is whether the license application must be valid only through the date a bill passes the legislature or whether the application must be valid from TransCanada's standpoint until the commissioners issue the license. This issue may be raised in litigation if TransCanada refuses the license if tendered after August 31, 2008, or if the commissioners and TransCanada agree to make the application valid for a period longer than required under the RFA or committed to by TransCanada in its application. In the former situation, the commissioners may seek to force TransCanada to perform; in the latter, a third party may challenge whether the state has the authority to issue a license based on an application that the plaintiff alleges has expired.

If the application must be valid only through the date of actual approval by the legislature's passage of a bill, which is the last date the application may actually be considered for the purposes of approval, then whether or not beyond that date the application is considered to be valid is no longer relevant. The effective date has no effect on the timing of the legislative approval, but does trigger the implementation of AGIA with regard to the licensee -- the license is issued and the licensee becomes eligible for the inducements offered in AS 43.90.110.

The failure to adopt an effective date for HB 3001 that is before September 1, 2008, opens the possibility for a choice among executive decisions affecting the proposed license.

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<sup>3</sup> Application for License, Alaska Gasline Inducement Act, submitted jointly by TransCanada Alaska Company, LLC and Foothills Pipe Lines, Ltd., sec. 1.11. The application was submitted November 30, 2007 and is hereafter referred to as "application."

**The commissioners and TransCanada may evaluate their intent to go forward with the license and use the failure to issue the license within nine months as grounds for mutually terminating the process.**

The first option is for the administration and TransCanada to evaluate their positions; does each want to proceed with the license at this point? The commissioners chose nine months as the maximum lifespan for the application and TransCanada committed to that period of validity. TransCanada provided a timeline for taking action based on the presumption that they would receive the license by April 1, 2008.<sup>4</sup> If TransCanada expected the license within five months after filing the application, agreeing to a nine-month period would appear to have provided more than enough time.

Other than the administration's expressed desire to get a project going as soon as possible, I have found no explanation for the nine-month period or what specifically was expected to occur during that period. The commissioners may have expected, as did TransCanada, that the license would in fact be issued within that nine-month period and the effect of a license being issued is specifically addressed in the RFA requirement and the commitment.<sup>5</sup>

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<sup>4</sup> Application, sec. 2.1 2) a). Under "Project Development," the application states, "The Project Development Phase would be as generally illustrated on the following timeline. This timeline and any other timeline set forth in this Application are conditional on the License being issued on April 1, 2008."

<sup>5</sup> In my opinion, the nine-month period is very optimistic, particularly if the commissioners expected to issue the license within that period. There are three intervals after the application that have defined or identifiable measures. A 60 day period for public review and comment is mandated by AS 43.90.160; the legislature has 60 days to pass a bill approving the issuance of a license under AS 43.90.190; and, if an effective date fails to receive an adequate number of votes in both houses (two-thirds of the membership of each house under art. II, sec. 18, Constitution of the State of Alaska), the Act would not take effect and the license issued until 90 days after enactment. These periods could add up to almost 210 days, nearly seven months. Within a nine month period, there would be slightly more than two months remaining for the commissioners to perform the initial application review, request additional information, and determine which applications are complete (AS 43.90.140); determine which information submitted by the applicant is proprietary or a trade secret and should be held confidential (AS 43.90.150); prepare and publish the notice for the 60-day comment period (AS 43.90.160); evaluate and rank the complete applications according to the net present value of the anticipated cash flow to the state from each project and the likelihood of success for the project (AS 43.90.170); make a finding that no application proposes or that one or more applications propose a project that will sufficiently maximize the benefits to the people of the state to merit the issuance of a license, publish a notice of intent to issue the license, and forward the notice and along with the findings, supporting documents to the legislature (AS 43.90.180).

**The commissioners could request TransCanada to extend the period during which the application is valid.**

The requirement of a period during which an application will be considered valid was to be satisfied by the applicant making the commitment. A request to TransCanada to amend its commitment to extend the period could, as a matter of form, result in TransCanada's consent to extend the life of its application through the effective date of the bill enacted under AS 43.90.190. Should this occur, the issue of whether the application is valid as between TransCanada and the commissioners might go away.

However, the extension of a period identified in the RFA to which other persons responded to or considered responding to changes the terms which an applicant may consider before applying and then address in a proposal. Changing the requirements after the fact raises a due process issue.

**The commissioners could issue the license after approval but before the effective date because it is the passage of the bill (and its signature into law), not the effective date, that gives evidence of the approval of the license by the legislature.**

By the time the bill passes the legislature, the commissioners had already selected the applicant that they believed should be issued the license. The legislature adds its approval by passing a bill approving the license. After the commissioners' and the legislature's approval of the license, the actual issuance of the license implements the intent of the parties -- the commissioners and the executive branch, the legislature, and TransCanada -- that the license should be issued. No more than a ministerial act is required to deliver the license to the person receiving approval.

Should a court agree that issuing the license is merely a ministerial act after all approvals have been given, the issuance before the effective date would not necessarily invalidate the license. No further review or approval is required after the commissioners determine that the license should be issued<sup>6</sup> and the legislature agrees. Substance over form mandates that the license is issued as intended by all parties. Should a court disagree and suspend the license until the effective date, the license would not be voided, only delayed.

**Relying on the doctrine of separation of powers, the commissioners may issue the license without legislative approval or with legislative approval, but at a time determined in the commissioners' discretion.**

The commissioners may weigh the risk of issuing the license to TransCanada without the legislative approval required by AS 43.90.190 or a time determined by the

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<sup>6</sup> AS 43.90.180.

Representative John Coghill, Jr.

July 24, 2008

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commissioners, against the likelihood of success in defending the issuance of the license under the doctrine of separation of powers. There is support for the premise that the executive branch's power is to execute contracts and is distinct from legislative powers.

With regard to AGIA, Governor Palin wanted the legislature to participate in the process leading to the issuance of a license and appears to have initially waived the constitutional power to enter into a contract without legislative approval. That approval will have been obtained with the enactment of HB 3001, even if the bill takes effect at a later date. Please appreciate that any requirement of strict adherence to the effective date in issuing the license will deprive the members of the effect of their approval of the license by majority vote. (*ARCO Alaska, Inc. v. State*, 824 P.2d 708 (Alaska 1992)) Therefore, the executive branch in this instance does not need to urge that legislative approval is not required, only that the delayed effective date does not prevent the earlier issuance of the license under separation of powers analysis.

### Conclusion

The discussion above contains much speculation concerning the effect of those issues raised by failing to make the Act approving the issuance of the license take effect before September 1, 2008. The unknowns include the reasons why an applicant's application was to be valid for a period of time that was relatively short considering all that must occur between the deadline for receiving applications and the effective date of a Act in which the legislature approves the license. Also unknown is the commitment of the commissioners and TransCanada to proceed with the license, although nearly all indications are that their commitment continues.

The failure to make the Act incorporating legislative approval take effect along with the limited period in which an application is valid raises the issues described above. However, the passage of a special effective date is clearly within the discretion of the legislature.

If I may be of further assistance, please advise.

DMB:lmb  
08-195.lmb

## HB 3001 SCORECARD

### PRO HB 3001

### CON HB 3001

License motivates producers to move forward with way to move product; opens competition; elephant in the doorway. If another line becomes viable and State gives incentives, treble damages buys the work product. If TransCanada is doing the job right we get something for our money.

License gives TransCanada control of fate of pipeline for ten years. There is a need for oversight on the part of the administration and legislature, so if the project becomes uneconomic loss to the State is minimal.

Timeline to open season and FERC certificate are commitments State has to get the process moving to build a gasline. If TransCanada looks at it and discovers the project isn't economical State has a way out through abandonment of and uneconomical project (AS 43.90.240) Need to monitor to minimize losses.

If AGIA's first open season fails; increases cost of project to get to second open season. Producers have incentive to have a successful first open season and fill the line with product. Successful open season without risk of treble damages.

Requires open access with an open season every two years and commitment for voluntary expansion with successful open season. Expansion will result in presumption of rolled in rates at FERC.

Congress has given FERC special authority to impose a mandatory expansion; mandatory expansion is less likely to have rolled in rates.

AGIA provides inducements to encourage construction of the gasline. TransCanada took advantage of those inducements and submitted a proposal.

State law specifies that nothing in AGIA forbids another pipeline from seeking approval without inducements from AGIA.

Legislature passed AGIA with one dissenting vote and following through with license shows good faith on the part of legislature. Rejection of the license could raise questions about business climate in Alaska and the State as a reliable business partner.

TransCanada's application has provisions other than the 20 must haves that also have risks and rewards. There is the limitation of treble damages if royalty inducements or gas production tax exemptions are offered to a company other than TransCanada. The application has provisions that were not approved by the legislature in AGIA.

Treble damages result in State ownership of engineering designs, contracts, permits and other data related to the project that become a marketable asset and limit liability to State if State abandons AGIA project.

Treble damages could cost State over \$800 million.

AGIA inducements are reimbursed based on submittal and approval of expenditures to the State in amount up to \$500 million that will not be applied to the tariff rate.

## HB 3001 SCORECARD

### PRO HB 3001

### CON HB 3001

Rolled in rates spread the cost of expansion over all shippers and are beneficial for explorers that need to make investment decisions. Greater exploration provides both long-term jobs with associated multipliers and increased in-state gas opportunities.

Rolled in rates penalize the producers participating in open season resulting in construction of gas pipeline when rolled in tariff increases the original tariff.. Shippers want to be second not first. Shippers who elect negotiated rates cannot oppose rolled in rate before FERC.

AGIA requires TransCanada to minimize cost overruns and their impact on tariffs. Tariffs are based on allowable costs divided by volume (or through put). Operating costs are fixed except expansion costs.

Brings TransCanada to the table with State of Alaska in support of State's priorities as defined in AGIA.

Canadian ROW's, permits and pipe brings TransCanada to the table.

Assumes Point Thomson is not in production in ten years.

Point Thomson may have to be a contributor in ten years for project to be economically viable.

AGIA leveled the playing field and encouraged competition.

Ended up with one proposal and no competition.

TransCanada has ROW, permits, and pipe from Alberta to continental U.S. and ROW and permits in Yukon Territory. B.C. and Alberta have an established process for permitting and ROW's should be relatively straightforward.

TransCanada does not have ROW and permits in British Columbia and a small portion of Alberta. First Nation issues are unresolved.

Protection from cost overruns.

Best business practice encourages prevention of cost overruns.

TransCanada proposes 25 - 35 year FT but will negotiate terms with shippers to achieve commercially viable project.

TransCanada requires a 25 year FT. Denali would negotiate with each shipper to determine the shipping commitment, including all shippers, not just principles.

Art I, Section 15 states that no law making any irrevocable grant of special privileges or immunities shall be passed. The AGIA license is revocable under AS 43.90.200 (failure to sanction) and AS 43.90.240 (abandonment due to the project being uneconomic). Alaska courts would have jurisdiction should any ambiguities be identified.

Is sovereignty compromised? No

Federal off-shore leases don't generate revenue for the State (yet) but taking into consideration the tariff formula of allowable costs divided by volume federal leases do reduce tariffs for other users.

**HB 3001 SCORECARD**


**PRO HB 3001**

**CON HB 3001**

AGIA tilts the playing field and puts in place impediments preventing producers from proceeding.



**ALASKA STATE LEGISLATURE**  
**HOUSE RULES COMMITTEE**  
**REPRESENTATIVE JOHN COGHILL, CHAIRMAN**  
State Capitol Juneau, AK 99801-1182 (907) 465-3719  
1292 Sadler Way, Fairbanks AK 99701 (907) 456-5081

Date: July 14, 2008  
To: Suzi Lowell, Chief Clerk  
From: Representative John Coghill, Chairman   
House Rules Committee  
Re: House Rules Committee Meeting Notice

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The following meeting is scheduled:

**Monday, July 21<sup>st</sup>** - 2:00 p.m. Room 120 State Capitol

**HB 3001** "An Act approving issuance of a license by the commissioner of revenue and the commissioner of natural resources to TransCanada Alaska Company, LLC and Foothills Pipe Lines Ltd., jointly as licensee, under the Alaska Gasline Inducement Act; and providing for an effective date."



# LAWS OF ALASKA

2007

**Source**  
SCS CSHB 177(FIN)

**Chapter No.**  
\_\_\_\_\_

## AN ACT

Relating to the Alaska Gasline Inducement Act; providing inducements for the construction of a natural gas pipeline and shippers that commit to use that pipeline; establishing the Alaska Gasline Inducement Act reimbursement fund; providing for an Alaska Gasline Inducement Act coordinator; making conforming amendments; and providing for an effective date.

\_\_\_\_\_

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

THE ACT FOLLOWS ON PAGE 1

Enrolled HB 177

**AN ACT**

1 Relating to the Alaska Gasline Inducement Act; providing inducements for the construction of  
2 a natural gas pipeline and shippers that commit to use that pipeline; establishing the Alaska  
3 Gasline Inducement Act reimbursement fund; providing for an Alaska Gasline Inducement  
4 Act coordinator; making conforming amendments; and providing for an effective date.

5

6 \* Section 1. AS 43 is amended by adding a new chapter to read:

7

**Chapter 90. Alaska Gasline Inducement Act.**

8

**Article 1. Inducement to Construction of a Natural Gas Pipeline in This State.**

9

**Sec. 43.90.010. Purpose.** The purpose of this chapter is to encourage expedited construction of a natural gas pipeline that

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11

(1) facilitates commercialization of North Slope gas resources in the

12

state;

1 (2) promotes exploration and development of oil and gas resources on  
2 the North Slope in the state;

3 (3) maximizes benefits to the people of the state from the development  
4 of oil and gas resources in the state; and

5 (4) encourages oil and gas lessees and other persons to commit to ship  
6 natural gas from the North Slope to a gas pipeline system for transportation to markets  
7 in this state or elsewhere.

8 **Article 2. Alaska Gasline Inducement Act License.**

9 **Sec. 43.90.100. Gas project.** (a) The commissioners may award an Alaska  
10 Gasline Inducement Act license as provided in this chapter. The person awarded a  
11 license under this chapter is entitled to the inducement set out in AS 43.90.110.

12 (b) Nothing in this chapter precludes a person from pursuing a gas pipeline  
13 independently from this chapter.

14 **Sec. 43.90.110. Natural gas pipeline project construction inducement.** (a)  
15 Subject to the limitations of this chapter, a license issued under this chapter entitles the  
16 licensee or its designated affiliate to receive

17 (1) subject to appropriation, state matching contributions in the form of  
18 reimbursements in a total amount not to exceed \$500,000,000, paid to the licensee  
19 during the seven-year period immediately following the date the license is awarded;  
20 the payment period may be extended by the commissioners under an amendment or  
21 modification of the project plan under AS 43.90.210; a payment under this paragraph  
22 shall be made according to the following:

23 (A) on or before the close of the first binding open season, the  
24 state shall reimburse the licensee's qualified expenditures at the level specified  
25 in the license; however, the state's reimbursements may not exceed 50 percent  
26 of the qualified expenditures incurred before the close of the first binding open  
27 season;

28 (B) after the close of the first binding open season, the state  
29 shall reimburse the licensee's qualified expenditures at the level specified in  
30 the license; however, the state's reimbursements may not exceed 90 percent of  
31 the qualified expenditures incurred after the close of the first binding open

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season;

(C) a qualified expenditure is a cost that is incurred after the license is issued under this chapter by the licensee or the licensee's designated affiliate, and is directly and reasonably related to pursuing firm transportation commitments in a binding open season, to securing financing for the project, or to obtaining a certificate of public convenience and necessity from the Federal Energy Regulatory Commission or the Regulatory Commission of Alaska, as appropriate, or satisfying a requirement of an agency with jurisdiction over the project; in this subparagraph, "qualified expenditures" does not include overhead costs, lobbying costs, litigation costs, the cost of an asset or work product acquired or developed by the licensee before the license is issued, or civil or criminal penalties or fines; and

(2) the benefit of an Alaska Gasline Inducement Act coordinator who has the authority prescribed in AS 43.90.250.

(b) The commissioner of revenue in consultation with the commissioner of natural resources shall adopt regulations for determining whether an expenditure is a qualified expenditure for the purposes of (a) of this section.

**Sec. 43.90.120. Request for applications for the license.** (a) The commissioners shall commence a public process to request applications for a license under this chapter as soon as practicable after the effective date of this chapter.

(b) The commissioners may use independent contractors to assist them in developing the request for applications and in evaluating applications received under this chapter.

(c) The provisions of AS 36.30 do not apply to requests for applications under this chapter.

**Sec. 43.90.130. Application requirements.** An application for a license must be consistent with the terms of the request for applications under AS 43.90.120 and must

(1) be filed by the deadline established by the commissioners in the request for applications;

(2) provide a thorough description of a proposed natural gas pipeline

1 project for transporting natural gas from the North Slope to market, which description  
2 may include multiple design proposals, including different design proposals for pipe  
3 diameter, wall thickness, and transportation capacity, and which description must  
4 include

5 (A) the route proposed for the natural gas pipeline, which may  
6 not be the route described in AS 38.35.017(b);

7 (B) the location of receipt and delivery points and the size and  
8 design capacity of the proposed natural gas pipeline at the proposed receipt and  
9 delivery points, except that this information is not required for in-state delivery  
10 points unless the application proposes specific in-state delivery points;

11 (C) an analysis of the project's economic and technical  
12 viability, including a description of all pipeline access and tariff terms the  
13 applicant plans to offer;

14 (D) an economically and technically viable work plan, timeline,  
15 and associated budget for developing and performing the proposed project,  
16 including field work, environmental studies, design, and engineering,  
17 implementing practices for controlling carbon emissions from natural gas  
18 systems as established by the United States Environmental Protection Agency,  
19 and complying with all applicable state, federal, and international regulatory  
20 requirements that affect the proposed project; the applicant shall address the  
21 following:

22 (i) if the proposed project involves a pipeline into or  
23 through Canada, a thorough description of the applicant's plan to obtain  
24 necessary rights-of-way and authorizations in Canada, a description of  
25 the transportation services to be provided and a description of rate-  
26 making methodologies the applicant will propose to the regulatory  
27 agencies, and an estimate of rates and charges for all services;

28 (ii) if the proposed project involves marine  
29 transportation of liquefied natural gas, a description of the marine  
30 transportation services to be provided and a description of proposed  
31 rate-making methodologies; an estimate of rates and charges for all

1 services by third parties; a detailed description of all proposed access  
2 and tariff terms for liquefaction services or, if third parties would  
3 perform liquefaction services, identification of the third parties and the  
4 terms applicable to the liquefaction services; a complete description of  
5 the marine segment of the project, including the proposed ownership,  
6 control, and cost of liquefied natural gas tankers, the management of  
7 shipping services, liquefied natural gas export, destination,  
8 regasification facilities, and pipeline facilities needed for transport to  
9 market destinations, and the entity or entities that would be required to  
10 obtain necessary export permits and licenses or a certificate of public  
11 convenience and necessity from the Federal Energy Regulatory  
12 Commission for the transportation of liquefied natural gas in interstate  
13 commerce if United States markets are proposed; and all rights-of-way  
14 or authorizations required from a foreign country;

15 (3) commit that if the proposed project is within the jurisdiction of the  
16 Federal Energy Regulatory Commission, the applicant will

17 (A) conclude, by a date certain that is not later than 36 months  
18 after the date the license is issued, a binding open season that is consistent with  
19 the requirements of 18 C.F.R. Part 157, Subpart B (Open Seasons for Alaska  
20 Natural Gas Transportation Projects) and 18 C.F.R. 157.30 - 1 - 39;

21 (B) apply for Federal Energy Regulatory Commission approval  
22 to use the pre-filing procedures set out in 18 C.F.R. 157.21 by a date certain,  
23 and use those procedures before filing an application for a certificate of public  
24 convenience and necessity, except where the procedures are not required as a  
25 result of sec. 5 of the President's Decision issued under 15 U.S.C. 719 et seq.  
26 (Alaska Natural Gas Transportation Act of 1976); and

27 (C) apply for a Federal Energy Regulatory Commission  
28 certificate of public convenience and necessity to authorize the construction  
29 and operation of the proposed project described in this section by a date  
30 certain;

31 (4) if the proposed project is within the jurisdiction of the Regulatory

1 Commission of Alaska, commit to

2 (A) conclude, by a date certain that is not later than 36 months  
3 after the date the license is issued, a binding open season that is consistent with  
4 the requirements of AS 42.06; and

5 (B) apply for a certificate of public convenience and necessity  
6 to authorize the construction and operation of the proposed project by a date  
7 certain;

8 (5) commit that after the first binding open season, the applicant will  
9 assess the market demand for additional pipeline capacity at least every two years  
10 through public nonbinding solicitations or similar means;

11 (6) commit to expand the proposed project in reasonable engineering  
12 increments and on commercially reasonable terms that encourage exploration and  
13 development of gas resources in this state; in this paragraph,

14 (A) "commercially reasonable terms" means that, subject to the  
15 provisions of (7) of this section, revenue from transportation contracts covers  
16 the cost of the expansion, including increased fuel costs and a reasonable  
17 return on capital as authorized by the Federal Energy Regulatory Commission  
18 or the Regulatory Commission of Alaska, as applicable, and there is no  
19 impairment of the proposed project's ability to recover the costs of existing  
20 facilities;

21 (B) "reasonable engineering increments" means the amount of  
22 additional capacity that could be added by compression or a pipe addition  
23 using a compressor size or pipe size, as applicable, that is substantially similar  
24 to the original compressor size and pipe size;

25 (7) commit that the applicant

26 (A) will propose and support the recovery of mainline capacity  
27 expansion costs, including fuel costs, from all mainline system users through  
28 rolled-in rates as provided in (B) and (C) of this paragraph or through a  
29 combination of incremental and rolled-in rates as provided in (D) of this  
30 paragraph;

31 (B) will propose and support the recovery of mainline capacity

1 expansion costs, including fuel costs, from all mainline system users through  
2 rolled-in rates; an applicant is obligated under this subparagraph only if the  
3 rolled-in rates would increase the rates

4 (i) not described in (ii) of this subparagraph by not more  
5 than 15 percent above the initial maximum recourse rates for capacity  
6 acquired before commercial operations commence; in this sub-  
7 subparagraph, "initial maximum recourse rates" means the highest cost-  
8 based rates for any specific transportation service set by the Federal  
9 Energy Regulatory Commission, the Regulatory Commission of  
10 Alaska, or the National Energy Board of Canada, as appropriate, when  
11 the pipeline commences commercial operations;

12 (ii) by not more than 15 percent above the negotiated  
13 rate for pipeline capacity on the date of commencement of commercial  
14 operations where the holder of the capacity is not an affiliate of the  
15 owner of the pipeline project; for the purposes of this sub-  
16 subparagraph, "negotiated rate" means the rate in a transportation  
17 service agreement that provides for a rate that varies from the otherwise  
18 applicable cost-based rate, or recourse rate, set out in a gas pipeline's  
19 tariff approved by the Federal Energy Regulatory Commission, the  
20 Regulatory Commission of Alaska, or the National Energy Board of  
21 Canada, as appropriate; or

22 (iii) for capacity acquired in an expansion after  
23 commercial operations commence, to a level that is not more than 115  
24 percent of the volume-weighted average of all rates collected by the  
25 project owner for pipeline capacity on the date commercial operations  
26 commence;

27 (C) will, if recovery of mainline capacity expansion costs,  
28 including fuel costs, through rolled-in rate treatment would increase the rates  
29 for capacity described in (B) of this paragraph, propose and support the partial  
30 roll-in of mainline expansion costs, including fuel costs, to the extent that rates  
31 acquired before commercial operations commence do not exceed the levels

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described in (B) of this paragraph;

(D) may, for the recovery of mainline capacity expansion costs, including fuel costs, that, under rolled-in rate treatment, would result in rates that exceed the level in (B) of this paragraph, propose and support the recovery of those costs through any combination of incremental and rolled-in rates;

(E) will not enter into a negotiated rate agreement that would preclude the applicant from collecting from any shipper, including a shipper with a negotiated rate agreement, the rolled-in rates that are required to be proposed and supported by the applicant under (B) of this paragraph or the partial rolled-in rates that are required to be proposed and supported by the applicant under (C) of this paragraph;

(8) state how the applicant proposes to deal with a North Slope gas treatment plant, regardless of whether that plant is part of the applicant's proposal, and, to the extent that the plant will be owned entirely or in part by the applicant, commit to seek certificate authority from the Federal Energy Regulatory Commission if the proposed project is engaged in interstate commerce, or from the Regulatory Commission of Alaska if the project is not engaged in interstate commerce; for a North Slope gas treatment plant that will be owned entirely or in part by the applicant, for rate-making purposes, commit to value previously used assets that are part of the gas treatment plant at net book value; describe the gas treatment plant, including its design, engineering, construction, ownership, and plan of operation; the identity of any third party that will participate in the ownership or operation of the gas treatment plant; and the means by which the applicant will work to minimize the effect of the costs of the facility on the tariff;

(9) propose a percentage and total dollar amount for the state's reimbursement under AS 43.90.110(a)(1)(A) and (B) to be specified in the license;

(10) commit to propose and support rates for the proposed project and for any North Slope gas treatment plant that the applicant may own, in whole or in part, that are based on a capital structure for rate-making that consists of not less than 70 percent debt;

(11) describe the means for preventing and managing overruns in costs

1 of the proposed project, and the measures for minimizing the effects on tariffs from  
2 any overruns;

3 (12) commit to provide a minimum of five delivery points of natural  
4 gas in this state;

5 (13) commit to

6 (A) offer firm transportation service to delivery points in this  
7 state as part of the tariff regardless of whether any shippers bid successfully in  
8 a binding open season for firm transportation service to delivery points in this  
9 state; and

10 (B) offer distance-sensitive rates to delivery points in the state  
11 consistent with 18 C.F.R. 157.34(c)(8);

12 (14) commit to establish a local headquarters in this state for the  
13 proposed project;

14 (15) to the maximum extent permitted by law, commit to

15 (A) hire qualified residents from throughout the state for  
16 management, engineering, construction, operations, maintenance, and other  
17 positions on the proposed project;

18 (B) contract with businesses located in the state;

19 (C) establish hiring facilities or use existing hiring facilities in  
20 the state; and

21 (D) use, as far as is practicable, the job centers and associated  
22 services operated by the Department of Labor and Workforce Development  
23 and an Internet-based labor exchange system operated by the state;

24 (16) waive the right to appeal the rejection of the application as  
25 incomplete, the issuance of a license to another applicant, or the determination under  
26 AS 43.90.180(b) that no application merits the issuance of a license;

27 (17) commit to negotiate, before construction, a project labor  
28 agreement to the maximum extent permitted by law; in this paragraph, "project labor  
29 agreement" means a comprehensive collective bargaining agreement between the  
30 licensee or its agent and the appropriate labor representatives to ensure expedited  
31 construction with labor stability for the project by qualified residents of the state;

1 (18) commit that the state reimbursement received by a licensee may  
2 not be included in the applicant's rate base, and shall be used as a credit against the  
3 licensee's cost of service;

4 (19) provide a detailed description of the applicant, all entities  
5 participating with the applicant in the application and the project proposed by the  
6 applicant, and persons the applicant intends to involve in the construction and  
7 operation of the proposed project; the description must include the nature of the  
8 affiliation for each person, the commitments by the person to the applicant, and other  
9 information relevant to the commissioners' evaluation of the readiness and ability of  
10 the applicant to complete the project presented in the application;

11 (20) demonstrate the readiness, financial resources, and technical  
12 ability to perform the activities specified in the application by describing the  
13 applicant's history of compliance with safety, health, and environmental requirements,  
14 the ability to follow a detailed work plan and timeline, and the ability to operate within  
15 an associated budget.

16 **Sec. 43.90.140. Initial application review; additional information requests;**  
17 **complete applications.** (a) After the deadline established by the commissioners for  
18 filing an application has passed, the commissioners shall open and review each  
19 application to determine whether it is consistent with the terms of the request for  
20 applications and meets the requirements of AS 43.90.130. The commissioners shall  
21 reject as incomplete an application that does not meet the requirements of  
22 AS 43.90.130.

23 (b) To evaluate whether an application should be rejected under (a) of this  
24 section, the commissioners may request additional information relating to the  
25 application.

26 (c) If, within the time specified by the commissioners, the applicant fails to  
27 provide the additional information requested under (b) of this section, or submits  
28 additional information that is not responsive, the application shall be rejected.

29 (d) For an application not rejected under this section, the commissioners shall  
30 make a determination that the application, including any requested additional  
31 information, is complete.

1           (e) Except as provided under AS 43.90.150. and after determining which  
2 applications are complete, the commissioners shall make all applications available to  
3 the legislature.

4           **Sec. 43.90.150. Proprietary information and trade secrets.** (a) At the  
5 request of the applicant, information submitted under this chapter that the applicant  
6 identifies and demonstrates is proprietary or is a trade secret is confidential and not  
7 subject to public disclosure under AS 40.25. After a license is awarded, all  
8 information submitted by the licensee, retained under this chapter, and not determined  
9 by the commissioners to be a proprietary or trade secret shall be made public.

10           (b) If the commissioners determine that the information submitted by the  
11 applicant is not proprietary or is not a trade secret, the commissioners shall notify the  
12 applicant and return the information at the request of the applicant.

13           **Sec. 43.90.160. Notice, review, and comment.** (a) The commissioners shall  
14 publish notice and provide a 60-day period for public review and comment on all  
15 applications determined complete under AS 43.90.140. Except as provided under  
16 AS 43.90.150, all applications filed under this chapter shall be made public, including  
17 applications rejected as incomplete under AS 43.90.140.

18           (b) Applications received under this chapter are not subject to public  
19 disclosure under AS 40.25 until the commissioners publish notice under this section.  
20 However, information that the commissioners have determined is proprietary or a  
21 trade secret under AS 43.90.150 may not be made public even after the notice is  
22 published under (a) of this section, except as otherwise provided in AS 43.90.150. If  
23 information is proprietary or a trade secret and is held confidential under  
24 AS 43.90.150, the applicant shall provide a summary of the confidential information  
25 that is satisfactory to the commissioners, and the commissioners shall make the  
26 summary of the information available to the public.

27           (c) After the commissioners determine that the applications are complete  
28 under AS 43.90.140, information provided by an applicant to the commissioners under  
29 this chapter, including information determined by the commissioners to be  
30 confidential under AS 43.90.150, shall be disclosed to the legislative auditor, the fiscal  
31 analyst who serves as head of the legislative finance division, members of the

1 legislature, and their respective agents and contractors, on request and after the  
2 individual making the request signs a confidentiality agreement prepared by the  
3 commissioners.

4 **Sec. 43.90.170. Application evaluation and ranking.** (a) The commissioners  
5 shall evaluate all applications determined to be complete under AS 43.90.140,  
6 consider public comments received under AS 43.90.160(a), and rank each application  
7 according to the net present value of the anticipated cash flow to the state from the  
8 applicant's project proposal using the factors in (b) of this section and weighted by the  
9 project's likelihood of success based on the commissioners' assessment of the factors  
10 listed in (c) of this section.

11 (b) When evaluating the net present value of anticipated cash flow to the state  
12 from the applicant's project proposal, the commissioners shall use an undiscounted  
13 value and, at a minimum, discount rates of two, five, six, and eight percent, and  
14 consider

15 (1) how quickly the applicant proposes to begin construction of the  
16 proposed project and how quickly the project will commence commercial operation;

17 (2) the net back value of the gas determined by the destination market  
18 value of the gas and estimated transportation and treatment costs;

19 (3) the ability of the applicant to prevent or reduce project cost  
20 overruns that would increase the tariff;

21 (4) the initial design capacity of the applicant's project and the extent  
22 to which the design can accommodate low-cost expansion;

23 (5) the amount of the reimbursement by the state under  
24 AS 43.90.110(a)(1)(A) and (B) proposed by the applicant under AS 43.90.130(9);

25 (6) economic value resulting from payments required to be made to the  
26 state under the terms of the proposal; and

27 (7) other factors found by the commissioners to be relevant to the  
28 evaluation of the net present value of the anticipated cash flow to the state.

29 (c) When evaluating the project's likelihood of success, the commissioners  
30 shall consider

31 (1) the reasonableness, specificity, and feasibility of the applicant's

1 work plan, timeline, and budget required to be submitted under AS 43.90.130,  
2 including the applicant's plan to manage cost overruns, insulate shippers from the  
3 effect of cost overruns, and encourage shippers to participate in the first binding open  
4 season;

5 (2) the financial resources of the applicant;

6 (3) the ability of the applicant to comply with the proposed  
7 performance schedule;

8 (4) the applicant's organization, experience, accounting and operational  
9 controls, technical skills or the ability to obtain them, and necessary equipment or the  
10 ability to obtain the necessary equipment;

11 (5) the applicant's record of

12 (A) performance on projects not licensed under this chapter;

13 (B) integrity and good business ethics; and

14 (6) other evidence and factors found by the commissioners to be  
15 relevant to the evaluation of the project's likelihood of success.

16 **Sec. 43.90.180. Notice to the legislature of intent to issue license; denial of**  
17 **license.** (a) If, after consideration of public comments received under AS 43.90.160(a)  
18 and evaluation of complete applications under AS 43.90.170, the commissioners  
19 determine that an application proposes a project that will sufficiently maximize the  
20 benefits to the people of this state and merits issuance of a license under this chapter,  
21 the commissioners shall

22 (1) issue a determination, with written findings addressing the basis for  
23 the determination; the determination becomes a final agency action on the effective  
24 date of a bill approving the issuance of the license under AS 43.90.190;

25 (2) publish notice of intent to issue a license under this chapter with  
26 written findings addressing the basis for the determination; and

27 (3) forward the notice under (2) of this subsection, along with the  
28 findings, supporting documentation, and determination under (1) of this subsection, to  
29 the presiding officer of each house of the legislature for action as provided in  
30 AS 43.90.190.

31 (b) If, after evaluation of complete applications under AS 43.90.170, the

1 commissioners determine that no application sufficiently maximizes the benefits to the  
2 people of this state and merits issuance of a license under this chapter, the  
3 commissioners shall issue a written finding that addresses the basis for that  
4 determination.

5 (c) The commissioners' determination under (b) of this section is a final  
6 agency action.

7 **Sec. 43.90.190. Legislative approval; issuance of license.** (a) After the  
8 presiding officer of each house of the legislature receives a determination from the  
9 commissioners under AS 43.90.180, the rules committee of each house of the  
10 legislature shall introduce a bill in the committee's respective chamber that provides  
11 for the approval of the license proposed to be issued by the commissioners.

12 (b) If a bill approving the issuance of the license passes the legislature within  
13 60 days after the last date a presiding officer receives a determination by the  
14 commissioners under AS 43.90.180, the commissioners shall issue the license as soon  
15 as practicable after the effective date of the Act approving the issuance of the license.

16 (c) Notwithstanding a legislative rule that prohibits the carryover of a bill after  
17 the end of a special session or after the end of a regular session of a legislature, a bill  
18 introduced under (a) of this section that is not passed or not withdrawn, defeated,  
19 vetoed, or indefinitely postponed shall be carried over to any subsequent regular or  
20 special legislative session convened during the 60-day period described in (b) of this  
21 section in the same reading or status it was in at the time of adjournment. However, a  
22 bill introduced under (a) of this section may not be carried over to the first regular  
23 session of a legislature.

24 (d) If the legislature fails to approve the issuance of the license, the  
25 commissioners

26 (1) may not issue the license that the legislature failed to approve; and

27 (2) may request new applications for a license under AS 43.90.120.

28 **Sec. 43.90.200. Certification by regulatory authority and project sanction.**

29 (a) A licensee that is awarded a certificate of public convenience and necessity from a  
30 regulatory agency with jurisdiction over the project shall accept the certificate on or  
31 before the date the order granting the certificate is no longer subject to judicial review.

1 (b) If the licensee has credit support sufficient to finance construction of the  
2 project through ownership of rights to produce and market gas resources, firm  
3 transportation commitments, or government financing, the licensee shall sanction the  
4 project within one year after the effective date of the certificate of public convenience  
5 and necessity issued by the regulatory agency with jurisdiction over the project.

6 (c) If the licensee does not have credit support sufficient to finance  
7 construction of the project through ownership of rights to produce and market gas  
8 resources, firm transportation commitments, or government financing, the licensee  
9 shall sanction the project before the later of

10 (1) two years after the effective date of the certificate of public  
11 convenience and necessity issued by the regulatory agency with jurisdiction over the  
12 project; or

13 (2) five years after the close of the first binding open season of the  
14 project.

15 (d) If the licensee fails to sanction the project as required under this section,  
16 the licensee shall, upon request by the state,

17 (1) seek approval from the Federal Energy Regulatory Commission or  
18 the Regulatory Commission of Alaska, as applicable, to abandon and transfer the  
19 certificate to the state or the state's designee; and

20 (2) assign to the state or the state's designee all engineering designs,  
21 contracts, permits, and other data related to the project that are acquired by the  
22 licensee during the term of the license before the date of the abandonment or transfer.

23 (e) The transfer and assignments under (d) of this section as a result of failure  
24 to comply with (a) or (b) of this section are at no cost to the state or the state's  
25 designee. A transfer under (c) of this section shall be subject to the state's payment to  
26 the licensee of the net amount of expenditures incurred and paid by the licensee that  
27 are qualified expenditures for the purposes of AS 43.90.110.

28 (f) In this section, "effective date of the certificate of public convenience and  
29 necessity" means the earlier of the date the order granting the certificate is no longer  
30 subject to judicial review, or the date the licensee accepts the certificate.

31 **Sec. 43.90.210. Amendment of or modification to the project plan.** Subject

1 to the approval of the commissioners, a licensee may amend or modify its project plan  
2 if the amendment or modification improves the net present value of the project to the  
3 state, is necessary because of an order or requirement by a regulatory agency with  
4 jurisdiction over the project or by the Alaska Oil and Gas Conservation Commission,  
5 or is necessary because of changed circumstances outside the licensee's control and  
6 not reasonably foreseeable before the license was issued. An amendment or  
7 modification approved under this section must be consistent with the requirements of  
8 AS 43.90.130 and, except for an amendment or modification required because of an  
9 order or requirement of a regulatory agency with jurisdiction over the project or by the  
10 Alaska Oil and Gas Conservation Commission, may not substantially diminish the  
11 value of the project to the state or the project's likelihood of success.

12 **Sec. 43.90.220. Records, reports, conditions, and audit requirements.** (a) A  
13 licensee shall maintain complete and accurate records of all expenditures and  
14 commitments of state money received under this chapter, including receipts and  
15 records showing the payment or cost of purchased items and services, the names and  
16 addresses of the sellers and service providers, and the dates of service or delivery.

17 (b) Upon reasonable notice, the commissioners may audit the records, books,  
18 and files of the entity receiving the state money or making the expenditures and  
19 commitments of money received from the state under this chapter.

20 (c) The commissioners may do the following with respect to information  
21 relating to the project: conduct hearings or other investigative inquiries; compel the  
22 attendance of witnesses and production of documents; and require the licensee to  
23 furnish information in paper copy or electronic format.

24 (d) After a license has been issued and until commencement of commercial  
25 operations of a natural gas pipeline, the licensee shall allow the commissioners to

26 (1) have a representative present at all meetings of the licensee's  
27 governing body or bodies and equity holders that relate to the project;

28 (2) receive all relevant notices and information when and as sent to the  
29 governing body or bodies and equity holders;

30 (3) enjoy the same access to information about the licensee as the  
31 governing body members and equity owners receive; and

1 (4) receive relevant reports or information from the licensee that the  
2 commissioners reasonably request.

3 (e) All proprietary information, privileged information, and trade secrets  
4 received by the commissioners or their representative under (d) of this section are not  
5 subject to public disclosure under AS 40.25.

6 (f) A licensee shall maintain the records and reports required under this  
7 section for seven years from the date the licensee receives state money under this  
8 chapter.

9 **Sec. 43.90.230. License violations; damages.** (a) A licensee is in violation of  
10 the license if the commissioners determine that the licensee has

11 (1) requested and received money from the state under this chapter for  
12 an expenditure that is not a qualified expenditure under AS 43.90.110;

13 (2) except as required to conform with a requirement of a regulatory  
14 agency with jurisdiction over the project, substantially departed from the  
15 specifications set out in the application without state approval of a project plan  
16 amendment or modification under AS 43.90.210;

17 (3) violated any provision of this chapter or any other provision of  
18 state or federal law material to the license;

19 (4) failed to accept a certificate as required under AS 43.90.200(a) or  
20 failed to sanction the project as required under AS 43.90.200(b); or

21 (5) otherwise violated a material term of the license.

22 (b) The commissioners shall provide written notice to the licensee identifying  
23 a license violation. The commissioners and the licensee have 90 days after the date the  
24 notice is issued to resolve the violation informally.

25 (c) The commissioners may suspend disbursement of state reimbursements to  
26 the licensee beginning on the date that the notice of violation issued under (b) of this  
27 section is sent to the licensee. The commissioners may resume disbursement on the  
28 date that the commissioners determine that the violation is cured.

29 (d) If the commissioners and the licensee are unable to resolve the violation  
30 within the period described in (b) of this section, the commissioners shall notify the  
31 licensee that the violation has not been cured and provide the licensee with an

1 opportunity to be heard. If, after notice and hearing, the commissioners determine that  
2 the violation has not been cured, the commissioners shall issue a written decision that  
3 is a final administrative action for purposes of appeal to the superior court in the state.

4 (e) If the determination issued under (d) of this section finds an unresolved  
5 violation, the commissioners may impose one or more of the following remedies:

6 (1) discontinuation of state reimbursements under this chapter;

7 (2) recoupment of state money that the licensee has received under this  
8 chapter to date, with interest, regardless of whether the licensee has expended or  
9 committed that money;

10 (3) license revocation;

11 (4) assignment to the state or the state's designee of all engineering  
12 designs, contracts, permits, and other data related to the project that are acquired by  
13 the licensee during the term of the license; and

14 (5) any other remedies provided by law or in equity.

15 **Sec. 43.90.240. Abandonment of project.** (a) If the commissioners and the  
16 licensee agree that the project is uneconomic, the project shall be abandoned, the  
17 inducement provided for in AS 43.90.110 shall be terminated, and, except for  
18 requirements imposed on the licensee under (e) of this section and AS 43.90.220, the  
19 state and the licensee no longer have an obligation under this chapter with respect to  
20 the license.

21 (b) If the commissioners or the licensee determines that the project is  
22 uneconomic and the other party disagrees, the disagreement shall be settled by  
23 arbitration administered by the American Arbitration Association under the  
24 substantive and procedural laws of this state, and judgment on the award rendered by  
25 the arbitrators may be entered in superior court in the state. In the event of arbitration,  
26 each party shall select an arbitrator from the American Arbitration Association's  
27 National Roster, and the two arbitrators shall appoint a third arbitrator from the  
28 American Arbitration Association's National Roster who shall serve as the chair of the  
29 three-member arbitration panel. If the arbitration panel determines that the project is

30 (1) uneconomic, the state and the licensee no longer have an obligation  
31 under this chapter with respect to the license, except for requirements imposed on the

1 licensee under (e) of this section and AS 43.90.220; or

2 (2) not uneconomic, the obligations of the licensee and the state  
3 continue as provided under this chapter and the license.

4 (c) The arbitration panel in (b) of this section shall make a determination that  
5 the project is uneconomic only if the panel finds that the party claiming the project is  
6 uneconomic has proven by a preponderance of the evidence that the

7 (1) project does not have credit support sufficient to finance  
8 construction of the project through firm transportation commitments, government  
9 assistance, or other external sources of financing; and

10 (2) predicted costs of transportation at a 100 percent load factor, when  
11 deducted from predicted gas sales revenue using publicly available predictions of  
12 future gas prices, would result in a producer rate of return that is below the rate  
13 typically accepted by a prudent oil and gas exploration and production company for  
14 incremental upstream investment that is required to produce and deliver gas to the  
15 project.

16 (d) If the state makes a payment to the licensee under AS 43.90.440, the  
17 license is considered abandoned, and the state and the licensee no longer have any  
18 obligations under this chapter with respect to the license, except that the licensee must  
19 comply with the

20 (1) requirements imposed on the licensee under AS 43.90.220  
21 regarding state money received by the licensee before the license was considered  
22 abandoned; and

23 (2) requirements of AS 43.90.440.

24 (e) If the commissioners and the licensee agree that the project is uneconomic  
25 or an arbitration panel makes a final determination that the project is uneconomic, the  
26 licensee shall, upon the state's request, transfer to the state or the state's designee all  
27 engineering designs, contracts, permits, and other data related to the project that are  
28 acquired by the licensee during the term of the license upon reimbursement by the  
29 state of the net amount of expenditures incurred and paid by the licensee that are  
30 qualified expenditures for the purposes of AS 43.90.110.

31 **Sec. 43.90.250. Alaska Gasline Inducement Act coordinator.** (a) There is

1 created in the Office of the Governor the position of Alaska Gasline Inducement Act  
2 coordinator. Administrative support for the position shall be provided by the Office of  
3 the Governor. The position shall continue until one year after commencement of  
4 commercial operations of the project.

5 (b) The governor shall appoint a person to the position of Alaska Gasline  
6 Inducement Act coordinator. The individual serving as the Alaska Gasline Inducement  
7 Act coordinator may be removed from the position at the discretion of the governor.

8 **Sec. 43.90.260. Expedited review and action by state agencies.** (a) A review  
9 conducted and action taken by a state agency relating to the project shall be expedited  
10 in a manner consistent with the completion of the necessary approvals in accordance  
11 with this chapter.

12 (b) Notwithstanding any contrary provision of law, a state agency may not  
13 include in any project certificate, right-of-way, permit, or other authorization issued to  
14 the licensee a term or condition that is not required by law if the coordinator  
15 determines that the term or condition would prevent or impair in any significant  
16 respect the expeditious construction and operation or expansion of the project.

17 (c) Unless required by law, a state agency may not add to, amend, or abrogate  
18 any certificate, right-of-way, permit, or other authorization issued to a licensee if the  
19 coordinator determines that the action would prevent or impair in any significant  
20 respect the expeditious construction, operation, or expansion of the project.

### 21 **Article 3. Resource Inducements.**

22 **Sec. 43.90.300. Qualification for resource inducements.** (a) Notwithstanding  
23 any contrary provision of law, a lessee or other person that demonstrates to the  
24 satisfaction of the commissioners that the person has committed to acquire firm  
25 transportation capacity in the first binding open season of the project is qualified to  
26 receive the resource inducement set out in AS 43.90.310 and 43.90.320 for gas  
27 produced on the North Slope and shipped in firm transportation capacity acquired in  
28 the first binding open season of the project. The inducement in AS 43.90.310 is  
29 contractual.

30 (b) A gas producer receiving a voucher under AS 43.90.330 is qualified to  
31 receive the resource inducement in AS 43.90.310 and 43.90.320 for the gas shipped in

1 the firm transportation capacity described in the voucher for the period described in  
2 AS 43.90.330.

3 **Sec. 43.90.310. Royalty inducement.** (a) Before the start of the first binding  
4 open season to be conducted by the licensee, the commissioner of natural resources  
5 shall adopt regulations that establish a method to determine the monthly value of the  
6 state's royalty share of gas production and establish terms under which the state will  
7 exercise its right to switch between taking its royalty in value or in kind for gas  
8 committed for firm transportation in the first binding open season of the project or  
9 shipped in the firm transportation capacity described in a voucher received by the gas  
10 producer under AS 43.90.330. The regulations must

11 (1) minimize retroactive adjustments to the monthly value of the state's  
12 royalty share of gas production;

13 (2) provide a method for establishing a fair market value for each  
14 component of the state's royalty gas that is based on pricing data from reliable and  
15 widely available industry trade publications and that uses appropriate adjustments to  
16 reflect

17 (A) deductions for actual and reasonable transportation costs  
18 for the state's royalty gas, including a reasonable share of the costs associated  
19 with unused capacity commitments on gas pipelines from the North Slope to  
20 the first destination market with reasonable market liquidity;

21 (B) location differentials between the destination markets  
22 where North Slope gas could be sold;

23 (C) reasonable and actual costs for gas processing; in this  
24 subparagraph, "gas processing" means post-production treatment of gas to  
25 extract natural gas liquids; and

26 (D) deductions permitted under the 1980 Royalty Settlement  
27 Agreement for Prudhoe Bay gas; and

28 (3) establish terms under which the state will exercise its authority to  
29 switch between taking its royalty gas in value and in kind to ensure that the state's  
30 actions do not unreasonably

31 (A) cause the lessee or other person to bear disproportionate

1 transportation costs with respect to the state's royalty gas;

2 (B) interfere with the lessee's or other person's long-term  
3 marketing of its production.

4 (b) If a lessee or other person qualified for a resource inducement under  
5 AS 43.90.300 agrees under (c) of this section, the lessee or other person is entitled to  
6 elect

7 (1) to calculate its gas royalty obligation under the regulations adopted  
8 under (a) of this section for natural gas transported on a firm contract executed during  
9 the project's first binding open season or under the methodology set out in the existing  
10 leases from which the gas is produced, and

11 (A) upon the request of the lessee, the commissioner of natural  
12 resources shall contractually amend the existing lease to effect the election  
13 under this paragraph and incorporate as fixed contract terms the relevant  
14 regulatory provisions; and

15 (B) the election under this paragraph remains in effect until  
16 new regulations are adopted as a result of a review under (d) of this section, at  
17 which time, a lessee or other person qualified under AS 43.90.300 may change  
18 its election under this paragraph; upon the request of the lessee, the  
19 commissioner of natural resources shall contractually amend the lease to  
20 incorporate as fixed contract terms the relevant revised regulatory provisions;

21 (2) to enter into a contract with the state that amends the existing lease  
22 terms by providing a mechanism that ensures that, when the state exercises its right to  
23 switch between taking its royalty in value or in kind for gas committed for firm  
24 transportation in the first binding open season of the project, the lessee or other person  
25 does not bear disproportionate transportation costs with respect to the state's royalty  
26 gas; and by modifying the required period of notice that the state must provide before  
27 exercising the state's right to switch between taking its royalty in value or in kind for  
28 gas committed for firm transportation in the first binding open season of the project.

29 (c) To claim the inducement under (b) of this section, a lessee or other person  
30 qualified under AS 43.90.300 shall agree, on an application form provided by the  
31 Department of Natural Resources, that the lessee or other person, and the lessee's or

1 other person's affiliates, successors, assigns, and agents, will not protest or appeal a  
2 filing by the licensee to roll in expansion costs of the mainline up to a level that is  
3 required in AS 43.90.130(7) if the Federal Energy Regulatory Commission does not  
4 have a rebuttable presumption in effect that rolled-in treatment applies to the cost of  
5 the expansion of the project. The agreement not to protest may not preclude the lessee  
6 or other person, or the lessee's or other person's affiliates, successors, assigns, and  
7 agents, from protesting a filing to roll in mainline expansion costs that the licensee is  
8 not required to propose and support under AS 43.90.130(7).

9 (d) The commissioner of natural resources shall provide for review of the  
10 regulations adopted under (a) of this section at least every two years after the  
11 commencement of commercial operations to determine whether the regulations  
12 continue to meet the requirements of (a) of this section under current conditions, and  
13 shall amend the regulations when the requirements are not being met.

14 (e) No provision of this chapter precludes the election set out in (b) of this  
15 section, nor may the commissioner of natural resources assert any provision of any  
16 existing lease or unit agreement as precluding the elections set out in (b) of this  
17 section.

18 **Sec. 43.90.320. Gas production tax exemption.** (a) If a person qualified for a  
19 resource inducement under AS 43.90.300 agrees under (c) of this section, the person is  
20 entitled to an annual exemption from the state's gas production tax in an amount equal  
21 to the difference between the amount of the person's gas production tax obligation  
22 calculated under the gas production tax in effect during that tax year and the amount of  
23 the person's gas production tax obligation calculated under the gas production tax in  
24 effect at the start of the first binding open season held under this chapter. If the  
25 difference is less than zero, the gas production tax exemption is zero.

26 (b) The exemption under this section may be applied within 10 years  
27 immediately following commencement of commercial operations and only applied to  
28 production taxes that are levied on North Slope gas shipped through firm  
29 transportation capacity the person acquired during the first binding open season or  
30 shipped in the firm transportation capacity described in a voucher received by the gas  
31 producer under AS 43.90.330.

1 (c) The person claiming the exemption under this section shall agree that the  
2 person, and the person's affiliates, successors, assigns, and agents, will not protest or  
3 appeal a filing by the licensee to roll in mainline expansion costs up to the level that  
4 the licensee is required to propose and support under AS 43.90.130(7) if the Federal  
5 Energy Regulatory Commission does not have a rebuttable presumption in effect that  
6 rolled-in treatment applies to the cost of the expansion of the project. The agreement  
7 required under this subsection may not preclude the person, or the person's affiliates,  
8 successors, assigns, and agents, from protesting a filing to roll in mainline expansion  
9 costs that the licensee is not required to propose and support under AS 43.90.130(7).

10 (d) In this section, "gas production tax" means the tax levied on the production  
11 of gas under AS 43.55.

12 **Sec. 43.90.330. Inducement vouchers.** (a) A person that acquires firm  
13 transportation capacity in the first binding open season of the project, that does not  
14 hold an oil and gas lease on the North Slope, and that is not an affiliate of a person that  
15 holds an oil and gas lease on the North Slope may apply to the commissioners for a  
16 voucher under this section. A voucher issued by the commissioners must describe the  
17 firm transportation capacity in the project to which the voucher is applicable.

18 (b) A voucher issued by the commissioners under this section entitles the  
19 holder of the voucher to the resource inducements in AS 43.90.310 and 43.90.320 for  
20 gas shipped in the firm transportation capacity acquired by the person applying for the  
21 voucher during the first binding open season of the project and described in the  
22 voucher. The voucher may be transferred to a gas producer that has a binding  
23 obligation to sell gas to the person transferring the voucher under a gas purchase  
24 agreement.

25 (c) A gas producer holding a voucher may claim the resource inducements for  
26 gas shipped through the firm transportation capacity described in the voucher and only  
27 on gas that is produced and delivered to the purchaser on the North Slope. A gas  
28 producer may claim the resource inducements under this subsection until the earlier of  
29 the termination of the binding gas purchase agreement or the expiration of the  
30 inducements by operation of law.

31 (d) A person that receives a voucher under this section and a gas producer that

1 receives resource inducements under a voucher shall agree that the person and the gas  
2 producer and their respective affiliates, successors, assigns, or agents will not protest  
3 or appeal a filing by the licensee to roll in mainline expansion costs up to the level that  
4 the licensee is required to propose and support under AS 43.90.130(7) if the Federal  
5 Energy Regulatory Commission does not have a rebuttable presumption in effect that  
6 rolled-in treatment applies to the cost of the expansion of the project. The agreement  
7 required under this subsection may not preclude the person or gas producer or their  
8 respective affiliates, successors, assigns, or agents from protesting a filing to roll in  
9 mainline expansion costs that the licensee is not required to propose and support under  
10 AS 43.90.130(7).

11 **Article 4. Miscellaneous Provisions.**

12 **Sec. 43.90.400. Alaska Gasline Inducement Act reimbursement fund;**  
13 **disbursements; audits.** (a) There is established in the general fund an Alaska Gasline  
14 Inducement Act reimbursement fund. The fund consists of money appropriated to it by  
15 the legislature for disbursement to pay the state's reimbursements under AS 43.90.110.  
16 Money appropriated to the fund may be spent for the purposes of the fund without  
17 further appropriation. Appropriations to the fund do not lapse under AS 37.25.010, but  
18 remain in the fund for future disbursements. Nothing in this subsection creates a  
19 dedicated fund.

20 (b) The Department of Revenue shall manage the fund, and may invest money  
21 in the fund so as to yield competitive market rates as provided in AS 37.10.071.  
22 Income earned on the fund shall be accounted for separately and may be appropriated  
23 annually to the fund.

24 (c) The commissioners shall adopt regulations that provide for application to  
25 receive reimbursements for qualified expenditures as provided under AS 43.90.110,  
26 and that provide for periodic audits of the use of money disbursed as reimbursements  
27 under this chapter.

28 (d) Within 10 days after the convening of each regular session of the  
29 legislature, the commissioners shall submit to the legislature a report that lists all the  
30 disbursements from the fund during the preceding fiscal year with a written  
31 justification for each disbursement and the projected amount of money that will be

1 required for reimbursements in each of the next three fiscal years.

2 **Sec. 43.90.410. Regulations.** The commissioners may jointly adopt or amend  
3 regulations for the purpose of implementing the provisions of this chapter. The  
4 commissioner of revenue and the commissioner of natural resources may adopt or  
5 amend regulations adopted under authority outside of this chapter as necessary to  
6 implement the provisions of this chapter.

7 **Sec. 43.90.420. Statute of limitations.** A person may not bring a judicial  
8 action challenging the constitutionality of this chapter or the constitutionality of a  
9 license issued under this chapter unless the action is commenced in a court of the state  
10 of competent jurisdiction within 90 days after the date that a license is issued.

11 **Sec. 43.90.430. Interest.** When a payment due to the state under this chapter  
12 becomes delinquent, the payment bears interest at the rate applicable to a delinquent  
13 tax under AS 43.05.225.

14 **Sec. 43.90.440. Licensed project assurances.** (a) Except as otherwise  
15 provided in this chapter, the state grants a licensee assurances that the licensee has  
16 exclusive enjoyment of the inducements provided under this chapter before the  
17 commencement of commercial operations. If, before the commencement of  
18 commercial operations, the state extends to another person preferential royalty or tax  
19 treatment or grant of state money for the purpose of facilitating the construction of a  
20 competing natural gas pipeline project in this state, and if the licensee is in compliance  
21 with the requirements of the license and with the requirements of state and federal  
22 statutes and regulations relevant to the project, the licensee is entitled to payment from  
23 the state of an amount equal to three times the total amount of the expenditures  
24 incurred and paid by the licensee that are qualified expenditures for the purposes of  
25 AS 43.90.110 that the licensee incurred in developing the licensee's project before the  
26 date that the state first extended preferential treatment to another person. The payment  
27 under this subsection is subject to appropriation. Upon payment by the state of the  
28 amount owed under this section, the licensee shall, at no additional cost to the state,  
29 assign to the state or the state's designee all engineering designs, contracts, permits,  
30 and other data related to the project that were acquired by the licensee during the term  
31 of the license. The payment under this subsection is in full satisfaction of all claims

1 the licensee may bring in contract, tort, or other law related to the events that gave rise  
2 to the payment.

3 (b) The review, processing, or facilitation of a permit, right-of-way, or  
4 authorization by a state agency in connection with a competing natural gas pipeline  
5 project does not create an obligation on the part of the state under this section.

6 (c) In this section,

7 (1) "competing natural gas pipeline project" means a project designed  
8 to accommodate throughput of more than 500,000,000 cubic feet a day of North Slope  
9 gas to market;

10 (2) "preferential royalty or tax treatment" does not include

11 (A) the state's exercise of its right to resolve disputes involving  
12 royalties and taxes; or

13 (B) the state's exercise of its right to modify royalties as  
14 authorized by law in effect on the effective date of this section.

15 **Sec. 43.90.450. Assignments.** (a) A licensee may transfer all or part of the  
16 license, including the rights and obligations arising under the license, if, after  
17 publishing notice of the proposed transfer, providing notice to the presiding officer of  
18 each house of the legislature, and providing a period of not less than 30 days for public  
19 review and comment,

20 (1) the transfer is approved in writing in advance by the  
21 commissioners; and

22 (2) the transfer does not increase or diminish the obligations created by  
23 the license or diminish the likelihood of success of the project or the net present value  
24 of the license to the state.

25 (b) Notwithstanding the commissioners' approval of a transfer of all or part of  
26 a license under (a) of this section, the transferor of the license remains subject to the  
27 requirements of AS 43.90.220 regarding all state money received by the licensee  
28 before the effective date of the transfer.

29 (c) A person may transfer that person's rights to the royalty inducement under  
30 AS 43.90.310 and the gas production tax exemption under AS 43.90.320 only in  
31 connection with a sale or merger that results in transfer of all the person's assets in the

1 North Slope along with the person's firm transportation capacity contracts in the  
2 project.

3 (d) Except for the transfer of a voucher to a producer under AS 43.90.330(b),  
4 a person receiving a voucher under AS 43.90.330 based on the person's acquisition of  
5 firm transportation capacity in the first binding open season of the project may transfer  
6 the voucher only if the transfer is in connection with the permanent assignment by the  
7 person of 100 percent of the firm transportation capacity acquired in the first binding  
8 open season of the project.

9 **Sec. 43.90.460. Conflicting laws.** Nothing in this chapter shall be construed to  
10 repeal or abrogate the administrative, regulatory, or statutory procedures and functions  
11 of state and federal law governing the development and oversight of a project.

12 **Sec. 43.90.470. State pipeline employment development.** The commissioner  
13 of labor and workforce development shall develop a job training program that will  
14 provide training for Alaskans in gas pipeline project management, construction,  
15 operations, maintenance, and other gas pipeline-related positions.

16 **Article 5. General Provisions.**

17 **Sec. 43.90.900. Definitions.** In this chapter, unless the context otherwise  
18 requires,

19 (1) "affiliate" means another person that controls, is controlled by, or is  
20 under common control with a person, and includes a division that operates as a  
21 functional unit;

22 (2) "Alaska Gasline Inducement Act coordinator" or "coordinator"  
23 means the person appointed under AS 43.90.250;

24 (3) "applicant" means a person or group of persons that files an  
25 application for a license;

26 (4) "certificate of public convenience and necessity" and "certificate"  
27 mean a certificate of public convenience and necessity issued by the Federal Energy  
28 Regulatory Commission or the Regulatory Commission of Alaska and an amendment  
29 to a certificate of public convenience and necessity issued by the Federal Energy  
30 Regulatory Commission under 15 U.S.C. 719 et seq. (Alaska Natural Gas  
31 Transportation Act of 1976);

1 (5) "commencement of commercial operations" means the first flow of  
2 gas in the project that generates revenue to the owners;

3 (6) "commissioners" means the commissioner of revenue and the  
4 commissioner of natural resources, acting jointly;

5 (7) "control" means the possession of ownership interest or authority  
6 sufficient to, directly or indirectly, and whether acting alone or in conjunction with  
7 others, direct or cause the direction of the management or policies of a company, and  
8 is rebuttably presumed if the voting interest held is 10 percent or more;

9 (8) "equity holder" means the

10 (A) stockholders of a corporation;

11 (B) members of a limited liability company;

12 (C) partners of a partnership;

13 (D) joint venturers of a joint venture;

14 (E) members of a governmental authority and similar persons;

15 or

16 (F) holders of any other entity or person;

17 (9) "gas treatment plant" means a facility downstream of the point of  
18 production that conditions gas and removes nonhydrocarbon substances from the gas  
19 for the purpose of rendering the gas acceptable for tender and acceptance into a gas  
20 pipeline system;

21 (10) "governing body" means a corporation's board of directors, a  
22 limited liability company's managing members, a partnership's general partners, a joint  
23 venturer's joint venturers, a governmental authority's board or council members, and  
24 similar entities;

25 (11) "lease" means an oil and gas, or gas, lease issued by this state;

26 (12) "lessee" means a person that holds a working interest in an oil and  
27 gas, or gas, lease issued by this state;

28 (13) "license" means a license issued under this chapter;

29 (14) "licensee" means the holder of a license issued under this chapter  
30 and all affiliates, successors, assigns, and agents of the holder;

31 (15) "net present value" means the discounted value of a future stream

1 of cash flow;

2 (16) "North Slope" means that part of the state that lies north of 68  
3 degrees North latitude;

4 (17) "open season" means the process that complies with 18 C.F.R.  
5 Part 157, Subpart B (Open Seasons for Alaska Natural Gas Transportation Projects) or  
6 a similar process for soliciting commitments for pipeline capacity under the  
7 regulations, policies, rules, or precedent of the Regulatory Commission of Alaska;

8 (18) "point of production" has the meaning given in AS 43.55.900.

9 (19) "project" means a natural gas pipeline project authorized under a  
10 license issued under this chapter;

11 (20) "proprietary," when used to describe information, means that the  
12 information is treated by an applicant as confidential and the public disclosure of that  
13 information would adversely affect the competitive position of the applicant or  
14 materially diminish the commercial value of the information to the applicant;

15 (21) "recourse rates" means cost-based rates with a minimum and  
16 maximum range that are approved by the Federal Energy Regulatory Commission, the  
17 Regulatory Commission of Alaska, or the National Energy Board of Canada, as  
18 appropriate, and set out in the pipeline's tariff; "recourse rates" includes only those  
19 rates that the pipeline must make available to all shippers;

20 (22) "sanction" means to make financial commitments to go forward  
21 with the project as evidenced by entering into financial commitments of at least  
22 \$1,000,000,000 with third parties;

23 (23) "trade secret" has the meaning given in AS 45.50.940;

24 (24) "under common control with" has the meaning given "control" in  
25 this section;

26 (25) "unit agreement" means an agreement executed by the working  
27 interest owners and royalty owners creating the unit.

28 **Sec. 43.90.990. Short title.** This chapter may be cited as the Alaska Gasline  
29 Inducement Act.

30 \* **Sec. 2.** AS 36.30.850(b) is amended by adding a new paragraph to read:

31 (45) contracts for an arbitration panel to determine whether a project is

1           uneconomic under AS 43.90.240, and contracts for the development of application  
2           provisions for licensure and for the evaluation of those applications under AS 43.90.

3       \* Sec. 3. AS 38.05.020(b) is amended to read:

4                   (b) The commissioner may

5                               (1) establish reasonable procedures and adopt reasonable regulations  
6                               necessary to carry out this chapter and, whenever necessary, issue directives or orders  
7                               to the director to carry out specific functions and duties; regulations adopted by the  
8                               commissioner shall be adopted under AS 44.62 (Administrative Procedure Act);  
9                               orders by the commissioner classifying land, issued after January 3, 1959, are not  
10                              required to be adopted under AS 44.62 (Administrative Procedure Act):

11                             (2) enter into agreements considered necessary to carry out the  
12                             purposes of this chapter, including agreements with federal and state agencies;

13                             (3) review any order or action of the director;

14                             (4) exercise the powers and do the acts necessary to carry out the  
15                             provisions and objectives of this chapter;

16                             (5) notwithstanding the provisions of any other section of this chapter,  
17                             grant an extension of the time within which payments due on any exploration license,  
18                             lease, or sale of state land, minerals, or materials may be made, including payment of  
19                             rental and royalties, on a finding that compliance with the requirements is or was  
20                             prevented by reason of war, riots, or acts of God;

21                             (6) classify tracts for agricultural uses;

22                             (7) after consulting with the Board of Agriculture and Conservation  
23                             (AS 03.09.010), waive, postpone, or otherwise modify the development requirements  
24                             of a contract for the sale of agricultural land if

25                                       (A) the land is inaccessible by road; or

26                                       (B) transportation, marketing, and development costs render  
27                             the required development uneconomic;

28                             (8) reconvey or relinquish land or an interest in land to the federal  
29                             government if

30                                       (A) the land is described in an amended application for an  
31                             allotment under 43 U.S.C. 1617; and

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(B) the reconveyance or relinquishment is

(i) for the purposes provided in 43 U.S.C. 1617; and

(ii) in the best interests of the state;

(9) lead and coordinate all matters relating to the state's review and authorization of resource development projects;

**(10) exercise the powers and do the acts necessary to carry out the provisions and objectives of AS 43.90 that relate to this chapter.**

\* Sec. 4. AS 39.25.110 is amended by adding a new paragraph to read:

(41) the Alaska Gasline Inducement Act coordinator appointed under AS 43.90.250.

\* Sec. 5. AS 40.25.120(a) is amended to read:

(a) Every person has a right to inspect a public record in the state, including public records in recorders' offices, except

(1) records of vital statistics and adoption proceedings, which shall be treated in the manner required by AS 18.50;

(2) records pertaining to juveniles unless disclosure is authorized by law;

(3) medical and related public health records;

(4) records required to be kept confidential by a federal law or regulation or by state law;

(5) to the extent the records are required to be kept confidential under 20 U.S.C. 1232g and the regulations adopted under 20 U.S.C. 1232g in order to secure or retain federal assistance.

(6) records or information compiled for law enforcement purposes, but only to the extent that the production of the law enforcement records or information

(A) could reasonably be expected to interfere with enforcement proceedings;

(B) would deprive a person of a right to a fair trial or an impartial adjudication;

(C) could reasonably be expected to constitute an unwarranted invasion of the personal privacy of a suspect, defendant, victim, or witness;

1 (D) could reasonably be expected to disclose the identity of a  
2 confidential source;

3 (E) would disclose confidential techniques and procedures for  
4 law enforcement investigations or prosecutions;

5 (F) would disclose guidelines for law enforcement  
6 investigations or prosecutions if the disclosure could reasonably be expected to  
7 risk circumvention of the law; or

8 (G) could reasonably be expected to endanger the life or  
9 physical safety of an individual;

10 (7) names, addresses, and other information identifying a person as a  
11 participant in the Alaska Higher Education Savings Trust under AS 14.40.802 or the  
12 advance college tuition savings program under AS 14.40.803 - 14.40.817;

13 (8) public records containing information that would disclose or might  
14 lead to the disclosure of a component in the process used to execute or adopt an  
15 electronic signature if the disclosure would or might cause the electronic signature to  
16 cease being under the sole control of the person using it;

17 (9) reports submitted under AS 05.25.030 concerning certain  
18 collisions, accidents, or other casualties involving boats;

19 (10) records or information pertaining to a plan, program, or  
20 procedures for establishing, maintaining, or restoring security in the state, or to a  
21 detailed description or evaluation of systems, facilities, or infrastructure in the state,  
22 but only to the extent that the production of the records or information

23 (A) could reasonably be expected to interfere with the  
24 implementation or enforcement of the security plan, program, or procedures;

25 (B) would disclose confidential guidelines for investigations or  
26 enforcement and the disclosure could reasonably be expected to risk  
27 circumvention of the law; or

28 (C) could reasonably be expected to endanger the life or  
29 physical safety of an individual or to present a real and substantial risk to the  
30 public health and welfare;

31 (11) the written notification regarding a proposed regulation provided

1 under AS 24.20.105 to the Department of Law and the affected state agency and  
2 communications between the Legislative Affairs Agency, the Department of Law, and  
3 the affected state agency under AS 24.20.105;

4 **(12) records that are**

5 **(A) proprietary, privileged, or a trade secret in accordance**  
6 **with AS 43.90.150 or 43.90.220(e);**

7 **(B) applications that are received under AS 43.90 until**  
8 **notice is published under AS 43.90.160.**

9 \* Sec. 6. The uncodified law of the State of Alaska is amended by adding a new section to  
10 read:

11 FIRST REQUEST FOR APPLICATIONS FOR THE LICENSE. It is the intent of the  
12 legislature that the first request for applications for the license by the commissioners under  
13 AS 43.90.120, as enacted in sec. 1 of this Act, be issued within 90 days after the effective date  
14 of this Act.

15 \* Sec. 7. The uncodified law of the State of Alaska is amended by adding a new section to  
16 read:

17 EXPEDITED CONSIDERATION OF COURT CASES. It is the intent of the  
18 legislature that the courts of the state, when considering a case related to the development and  
19 construction of a natural gas pipeline under this Act or to the commitment of a shipper to  
20 acquire firm transportation capacity during the first binding open season for a project  
21 developed under this Act, expedite the resolution of the case by giving the case priority over  
22 all other civil cases to the extent permitted under the Alaska Rules of Court.

23 \* Sec. 8. The uncodified law of the State of Alaska is amended by adding a new section to  
24 read:

25 SEVERABILITY. Under AS 01.10.030, if any provision of this Act, or the application  
26 of it to any person or circumstance, is held invalid, the remainder of this Act and the  
27 application to other persons or circumstances are not affected.

28 \* Sec. 9. This Act takes effect immediately under AS 01.10.070(c).

July 9, 2008

To: Tam Cook

From Rynneva

Re: HB 4002 Alaska Resource Rebate Program

What could be the ramifications of our IRS status with the Permanent Fund Account if HB 4002 is enacted?

Are we jeopardizing our tax-exempt status by adding yet another payment to citizens based on ownership of resources and distributing rebates for income from resources?

Are we creating legal problems by basing eligibility on criteria other than eligibility for PFD?

I am at Terry Miller Gym.  
Will be here all day tomorrow.  
Probably best place to deliver answer.

Thanks

bp



Doug Suttles  
President

BP Exploration (Alaska) Inc  
P.O. Box 196612  
900 E. Benson Boulevard  
Anchorage, Alaska 99519-6612

July 30, 2008

The Honorable Lyda Green  
Senate President  
State Capitol, MS 3100  
Juneau, AK 99801

The Honorable John Harris  
Speaker of the House  
State Capitol, MS 3100  
Juneau, AK 99801

President Green and Speaker Harris:

Direct 907 564 5422  
Main 907 561 5111  
Fax 907 564 5900  
doug.suttles@bp.com

As the Legislature has been considering whether or not to award a license under AGIA there has been uncertainty expressed by some members of the Administration and the Legislature as to the commitment of BP to continue advancing the Denali project.

BP is committed to moving forward with the Denali project and we are spending millions of dollars already this summer to do just that. Doing so is in the best interest of our company and serves the best interest of the State of Alaska as well. We will continue to move as fast as we can with the State's cooperation.

Regardless of whether TransCanada is awarded a license under AGIA or not, Denali will continue to advance. BP is committed to do our part in enabling Denali to conduct an open season in the 2010-2011 timeframe. We are fully prepared to fund our share of the estimated \$600 million required to advance through open season. This commitment was recently confirmed in BP's public announcement of our 2<sup>nd</sup> Quarter financial results. After a successful open season we look forward to continuing to obtain a FERC certificate and ultimately delivering Alaska's gas to the marketplace.

Thank you for the opportunity to participate in your deliberations.

Sincerely,

A handwritten signature in black ink, appearing to read "Doug Suttles".

Doug Suttles  
BP Alaska Gas Pipelines LLC

cc: Members of the Legislature



ConocoPhillips Denali Company

July 30, 2008

The Honorable Lyda Green  
Senate President  
State Capitol, MS 3100  
Juneau, AK 99801

The Honorable John Harris  
Speaker of the House  
State Capitol, MS 3100  
Juneau, AK 99801

President Green and Speaker Harris:

During the recent debates and testimony regarding an Alaska gas pipeline, some have questioned ConocoPhillips' continuing commitment to advance the Denali project.

In our analyst earnings conference call last week, ConocoPhillips' Chairman and CEO, Jim Mulva, confirmed that "irrespective of what takes place with approval or not by the state legislature [of a \$500 million inducement for TransCanada], we continue to go forward with BP on the Denali project, doing our field work this summer and moving right through a process of open season that we expect in the next few years. So it doesn't change at all the aggressiveness in the plan that we've announced with respect to Denali and our work between ConocoPhillips and BP." As I write, Denali has in excess of 60 people in the field and another 30 in Anchorage conducting various activities to prepare for Denali's open season, and Denali will spend approximately \$40 million on field work this summer alone. The total cost of advancing the Denali project through the open season milestone is expected to be \$600 million.

After a successful open season, Denali will be in a position to quickly progress the project toward applying for and obtaining a Federal Energy Regulatory Commission (FERC) certificate, which is the critical governmental approval necessary to actually begin construction of the project. Denali has already sought and received approval from the FERC to use the FERC's pre-filing process which will allow Denali and the FERC to more expeditiously advance the Denali project.

Sincerely,

A handwritten signature in cursive script that reads "Jim Bowles".

Jim Bowles  
President  
ConocoPhillips Denali Company

cc: Members of the Legislature



# STATE OF ALASKA

SARAH PALIN, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES & DEPARTMENT OF REVENUE

## ALASKA GASLINE INDUCEMENT ACT

The Honorable Bettye Davis  
Alaska State Legislature  
State Capitol, MS 3100  
Juneau, AK 99801

July 28, 2008

Dear Senator Davis:

I recently received a copy of a July 21, 2008 letter that BP sent to you and circulated to other legislators expressing BP's objections to the Alaska Gasline Inducements Act ("AGIA") and the proposed AGIA license. I would like to take this opportunity to respond briefly to the main points in BP's letter, which are incorrect and raise issues the Administration has already thoroughly considered and addressed.

### **BP OFFERS CONFLICTING STATEMENTS ON AGIA LICENSE**

As a threshold matter, BP's letter conflicts with its statements elsewhere regarding the impact of an AGIA License on the Denali project. BP and ConocoPhillips, its partner in the Denali proposal, have stated previously that they are moving forward with Denali regardless of AGIA, and that they have no intention of actively opposing the issuance of the AGIA license to TransCanada's competing project. Yet BP's letter now seeks to convince legislators to vote against the TransCanada/AGIA license and eliminate the competition that AGIA and TransCanada's AGIA proposal have engendered. *The mere existence of the BP letter is further proof that the Producers recognize the increased leverage the state will gain with the issuance of the AGIA License.*

### **ATTEMPT TO DISTRACT FROM DENALI'S LACK OF DETAILS**

BP's criticisms seek to mask the lack of details that have been provided regarding the Denali proposal. Even at this late juncture in the AGIA debate, Denali has only provided a cursory presentation that pales in comparison to the detailed proposal TransCanada has submitted. In addition, unlike TransCanada, Denali has failed to make any binding commitments to low tariff rates, expansions, and other terms that will maximize development of the North Slope and associated job opportunities for Alaskans.

BP claims it "wants to work together with the State and interested 3<sup>rd</sup> parties to advance the construction of the Project and we look forward to the day when we can ship our Alaska North Slope gas to Alaska and other North American markets." Unfortunately, BP's actions do not match its words.

Because of AGIA, the State has made significant progress towards a gasline. But BP claims no one has worked as hard as BP and the other Prudhoe Bay lessees to advance the Project since 2001, and cites the fact that it "[p]articipated in the AGIA legislative process" last year as an example of its efforts to advance the Project. With all due respect, BP worked tirelessly to defeat AGIA in 2007. Despite the opposition by BP and the other Prudhoe Bay lessees, AGIA passed by a near-unanimous vote. Thus, progress has been made *despite* BP's efforts, not because of those efforts. It is also important to note that nothing in State law has precluded BP from advancing a gasline project earlier. It was only with the advancement of AGIA that BP and ConocoPhillips announced the formation of Denali and the public relations campaign that has accompanied it.

### **INCORRECT STATEMENTS ABOUT TRANSCANADA**

BP also mischaracterizes TransCanada's proposal. BP states "TransCanada has testified they are willing to build the pipeline, but only if shippers including the State and BP provide the financial guarantees that cover the expense and risk." However, in its AGIA application TransCanada has provided several means of *sharing* the risk of the Project with its shippers, including offering to reduce its rate of return and even forego any profit on cost overruns. TransCanada also will have to negotiate the terms of firm shipping agreements with BP and the other producers, which can be expected to exercise significant negotiating leverage with TransCanada to drive even more favorable terms.

BP's letter also touts the purported advantages of the Denali project and the alleged disadvantages of TransCanada's project. The correct view of these issues, and a rebuttal of BP's principal arguments, is provided below:

- AGIA Is Consistent With Federal Law. Contrary to what BP asserts, AGIA is consistent with federal law, including the Alaska Natural Gas Pipeline Act ("ANGPA") and Federal Energy Regulatory Commission ("FERC") regulations. BP's letter is misleading on this point for at least two reasons. First, it fails to acknowledge that FERC representatives testified during last year's AGIA legislative hearings that nothing in AGIA conflicts with federal law. Second, FERC has submitted five reports to Congress since 2004 detailing the progress toward completing an Alaskan pipeline project and not once has FERC indicated that AGIA or the TransCanada application is in any way in conflict with either ANGPA or any FERC regulation.
- TransCanada's Purported Withdrawn Partner Liabilities. BP has exaggerated its purported concerns about TransCanada's alleged withdrawn partner liabilities in an attempt to spread uncertainty and doubt about TransCanada's competing project. As the commissioners fully explained in the AGIA Findings, these arguments by BP and others are very weak, and should not be a barrier to awarding the AGIA license to TransCanada.<sup>1</sup> While BP claims it has obtained a legal opinion on this issue, BP has not provided a copy of that opinion to the Administration. In fact, BP failed to provide any detailed legal analysis of this issue during the

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<sup>1</sup> See AGIA Findings at Chapter 3, at pages 3-148 to 3-153, and at Appendix R1.

AGIA public comment process. Similarly, BP's partner in Denali, ConocoPhillips, promised months ago to provide the Administration with a copy of its legal opinion on this issue, but ultimately refused to do so. BP's eleventh hour efforts to resuscitate this issue on the eve of the AGIA vote lack merit and should be rejected.

- Cost Control. TransCanada has put forth several innovative proposals that give it a strong incentive to control project costs and rates. Ignoring these proposals, BP claims that TransCanada does not have incentive to control project costs, and that BP does. However, as the State has learned with the TAPS pipeline, a producer-owned pipeline actually has an incentive to keep the tariff rates high, raise the costs of competing shippers, and reduce the State's royalty and tax revenue. Given its track record with TAPS, BP's assertions about cost control cannot be taken seriously.
- "Ambiguous" License Terms. The AGIA License terms are not ambiguous, despite what BP asserts. The License includes the terms of the Application, AGIA and the request for applications (RFA), which together delineate the duties and rights of both the State and TransCanada. And, as more fully detailed in AGIA, those duties and rights can only be modified with the commissioners' consent.
- State Funds. It is interesting that BP asserts Denali has not asked for any State funds to advance its project. While that is technically true, during the SGDA process BP and ConocoPhillips (with ExxonMobil) demanded billions of dollars in tax and royalty concessions from the state in exchange for only a vague pledge to study moving forward with a pipeline. Denali presents the same scenario. The companies can decide to halt work on their project at any time with no obligations to the State. By contrast, AGIA requires TransCanada to advance its project through the FERC certificate process, and TransCanada has committed unconditionally to do so. The State's matching contributions under AGIA secure TransCanada's unconditional commitments to pursue the project on terms that benefit the State, including low tariff rates and mandatory expansion terms that will maximize the development of Alaska's vast natural gas reserves.
- Treble Damages. BP states that Denali creates no exposure to the treble damages provisions of AGIA. This is obviously true inasmuch as Denali is not being proposed under AGIA and the treble damages provisions of AGIA only apply to an AGIA-licensed project. What BP fails to note is that the treble damages provision is being given in exchange for TransCanada's commitments to the state, commitments that BP and ConocoPhillips are unwilling to provide themselves. BP also ignores the fact that AGIA actually *limits* the state's liability, by providing these damages as the sole remedy of the licensee in the unlikely event of a dispute.

#### **POINT THOMSON IS NOT A BARRIER TO AGIA**

BP also voices what it characterizes as "serious concerns" about the recent decision by the Commissioner of Natural Resources not to accept ExxonMobil's recently filed plan of development ("POD") for Point Thomson. The Commissioner's decisions in the Point Thomson litigation are based on the record in that proceeding and attempts by the lessees (ExxonMobil, BP, ConocoPhillips, and Chevron) to influence that decision outside the record are inappropriate.

*In this regard it must be noted that Commissioner Irwin's actions relating to the POD are the direct result of ExxonMobil's failure for many years to honor its commitments to the State to develop Point Thomson. What BP fails to mention is that the proposed 23<sup>rd</sup> POD would not have ensured that gas was developed in time for any producer to purchase gas during either the TransCanada or Denali pipeline's first open season. During the unit's history, BP failed to effectively exert whatever influence it may have had as a working interest owner to encourage ExxonMobil to move forward and develop the valuable resources in this area.*

BP's letter also does not explain why Point Thomson is relevant to AGIA. It is not. AGIA can and should go forward despite the thirty-year failure of ExxonMobil, BP, ConocoPhillips and Chevron to develop Point Thomson. Bringing Point Thomson into the AGIA debate is an effort to increase bargaining leverage and circumvent DNR's efforts to insure production from this area through the judicial system. By terminating the unit in 2006, DNR began the process that will return the lands to DNR for re-leasing long before either pipeline is ready to go in service. Any requirement to resolve the Point Thomson dispute prior to moving forward with AGIA would impose an indefinite delay on any gasline project -- a delay which would reduce the competitive pressure on Denali to keep moving forward with its project, and would impair the State's efforts to successfully resolve its dispute with the Point Thomson lessees.

#### **AGIA PROVIDES BP WITH THE PATH TO FISCAL STABILITY**

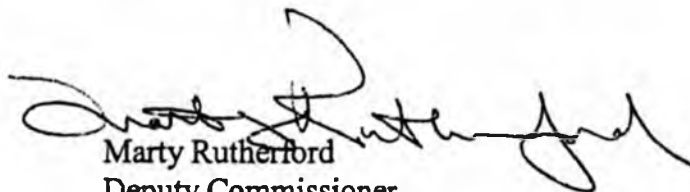
Finally, BP reasserts what it has consistently argued in the past: without fiscal concessions by the State, shippers will not make firm shipping commitments. However, BP also offers the misleading argument that AGIA restricts the State from providing necessary fiscal concessions. AGIA merely puts a price tag on the State supporting projects (other than a "bullet line") that would compete with an AGIA-licensed pipeline. AGIA does *not* preclude the State from providing fiscal concessions to shippers that support an AGIA licensed pipeline. Indeed, AGIA already provides ten years of fiscal predictability to any shipper that signs a firm contract on the AGIA pipeline. If BP can demonstrate that additional fiscal predictability is reasonably necessary, the legislature can increase the predictability provided to shippers on the AGIA-licensed pipeline. Thus, if BP needs additional fiscal stability, AGIA provides the path -- not a barrier -- to obtaining that.

#### **CONCLUSION**

In closing, by offering a series of invalid arguments and recycling the objections to AGIA that it unsuccessfully pursued last year, BP is seeking to keep the State from taking a very significant step towards achieving a gasline. Issuing the AGIA license will provide the State with an experienced pipeline company partner that has unconditionally committed to pursue the project on terms that maximize development of the State's natural gas resources. Issuing the AGIA license will also keep the competitive pressure on Denali. Only in response to the competitive pressure provided by AGIA did BP and Conoco come forward with the Denali project.

Thank you for the opportunity to respond to BP's assertions. In addition, thank you again for your support of AGIA last year, which has brought us to this important point in the State's history. If you have any questions or concerns, do not hesitate to contact me as we work together to advance the State's interests.

Sincerely,

A handwritten signature in black ink, appearing to read "Marty Rutherford". The signature is fluid and cursive, with a large initial "M" and "R".

Marty Rutherford  
Deputy Commissioner  
Alaska Department of Natural Resources

cc: The Honorable Lyda Green, President of the Senate  
The Honorable John Harris, Speaker of the House

## **LEGISLATIVE ALERT – CALL YOUR ALASKA SENATOR TODAY!**

### **Top 10 Reasons to Vote “Yes” on Authorization to Issue the AGIA License to TransCanada Alaska Company, LLC and Foothills Pipe Lines, Ltd.**

1. TransCanada Alaska Company, LLC (“TC Alaska”) and its parent corporation, TransCanada Corporation, are high-quality companies in the business of building and operating natural gas pipelines throughout North America.
2. Through an AGIA license, TC Alaska makes legally enforceable commitments to:
  - Hire Alaskans;
  - Meet in-state energy needs;
  - Adhere to a firm timeline for project development all the way through FERC certification; and
  - Reduce tariffs and increase expansion opportunities that encourage exploration and development of the North Slope gas basin, which provide the basis for long-term careers, economic security and energy security for Alaskans.
3. If TC Alaska violates any legally enforceable commitments made under the AGIA license, consequences include recoupment of state reimbursements made under AGIA and state acquisition of project data acquired by TC Alaska during the license term.
4. TC Alaska offers a project that is economically and technically viable, and that maximizes benefits to Alaskans.
5. TC Alaska faces fewer permitting obstacles in Canada, and, as an independent pipeline company, does not raise the antitrust legal issues that might affect a producer-owned gas pipeline.
6. Award of an AGIA license to TC Alaska provides the opportunity to bring all parties together while still protecting Alaska's interests.
7. Award of an AGIA license does not commit the state to anything more than the inducements specified in the Alaska Gasline Inducement Act:
  - Up to \$500 million reimbursement for qualified expenditures;
  - Benefits of an AGIA coordinator and expedited state permit review;
  - Exclusive enjoyment of the AGIA inducements prior to the commencement of commercial operation.
8. Award of an AGIA license to TC Alaska allows the state to assist smaller pipeline projects that can provide gas for instate needs or spur line projects off the AGIA mainline.
9. A gas pipeline company owned by major North Slope oil and gas producers, and that is not licensed under AGIA, may be subject to management decisions that reflect the best interests of the owners, rather than the pipeline company. For example, the gas pipeline company may benefit from expanding the pipeline, but

if such an expansion competes with producers' interests, the producer-owners may not allow the expansion.

10. Without authorization to issue the AGIA license to TC Alaska, Alaska will once again be dependent on the major North Slope producers for pipeline development and that means:

- Project development on the producers' timeline that fits with their worldwide plans;
- Negotiations on fiscal concessions with the producers holding most of the cards; and
- Far fewer tools to protect Alaska's interests or to develop Alaska's natural gas resources in a way that maximizes benefits to Alaskans.

**Call your Alaska State Senator TODAY and urge him or her to vote YES to award the state license to TransCanada.**

**Con Bunde, District P**

(907) 465-4843 or 800-892-4843

[Senator.Con.Bunde@legis.state.ak.us](mailto:Senator.Con.Bunde@legis.state.ak.us)

**John Cowdery, District O**

(907) 465-3879 or 800-269-3879

[Senator.John.Cowdery@legis.state.ak.us](mailto:Senator.John.Cowdery@legis.state.ak.us)

**Bettye J. Davis, District K**

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**Fred Dyson, District I**

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**Johnny Ellis, District L**

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**Donald Olson, District T**  
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Senator Donny Olson@legis.state.ak.us

**Bert Stedman, District A**  
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Senator Bert Stedman@legis.state.ak.us

**Gary Stevens, District R**  
(907) 465-4925 or 800-821-4925  
Senator Gary Stevens@legis.state.ak.us

**Gene Therriault, District F**  
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Senator Gene Therriault@legis.state.ak.us

**Joe J. Thomas, District D**  
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Senator Joe Thomas@legis.state.ak.us

**Thomas Wagoner, District Q**  
(907) 465-2828 or 800-964-5733  
Senator Tom Wagoner@legis.state.ak.us

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Senator Bill Wielechowski@legis.state.ak.us

**Gary Wilken, District E**  
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Senator Gary Wilken@legis.state.ak.us



July 23, 2008

The Honorable Charlie Huggins  
Chair  
Senate Special Committee on Energy  
State Capitol, MS 3100  
Juneau, AK 99801

The Honorable John Harris  
Chair  
House Rules Subcommittee on AGIA  
State Capitol, MS 3100  
Juneau, AK 99801

Senator Huggins and Speaker Harris:

Thank you for the opportunity to provide testimony to the House Special Subcommittee on AGIA Joint with the Senate Special Committee on Energy. Enclosed for your reference is my written response to the various questions raised by the committee where I agreed to provide additional information during the course of testimony.

Thank you again for the opportunity to participate in your deliberations.

Sincerely,

Bud E. Fackrell  
President  
Denali – The Alaska Gas Pipeline LLC

Attachments (4)  
cc: Committee Members

**Attachment 1**  
**Questions Raised by House Special Subcommittee on AGIA**  
**Joint with Senate Special Committee on Energy**

**During Testimony Provided by Bud Fackrell on July 10, 2008**

**1. Which of AGIA's 20 "must haves" could you accommodate?**

Denali intends to satisfy a large number of the State's "must haves" as described below. Additionally, unlike the AGIA applicant, Denali is not seeking a contractual commitment of monetary contributions from the State or penalties if the State exercises its sovereign powers in a way that benefits a competing pipeline project.

1. **Filing deadline:** Not applicable.
2. **Project details and schedule:** The Denali project is pursuing a large diameter, 2,500 psi gas pipeline design that could (a) treat and (b) deliver approximately 4 bcf/d of Alaskan gas to North American markets. The Denali project will generally follow the TAPS right of way from the Alaska North Slope south to the area of Delta Junction, at which point the route will turn east and generally follow the Alaska Highway into Alberta, Canada. From Alberta, if sufficient customer support exists to move gas from Alberta south, new pipe will be built as shown on the map contained in my presentation. Denali's success case schedule was shown in the presentation, with first gas flowing in 2018.
3. **Dates:**
  - a. Denali plans to commence its open season by year-end 2010 and with an expectation of completing a successful open season during the first half of 2011.
  - b. Denali has already applied for FERC pre-filing and had the pre-filing approved by FERC on June 25, 2008.
  - c. Denali has indicated publicly, including in the FERC pre-filing request, that its intent is to apply for a FERC certificate by August, 2011.
4. **RCA:** Not applicable.
5. **Open season frequency:** Denali intends to conduct a public solicitation every two years following receipt of our FERC certificate to determine if parties are interested in seeking an expansion.
6. **Expansions:** The Denali pipeline system will be expandable in reasonable engineering increments, and Denali will, consistent with regulatory requirements, offer commercially reasonable terms to its customers for such expansions.

7. **Rolled-in rates:** Denali will offer rolled-in rates consistent with FERC regulations in the US and NEB regulations in Canada. Denali will structure its transportation agreements consistent with applicable FERC and NEB policy.
8. **GTP:** The construction of a North Slope gas treatment plant is included in the base project design of the Denali project.
9. **State reimbursement:** Not applicable. Denali is not seeking the State's \$500 million inducement.
10. **Debt ratio:** Denali is committed to offering commercially reasonable terms to its customers, and recognizes that, all other things being equal, a higher debt to equity ratio will result in a reduced tariff, which will be viewed favorably by Denali's customers. However, Denali is also committed to ensuring that the tariff is structured in a manner that allows the project to be financed. Therefore, we do not think it is advisable to commit to a particular tariff structure before consultation with both customers and lenders. In the past, Denali's owner representatives have expressed a desire to seek a debt-equity ratio of 80/20 in the financial markets.
11. **Cost overrun measures:** Denali will have access to ConocoPhillips and BP's world class project management expertise. BP and ConocoPhillips have demonstrated their ability to deliver pipeline mega-projects in challenging multi-governmental environments around the globe. Denali's pre-open season front-end loading process (an estimated \$600 million spend before open season) is based on the experience of BP and ConocoPhillips, which has proven that front-end work is essential to effectively controlling costs and demonstrating to our prospective shippers that we have mitigated risks and reasonably estimated our costs.
12. **In-state deliveries:** Denali intends to provide at least five in-state offtake points for potential consumers of gas in Alaska.
13. **In-state delivery rates:** Denali's rates will be distance-sensitive to Alaska offtake points.
14. **Alaska HQ:** Denali will locate a project headquarters office in Anchorage, Alaska.
15. **Local hire:** The owners of Denali have a long history of Alaska hire, buy and build. The Denali project will provide many opportunities for Alaskans and Alaska businesses. In fact already over 20 Alaska businesses have contracts for Denali work. Denali's goal is to have a trained Alaskan workforce ready to go to work constructing the Denali pipeline and will make millions of dollars available for workforce training.
16. **Waive right to appeal:** Not applicable.

17. **Project Labor Agreement:** Denali intends to negotiate one or more project labor agreements to make efficient use of union and non-union labor.
18. **State reimbursement treatment:** Not applicable. Denali is not requesting reimbursements of costs under AGIA.
19. **Details of applicant:** Denali – The Alaska Gas Pipeline LLC is a company owned jointly in equal parts by BP Alaska Gas Pipeline LLC and ConocoPhillips Denali Company. Denali is a Delaware company that is registered and licensed to do business in Alaska.
20. **Readiness:** The affiliates of Denali have a unique and proven track record as operators in the Alaskan arctic, and as owners and operators of pipeline projects around the globe. In addition, the parent companies of Denali have strong balance sheets that should provide lenders the confidence that the project will be completed. The owners of Denali are committed to making Denali a success.

**2. Can we get a roster of those employees who are resident in Alaska? How many of those employees are new hires vs. those being brought in from other locations?**

Denali is in the process of staffing up our organization. At the beginning, in order to get the world class expertise we need for this mega-project we are drawing heavily on BP and ConocoPhillips resources from Alaska and from around the world. We will continue to make further local hires here in Alaska, and will encourage our contractors to do the same within the limits of the law.

**3. Please provide contact information for your Tok field office and your Anchorage office.**

Denali's Tok office is located at Milepost 1313 on the Alaska Highway. Denali has secured an interim Anchorage headquarters office at 949 East 36<sup>th</sup> Avenue, Suite 100. We will be moving into our new Anchorage office location in September once lease arrangements are finalized, and we will provide Denali's updated contact information once that becomes available. In the meantime, you can reach my assistant at (907) 865-4702.

**4. Can you be more precise on what the repercussions from FERC will be if you fail to follow up on your project?**

We are not aware of any formal penalties if a project is not pursued after the FERC pre-filing process is approved.

We intend to hold an open season within 36 months and plan to spend \$600 million in the process. We intend to work closely with the FERC, the OFC, and the NEB and have submitted our NEPA pre-filing request to FERC, and

FERC approved our pre-filing request on June 25. We indicated our intent to submit an application for a FERC certificate in August, 2011. The FERC indicated their desire to be involved early in the process to help identify issues and work with both Denali and all stakeholders to resolve issues to support a timely application.

- 5. Can you provide information about which pipelines BP and ConocoPhillips own and operate, including the owner, operator, whether still owned, number of non-owner shippers and the project costs? Can you compare the rates that independents pay on your pipelines to the rates that owners pay on those pipelines? How close were the final costs aligned with the cost estimates?**

I have asked the Denali owners to answer this question. Their answer is provided below:

*Attachment 2 provides a summary of some large pipelines constructed by affiliates of BP and ConocoPhillips over the past 15 years. On pipelines owned and operated by a BP affiliate constructed since 2000, final costs averaged a 7% variation from initial estimates. In addition many of these projects included construction in some of the most difficult areas of the world, including projects traversing mountainous regions, spanning multiple countries, and in over 7000 foot water depth, a demonstration of BP and ConocoPhillips' project management capabilities.*

*The tables below provide a summary of the affiliated and non-affiliated shippers on BP's Destin pipeline in the Gulf of Mexico and the ConocoPhillips Rockies Express Pipeline in the Mid-West. The Destin table shows that as of July 1, 2008, Destin had 3 non-affiliated shippers holding 86% of the contracted capacity (expressed as "MDQ", or "Maximum Daily Quantity"), and one affiliated shipper holding the remaining 14%. Further details on Destin customers are provided in Attachment 3. The Rockies Express (REX) table shows that as of July 1, 2008, REX had 15 non-affiliated shippers holding 29% of the contracted capacity (expressed as "MDQ", or "Maximum Daily Quantity"), and four affiliated shippers holding 71%. Further details on REX customers are provided in Attachment 4.*

**Rockies Express Pipeline LLC  
Index of Customers Summary (West)**

**Report  
Date  
7/1/2008**

Customer	Affiliate	MDQ (mcf)
ConocoPhillips	Yes	400,000
Sempra Rockies Marketing LLC	Yes	174,000
ENCANA Marketing (USA) Inc.	Yes	980,000
Tenaksa Markeing Ventures	Yes	10,000
Arrowhead Resources	No	10,000
Berry Petroleum	No	10,000
Bill Barrett Corporation	No	25,000
BP Energy Company	No	100,000
Concord Energy LLC	No	40,000
Enserco Energy Inc.	No	15,000
EOG Resources Inc.	No	50,000
Kansas Energy LLC	No	18,000
marathon Oil Company	No	4,000
Shell Energy North	No	28,000
United Endergy Trading, LLC	No	200
Williams Gas Marketing, Inc.	No	40,000
Yates Perto. Corp.	No	37,000
Ultra Resources, Inc.	No	200,000
US Minerals Management	No	50,000
<b>Total MDQ</b>		<b>2,191,200</b>

Group	Share	MDQ
Affiliated Shippers	71%	1,564,000
Non Affiliated Shippers	29%	627,200

Source:  
<http://pipeline.kindermorgan.com/Infoposting/indexcustomer.aspx>

**Destin Pipeline Company, LLC  
Index of Customers Summary**

**Report  
Date  
7/1/2008**

Customer	Affiliate	MDQ (mcf)
BP America	Yes	66,500
ArcLight Energy Marketing	No	48,750
Southern Company Services	No	78,500
Chevron USA	No	60,000
Murphy Gas Gathering	No	4,875
ENI Petroleum US	No	45,030
Mariner Energy	No	8,120
Newfield Exploration	No	12,750
Statoil Natural Gas	No	3,250
ExxonMobil	No	25,763
W&T Offshore	No	1,000
Shell Offshore	No	120,000
Apache	No	6,040
Marubeni Oil & Gas (USA)	No	5,811
<b>Total MDQ</b>		<b>486,389</b>

Group	Share	MDQ
Affiliated Shippers	14%	66,500
Non Affiliated Shippers	86%	419,889

**Notes:**

1. Customers with MDQ of zero excluded from list
2. Owners: 33% Enbridge Offshore (Destin), L.L.C.,  
67% Amoco Destin Pipeline Company

Source:  
<http://www.destinpipeline.com/>

The rates that customers pay on interstate oil and gas transmission pipelines are governed by FERC. As required under FERC regulation, those rates are available to all similarly situated shippers without regard to whether they are affiliated or not affiliated with the owners of the pipeline.

**6. How can we amend AGIA to allow Denali to partner with TransCanada?**

I have asked the Denali owners to answer this question. Their answer is provided below:

*If a license is awarded to TransCanada based on the current AGIA terms, Denali would not be able to partner with TransCanada for*

*several kinds of reasons. First, there are factors specific to TransCanada itself and the conditions it set forth in its application. For example, partnering with TransCanada could expose Denali and its owner companies to a significant potential liability TransCanada has to withdrawn partners, and the conditions set forth by TransCanada in its application constrain desirable options for prospective shippers on shipment of gas from Alaska and out of Alberta. Second the AGIA requirements include subsidization of late-coming shippers by initial shippers, the effective elimination of negotiated rates for potential customers, and upstream fiscal terms all of which greatly reduce the chances of holding a successful open season.*

**7. What is difference between open access and "true" open access?**

I am not aware of any difference and to my knowledge the FERC and NEB also do not have regulations that recognize differences. FERC uses the term "open access", and provides regulation to ensure that all prospective shippers have open access to interstate gas pipelines.

As a point of interest, the Alaska Natural Gas Pipeline Act has special provisions that apply only to an Alaska gas pipeline that go beyond the open access rules that apply in the lower 48, and has established rules to ensure that any Alaska gas pipeline operates as an open access pipeline without favor to any affiliate.

As I said in my testimony, Denali is looking to provide a balanced approach between attracting initial shippers while allowing for efficient expansion opportunities for new customers.

**8. Have there been any voluntary expansions of producer owned pipelines?**

To our knowledge, every pipeline expansion has been voluntary and there are a number of examples of both mechanical and practical expansions. For example, BP has voluntarily expanded the Destin pipeline in the Gulf of Mexico twice. Both expansions, approved by FERC on June 25, 1998 and July 31, 1998 respectively, were done with rolled in rates, as described in the associated FERC Orders that approved the voluntary expansions.

Some other examples in the Gulf of Mexico include

- 1997 expansion of Chevron's Chandeleur Pipeline increasing its maximum capacity by approximately 50,000 Mcfd
- 1998 expansion of Nautilus Pipeline owned at the time by Amoco, Shell, and Southern Natural Gas to install and operate 31 miles of 24-inch lateral pipeline from Chevron's Viosca Knoll Block 900 Platform to

a sub-sea tie-in with Nautilus to provide non-affiliated shippers with access to the Nautilus system

- 1999 expansion of Mississippi Gas Canyon Pipeline owned at the time by Shell to increase the mainline capacity from 600,000 to 800,000 MMCFD.

And closer to home, the Trans Alaska Pipeline System (TAPS) was effectively expanded within its first few years of operation. TAPS was constructed with a mechanical capacity of approximately 1.4 million barrels per day of throughput capacity but from 1980 up until 1997 it was able to deliver volumes much greater than this capacity due to the introduction of a drag reducing agent (DRA). DRA allowed TAPS to achieve daily throughput capacity exceeding 2 million barrels per day without the unnecessary expense of a mechanical expansion.

**9. Is your LLC Agreement available for us to look at? Can you give us assurances that the LLC Agreement will provide a tie-back to the parent companies?**

The LLC Agreement is not publicly available. These documents are not typically made available to parties other than the owner companies.

The advancement of the Denali project is fully supported by the parent companies. Both BP and ConocoPhillips have made public reputational commitments to make Denali a success, including public endorsement by the CEO's of both companies. Both BP and ConocoPhillips are making significant commitments of personnel and financial resources and will also have the capability to use their parent company financial strength in obtaining financing for Denali, a valuable option not available to less well capitalized ventures. Denali intends to build the Alaska gas pipeline.

## Attachment 2: BP and ConocoPhillips Pipelines

Project	Diameter (inches)	Length (miles)	Service	Development	BP/COP Ownership?	Comments
"BTC", Baku-Tblisi -Ceyhan Pipeline	42" - 46"	1100	Oil	1999 - 2005	BP/COP	BP operated onshore pipeline - mountainous terrain; Traverses 3 countries. Largest pipeline financing to date
South Caucasus Pipeline	42"	430	Gas	2001 - 2006	BP	BP operated onshore pipeline - mountainous terrain; Traverses 2 countries
Mardi Gras	16" - 30"	660	Oil & Gas	2000 - 2007	BP	BP operated deepwater offshore and onshore segments in the Gulf of Mexico
In Amenas	36"	162	Gas	2001 - 2005	BP	BP operated desert terrain in North Africa
In Salah	48"	370	Gas	2002 - 2003	BP	BP operated desert terrain in North Africa
Destin	36"	240	Gas	1997 - 2000	BP	BP operated offshore and onshore Gulf of Mexico
OCENSA	30" - 36"	500	Oil	1993 - 1995	BP	Enbridge operated, mountainous terrain in Colombia
Yacheng	28"	480	Gas	1993 - 1996	BP	CNOOC operated subsea pipeline in China; 2 <sup>nd</sup> longest at time of construction; First major project by a western oil company in China
Rockies Express Pipeline LLC	42"	1,679	Gas	On-going	COP	Kinder Morgan Energy Partners, LP operated, mountainous terrain from Rio Blanco County, Colorado to Monroe County, Ohio
Keystone Pipeline	30" / 36"	2,148	Oil	On-going	COP	COP / TransCanada project, Alberta to mid-west
Interconnector Pipeline	40"	115	Gas	1998	COP	Interconnector, Ltd from United Kingdom to Zeebrugge, Belgium
Norwegian Continental Shelf Gas Transportation (Gasled)	various	>4,000	Gas	various	COP	Gassco A/S operated gas transportation infrastructure on the Norwegian Continental Shelf (primarily subsea).
DCP Midstream LLC	various	58,000	Gas	various	COP	DCP Midstream LLC operated 58,000 miles of pipelines in the Lower 48
Nam Con Son Pipeline	26 - 30"	244	Gas	2002	BP/COP	BP operated, links gas supply from Nam Con Son basin to markets in southern Vietnam
TransAsia Pipeline Company Pvt. Ltd.	various	621	Gas	various	COP	Transgasindo operated, large component of Indonesia's gas transportation system
Alpine Pipeline	16"	34	Oil	2000	COP	Transport Western North Slope Oil to the Kuparuk Pipeline which in turns ties into TAPS
Bayu-Undan	26"	300	Gas	2005	COP	COP operated; Australian offshore pipeline from Bayu-Undan platforms to Darwin LNG onshore plant
Brazoria Interconnect Gas pipeline (BIG)	42"	32	Gas	2005	COP	COP operated pipeline from Freeport LNG to the a Texas gas distribution grid

**Attachment 3: Destin Pipeline Customer Index**

**Destin Pipeline Company, L.L.C.**

Index of Customers

Report Date: 7/1/2008

**BP America Production Company**

Customer I.D. #	Affiliate	Rate Schedule	Contract Number	Contract Effective Date	Contract Termination Date	Negotiated Rates	Maximum Daily Quantity
008966889	Yes	FT-2	2DPC17	12/17/1997		No	55000

Receipt/Delivery Point/Agent Information	Point Name	PCQ	NAESB/PJ Data Ref. No.	MDQ	Affiliate
BP Energy Company					Yes
Receipt Point (M2)	Main Pass-281	29	251290	55000	
Receipt Point (M2)	Okeanos Gas Gathering	29	300006	55000	
Receipt Point (M2)	Viosca Knoll-915	29	251291	55000	
Delivery Point (MQ)	Southern Natural Gas	29	251296	11000	
Delivery Point (MQ)	Transco-Shubuta	29	251299	11000	
Delivery Point (MQ)	Florida Gas Transmission	29	251234	16500	
Delivery Point (MQ)	Gulfstream Natural Gas	29	411111	16500	
Delivery Point (MQ)	Pascagoula Plant	29	251323	55000	

**BP America Production Company**

Customer I.D. #	Affiliate	Rate Schedule	Contract Number	Contract Effective Date	Contract Termination Date	Negotiated Rates	Maximum Daily Quantity
008966889	Yes	FT-2	2DPC23	07/01/2001		No	0

Receipt/Delivery Point/Agent Information	Point Name	PCQ	NAESB/PJ Data Ref. No.	MDQ	Affiliate
BP Energy Company					Yes
Receipt Point (M2)	Viosca Knoll-915	29	251291	0	
Delivery Point (MQ)	Southern Natural Gas	29	251296	0	
Delivery Point (MQ)	Transco-Shubuta	29	251299	0	
Delivery Point (MQ)	Florida Gas Transmission	29	251234	0	
Delivery Point (MQ)	Pascagoula Plant	29	251323	0	

## BP America Production Company

Customer I.D. #	Affiliate	Rate Schedule	Contract Number	Contract Effective Date	Contract Termination Date	Negotiated Rates	Maximum Daily Quantity
008966889	Yes	FT-2	2DPC24	07/01/2001		No	5000

Receipt/Delivery Point/Agent Information	Point Name	PICQ	NAESB/PI Data Ref No.	MDQ	Affiliate
BP Energy Company					Yes
Receipt Point (M2)	Viosca Knoll-989	29	299854	5000	
Delivery Point (MQ)	Southern Natural Gas	29	251296	1000	
Delivery Point (MQ)	Transco-Shubuta	29	251299	1000	
Delivery Point (MQ)	Florida Gas Transmission	29	251234	1500	
Delivery Point (MQ)	Gulfstream Natural Gas	29	411111	1500	
Delivery Point (MQ)	Pascagoula Plant	29	251323	5000	

## BP America Production Company

Customer I.D. #	Affiliate	Rate Schedule	Contract Number	Contract Effective Date	Contract Termination Date	Negotiated Rates	Maximum Daily Quantity
008966889	Yes	FT-2	2DPC25	10/01/2002		No	6500

Receipt/Delivery Point/Agent Information	Point Name	PICQ	NAESB/PI Data Ref No.	MDQ	Affiliate
BP Energy Company					Yes
Receipt Point (M2)	Mississippi Canyon - 127	29	299863	6500	
Delivery Point (MQ)	Southern Natural Gas	29	251296	1300	
Delivery Point (MQ)	Transco-Shubuta	29	251299	1300	
Delivery Point (MQ)	Florida Gas Transmission	29	251234	1950	
Delivery Point (MQ)	Gulfstream Natural Gas	29	411111	1950	
Delivery Point (MQ)	Pascagoula Plant	29	251323	6500	

## ArcLight Energy Marketing, L.L.C.

Customer I.D. #	Affiliate	Rate Schedule	Contract Number	Contract Effective Date	Contract Termination Date	Negotiated Rates	Maximum Daily Quantity
009140559	No	FT-1	FDPC26	05/01/2008	10/31/2008	No	48750

Receipt/Delivery Point/Agent Information	Point Name	PIQG	NAESB/PI Data Ref No.	MDQ	Affiliate
Receipt Point (M2)	Petal Gas Storage		29 299861	48750	
Delivery Point (MQ)	Gulfstream Natural Gas		29 411111	48750	

### Southern Company Services

Customer I.D. #	Affiliate	Rate Schedule	Contract Number	Contract Effective Date	Contract Termination Date	Negotiated Rates	Maximum Daily Quantity
075463174	No	FT-1	FDPC25	06/01/2008	09/30/2008	No	78500

Receipt/Delivery Point/Agent Information	Point Name	PIQG	NAESB/PI Data Ref No.	MDQ	Affiliate
Receipt Point (M2)	Petal Gas Storage		29 299861	78500	
Delivery Point (MQ)	Plant Daniel		29 251324	78500	

### Chevron U.S.A. Inc.

Customer I.D. #	Affiliate	Rate Schedule	Contract Number	Contract Effective Date	Contract Termination Date	Negotiated Rates	Maximum Daily Quantity
009140559	No	FT-2	2DPC15	04/23/1998		No	0

Receipt/Delivery Point/Agent Information	Point Name	PIQG	NAESB/PI Data Ref No.	MDQ	Affiliate
Receipt Point (M2)	Viosca Knoll-900		29 251292	0	
Delivery Point (MQ)	Southern Natural Gas		29 251296	0	
Delivery Point (MQ)	Tennessee Gas Pipeline		29 251294	0	
Delivery Point (MQ)	Transco-Shubuta		29 251299	0	
Delivery Point (MQ)	Florida Gas Transmission		29 251234	0	
Delivery Point (MQ)	Pascagoula Plan'		29 251323	0	

### Chevron U.S.A. Inc

Customer I.D. #	Affiliate	Rate Schedule	Contract Number	Contract Effective Date	Contract Termination Date	Negotiated Rates	Maximum Daily Quantity
009140559	No	FT-2	2DPC14	04/23/1998		No	0

Receipt/Delivery Point/Agent Information	Point Name	PICQ	NAESB/PI Data Ref No.	MDQ	Affiliate
Receipt Point (M2)	Viosca Knoll-900		29 251292	0	
Delivery Point (MQ)	Southern Natural Gas		29 251296	0	
Delivery Point (MQ)	Florida Gas Transmission		29 251234	0	
Delivery Point (MQ)	Pascagoula Plant		29 251323	0	

### Chevron U.S.A. Inc.

Customer I.D. #	Affiliate	Rate Schedule	Contract Number	Contract Effective Date	Contract Termination Date	Negotiated Rates	Maximum Daily Quantity
009140559	No	FT-1	FDPC17	09/01/2006	10/31/2008	No	60000

Receipt/Delivery Point/Agent Information	Point Name	PICQ	NAESB/PI Data Ref No.	MDQ	Affiliate
Receipt Point (M2)	Petal Gas Storage		29 299861	60000	
Delivery Point (MQ)	Chevron Pascagoula Refinery		29 251227	60000	

### Murphy Gas Gathering, Inc.

Customer I.D. #	Affiliate	Rate Schedule	Contract Number	Contract Effective Date	Contract Termination Date	Negotiated Rates	Maximum Daily Quantity
619283229	No	FT-2	2DPC31	07/01/2005		No	4875

Receipt/Delivery Point/Agent Information	Point Name	PICQ	NAESB/PI Data Ref No.	MDQ	Affiliate
Receipt Point (M2)	Viosca Knoll-900		29 251292	4875	
Delivery Point (MQ)	Florida Gas Transmission		29 251234	4875	
Delivery Point (MQ)	Pascagoula Plant		29 251323	4875	

### Murphy Gas Gathering, Inc.

Customer I.D. #	Affiliate	Rate Schedule	Contract Number	Contract Effective Date	Contract Termination Date	Negotiated Rates	Maximum Daily Quantity
619283229	No	FT-2	2DPC37	07/01/2005		No	0

Receipt/Delivery Point/Agent Information	Point Name	PICQ	NAESB/PI Data Ref No.	MDQ	Affiliate
Receipt Point (M2)	Okeancs Gas Gathering	29	300006	0	
Delivery Point (MQ)	Florida Gas Transmission	29	251234	0	
Delivery Point (MQ)	Pascagoula Plant	29	251323	0	

## ENI Petroleum US LLC

Customer I.D. #	Affiliate	Rate Schedule	Contract Number	Contract Effective Date	Contract Termination Date	Negotiated Rates	Maximum Daily Quantity
605981682	No	FT-2	2DPC8	02/02/1998		No	13380

Receipt/Delivery Point/Agent Information	Point Name	PICQ	NAESB/PI Data Ref No.	MDQ	Affiliate
Receipt Point (M2)	Main Pass-281	29	251290	13380	
Delivery Point (MQ)	Southern Natural Gas	29	251296	2248	
Delivery Point (MQ)	Transco-Shubuta	29	251299	7065	
Delivery Point (MQ)	Florida Gas Transmission	29	251234	1472	
Delivery Point (MQ)	Gulfstream Natural Gas	29	411111	1151	
Delivery Point (MQ)	Tennessee Gas Pipeline	29	251294	1391	
Delivery Point (MQ)	Plant Daniel	29	251324	53	
Delivery Point (MQ)	Pascagoula Plant	29	251323	13380	

## ENI Petroleum US LLC

Customer I.D. #	Affiliate	Rate Schedule	Contract Number	Contract Effective Date	Contract Termination Date	Negotiated Rates	Maximum Daily Quantity
605981682	No	FT-2	2DPC29	07/01/2005		No	31650

Receipt/Delivery Point/Agent Information	Point Name	PICQ	NAESB/PI Data Ref No.	MDQ	Affiliate
Receipt Point (M2)	Viosca Knoll-900	29	251292	31650	
Delivery Point (MQ)	Southern Natural Gas	29	251296	5317	
Delivery Point (MQ)	Transco-Shubuta	29	251299	16711	
Delivery Point (MQ)	Florida Gas Transmission	29	251234	3481	
Delivery Point (MQ)	Gulfstream Natural Gas	29	411111	2722	
Delivery Point (MQ)	Plant Daniel	29	251324	127	
Delivery Point (MQ)	Petal Gas Storage	29	299861	3292	
Delivery Point (MQ)	Pascagoula Plant	29	251323	31650	

## ENI Petroleum US LLC

Customer I.D. #	Affiliate	Rate Schedule	Contract Number	Contract Effective Date	Contract Termination Date	Negotiated Rates	Maximum Daily Quantity
605981682	No	FT-2	2DPC38	02/01/2008		No	0

Receipt/Delivery Point/Agent Information	Point Name	PICQ	NAESB/PI Data Ref No.	MDQ	Affiliate
Receipt Point (M2)	Okeanos Gas Gathering	29	300006	0	
Delivery Point (MQ)	Florida Gas Transmission	29	251234	0	
Delivery Point (MQ)	Pascagoula Plant	29	251323	0	

## Mariner Energy, Inc.

Customer I.D. #	Affiliate	Rate Schedule	Contract Number	Contract Effective Date	Contract Termination Date	Negotiated Rates	Maximum Daily Quantity
118091263	No	FT-2	2DPC30	07/01/2005		No	8120

Receipt/Delivery Point/Agent Information	Point Name	PICQ	NAESB/PI Data Ref No.	MDQ	Affiliate
Receipt Point (M2)	Viosca Knoll-900	29	251292	8120	
Delivery Point (MQ)	Transco-Shubuta	29	251299	8120	
Delivery Point (MQ)	Pascagoula Plant	29	251323	8120	

## Newfield Exploration Company

Customer I.D. #	Affiliate	Rate Schedule	Contract Number	Contract Effective Date	Contract Termination Date	Negotiated Rates	Maximum Daily Quantity
197067267	No	FT-2	2DPC32	07/01/2005		No	12750

Receipt/Delivery Point/Agent Information	Point Name	PICQ	NAESB/PI Data Ref No.	MDQ	Affiliate
ConocoPhillips					No
Receipt Point (M2)	Viosca Knoll-900	29	251292	12750	
Delivery Point (MQ)	Florida Gas Transmission	29	251234	6375	
Delivery Point (MQ)	Southern Natural Gas	29	251296	6375	
Delivery Point (MQ)	Pascagoula Plant	29	251323	12750	

## Statoil Natural Gas, LLC.

Customer I.D. #	Affiliate	Rate Schedule	Contract Number	Contract Effective Date	Contract Termination Date	Contract Negotiated Rates	Maximum Daily Quantity
130073534	No	FT-2	2DPC33	07/01/2005		No	3250

Receipt/Delivery Point/Agent Information	Point Name	PICQ	NAESB/PI Data Ref No.	MDQ	Affiliate
Murphy Gas Gathering, Inc.					No
Receipt Point (M2)	Viosca Knoll-900	29	251292	3250	
Delivery Point (MQ)	Florida Gas Transmission	29	251234	813	
Delivery Point (MQ)	Transco-Shubuta	29	251299	2437	
Delivery Point (MQ)	Pascagoula Plant	29	251323	3250	

## Statoil Natural Gas, LLC.

Customer I.D. #	Affiliate	Rate Schedule	Contract Number	Contract Effective Date	Contract Termination Date	Contract Negotiated Rates	Maximum Daily Quantity
130073534	No	FT-2	2DPC35	12/01/2007		No	0

Receipt/Delivery Point/Agent Information	Point Name	PICQ	NAESB/PI Data Ref No.	MDQ	Affiliate
Receipt Point (M2)	Okeanos Gas Gathering	29	300006	0	
Delivery Point (MQ)	Florida Gas Transmission	29	251234	0	
Delivery Point (MQ)	Pascagoula Plant	29	251323	0	

## ExxonMobil Corporation

Customer I.D. #	Affiliate	Rate Schedule	Contract Number	Contract Effective Date	Contract Termination Date	Contract Negotiated Rates	Maximum Daily Quantity
001213214	No	FT-2	2DPC12	01/01/1999		No	300

Receipt/Delivery Point/Agent Information	Point Name	PICQ	NAESB/PI Data Ref No.	MDQ	Affiliate
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ExxonMobil Gas & Power  
Marketing

No

Receipt Point (M2)	Main Pass-281	29	251290	300
Delivery Point (MQ)	Transco-Shubuta	29	251299	240
Delivery Point (MQ)	Florida Gas Transmission	29	251234	60
Delivery Point (MQ)	Pascagoula Plant	29	251323	300

### ExxonMobil Corporation

Customer I.D. #	Affiliate	Rate Schedule	Contract Number	Contract Effective Date	Contract Termination Date	Negotiated Rates	Maximum Daily Quantity
001213214	No	FT-2	2DPC20	12/01/1999		No	0

Receipt/Delivery Point/Agent Information	Point Name	PICQ	NAESB/PI Data Ref No.	MDQ	Affiliate
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ExxonMobil Gas & Power  
Marketing

No

Receipt Point (M2)	Main Pass-283	29	267194	0
Delivery Point (MQ)	Transco-Shubuta	29	251299	0
Delivery Point (MQ)	Florida Gas Transmission	29	251234	0
Delivery Point (MQ)	Pascagoula Plant	29	251323	0

### ExxonMobil Corporation

Customer I.D. #	Affiliate	Rate Schedule	Contract Number	Contract Effective Date	Contract Termination Date	Negotiated Rates	Maximum Daily Quantity
001213214	No	FT-2	2DPC21	01/01/1999		No	17800

Receipt/Delivery Point/Agent Information	Point Name	PICQ	NAESB/PI Data Ref No.	MDQ	Affiliate
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ExxonMobil Gas & Power  
Marketing

No

Receipt Point (M2)	Viosca Knoll-989	29	299854	17800
Delivery Point (MQ)	Transco-Shubuta	29	251299	14240
Delivery Point (MQ)	Florida Gas Transmission	29	251234	3560
Delivery Point (MQ)	Pascagoula Plant	29	251323	17800

## ExxonMobil Corporation

Customer I.D. #	Affiliate	Rate Schedule	Contract Number	Contract Effective Date	Contract Termination Date	Negotiated Rates	Maximum Daily Quantity
001213214	No	FT-2	2DPC22	03/01/2000		No	0

Receipt/Delivery Point/Agent Information	Point Name	PICO	NAESB/PI Data Ref No.	MDQ	Affiliate
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### ExxonMobil Gas & Power Marketing

					No
Receipt Point (M2)	Viosca Knoll-915	29	251291	0	
Delivery Point (MQ)	Transco-Shubuta	29	251299	0	
Delivery Point (MQ)	Florida Gas Transmission	29	251234	0	
Delivery Point (MQ)	Pascagoula Plant	29	251323	0	

## ExxonMobil Corporation

Customer I.D. #	Affiliate	Rate Schedule	Contract Number	Contract Effective Date	Contract Termination Date	Negotiated Rates	Maximum Daily Quantity
001213214	No	FT-2	2DPC27	10/01/2005		No	7663

Receipt/Delivery Point/Agent Information	Point Name	PICO	NAESB/PI Data Ref No.	MDQ	Affiliate
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### ExxonMobil Gas & Power Marketing

					No
Receipt Point (M2)	Okeanos Gas Gathering	29	300006	7663	
Delivery Point (MQ)	Transco-Shubuta	29	251299	6130	
Delivery Point (MQ)	Florida Gas Transmission	29	251234	767	
Delivery Point (MQ)	Gulfstream Natural Gas	29	411111	766	
Delivery Point (MQ)	Pascagoula Plant	29	251323	7663	

## W&T Offshore, Inc.

Customer I.D. #	Affiliate	Rate Schedule	Contract Number	Contract Effective Date	Contract Termination Date	Negotiated Rates	Maximum Daily Quantity
114284037	No	FT-2	2DPC19	12/01/1999		No	1000

Receipt/Delivery Point/Agent Information	Point Name	PICQ	NAESB/PI Data Ref No.	MDQ	Affiliate
Receipt Point (M2)	Main Pass-283	29	267194	1000	
Delivery Point (MQ)	Southern Natural Gas	29	251296	350	
Delivery Point (MQ)	Tennessee Gas Pipeline	29	251294	50	
Delivery Point (MQ)	Transco-Shubuta	29	251299	400	
Delivery Point (MQ)	Florida Gas Transmission	29	251234	200	
Delivery Point (MQ)	Pascagoula Plant	29	251323	1000	

### Shell Offshore, Inc.

Customer I.D. #	Affiliate	Rate Schedule	Contract Number	Contract Effective Date	Contract Termination Date	Negotiated Rates	Maximum Daily Quantity
109003467	No	FT-2	2DPC18	12/17/1997		No	120000

Receipt/Delivery Point/Agent Information	Point Name	PICQ	NAESB/PI Data Ref No.	MDQ	Affiliate
Receipt Point (M2)	Viosca Knoll-915	29	251291	120000	
Receipt Point (M2)	Okeanos Gas Gathering	29	300006	120000	
Delivery Point (MQ)	Southern Natural Gas	29	251296	6000	
Delivery Point (MQ)	Transco-Shubuta	29	251299	78000	
Delivery Point (MQ)	Florida Gas Transmission	29	251234	24000	
Delivery Point (MQ)	Gulfstream Natural Gas	29	411111	12000	
Delivery Point (MQ)	Pascagoula Plant	29	251323	120000	

### Apache Corporation

Customer I.D. #	Affiliate	Rate Schedule	Contract Number	Contract Effective Date	Contract Termination Date	Negotiated Rates	Maximum Daily Quantity
006961551	No	FT-2	2DPC2	09/01/1998		No	6040

Receipt/Delivery Point/Agent Information	Point Name	PICQ	NAESB/PI Data Ref No.	MDQ	Affiliate
Receipt Point (M2)	Viosca Knoll-780	29	251225	6040	
Delivery Point (MQ)	Southern Natural Gas	29	251296	2718	
Delivery Point (MQ)	Transco-Shubuta	29	251299	2114	
Delivery Point (MQ)	Florida Gas Transmission	29	251234	1208	
Delivery Point (MQ)	Pascagoula Plant	29	251323	6040	

## El Paso Production and Exploration

Customer I.D. #	Affiliate	Rate Schedule	Contract Number	Contract Effective Date	Contract Termination Date	Negotiated Rates	Maximum Daily Quantity
097622005	No	FT-2	2DPC9	02/02/1998		No	0

Receipt/Delivery Point/Agent Information	Point Name	PICQ	NAESB/PI Data Ref No.	MDQ	Affiliate
El Paso Merchant Energy					No
Receipt Point (M2)	Main Pass-281	29	251290	0	
Delivery Point (MQ)	Southern Natural Gas	29	251296	0	
Delivery Point (MQ)	Transco-Shubuta	29	251299	0	
Delivery Point (MQ)	Florida Gas Transmission	29	251234	0	
Delivery Point (MQ)	Pascagoula Plant	29	251323	0	

## Walter Oil & Gas

Customer I.D. #	Affiliate	Rate Schedule	Contract Number	Contract Effective Date	Contract Termination Date	Negotiated Rates	Maximum Daily Quantity
058996364	No	FT-2	2DPC7	02/02/1998		No	0

Receipt/Delivery Point/Agent Information	Point Name	PICQ	NAESB/PI Data Ref No.	MDQ	Affiliate
Superior Natural Gas					No
Receipt Point (M2)	Main Pass-281	29	251290	0	
Delivery Point (MQ)	Southern Natural Gas	29	251296	0	
Delivery Point (MQ)	Tennessee Gas Pipeline	29	251294	0	
Delivery Point (MQ)	Transco-Shubuta	29	251299	0	
Delivery Point (MQ)	Florida Gas Transmission	29	251234	0	
Delivery Point (MQ)	Pascagoula Plant	29	251323	0	

## Marubeni Oil & Gas (USA) Inc.

Customer I.D. #	Affiliate	Rate Schedule	Contract Number	Contract Effective Date	Contract Termination Date	Negotiated Rates	Maximum Daily Quantity
141411699	No	FT-2	2DPC28	03/01/2004		No	5811

Receipt/Delivery Point/Agent Information	Point Name	PICQ	NAESB/PI Data Ref No.	MDQ	Affiliate
Receipt Point (M2)	Main Pass-261	29	299862	5811	
Delivery Point (MQ)	Florida Gas Transmission	29	251234	5811	
Delivery Point (MQ)	Pascagoula Plant	29	251323	5811	

### Marubeni Oil & Gas (USA) Inc.

Customer I.D. #	Affiliate	Rate Schedule	Contract Number	Contract Effective Date	Contract Termination Date	Negotiated Rates	Maximum Daily Quantity
141411699	No	FT-2	2DPC36	01/01/2008		No	0

Receipt/Delivery Point/Agent Information	Point Name	PICQ	NAESB/PI Data Ref No.	MDQ	Affiliate
Receipt Point (M2)	Okeanos Gas Gathering	29	300006	0	
Delivery Point (MQ)	Florida Gas Transmission	29	251234	0	
Delivery Point (MQ)	Pascagoula Plant	29	251323	0	

### ATP Oil & Gas Corporation

Customer I.D. #	Affiliate	Rate Schedule	Contract Number	Contract Effective Date	Contract Termination Date	Negotiated Rates	Maximum Daily Quantity
826183287	No	FT-2	2DPC34	11/01/2005		No	0

Receipt/Delivery Point/Agent Information	Point Name	PICQ	NAESB/PI Data Ref No.	MDQ	Affiliate
Receipt Point (M2)	Main Pass-261	29	299862	0	
Delivery Point (MQ)	Transco-Shubuta	29	251299	0	
Delivery Point (MQ)	Pascagoula Plant	29	251323	0	

For further information, please call Bruce G. Reed (281) 366-5062

## Attachment 4: Rockies Express Customer Index

### INDEX OF CUSTOMERS

TSP (Pipeline):

First day of Cal Qtr :

Pipeline Name	Rec Type	PL ID	Report Date
ROCKIES EXPRESS PIPELINE LLC	H	198	7/1/2008 12:00:00 AM
Contact	Org/Rev Ind	UOM Trans	UOM Store
Paul Haas 713-369-9359	O	T	T
Footnote Id List:			

 View All Records

Agent Point	Customer	Ship Dynn Brdst Nbr	Ship Affil Ind	Rate Sched	Contract No.	Contract Effective Date	Contract Termination Date	Roll Over Period	Neg Rate Ind	MDQ	MSQ	Foot- notes
	ARROWHEAD RESOURCES	184902380	N	FTS	552033	1/12/2008 12:00:00 AM	12/31/2018 12:00:00 AM	0	Y	10,000	0	
	BERRY PETROLEUM	151321411	N	FTS	552034	1/12/2008 12:00:00 AM	12/31/2018 12:00:00 AM	0	Y	10,000	0	
	BILL BARRETT CORPORATION	106695203	N	FTS	552035	1/12/2008 12:00:00 AM	12/31/2018 12:00:00 AM	0	Y	25,000	0	
	BP ENERGY COMPANY	625275755	N	FTS	552036	2/7/2008 12:00:00 AM	12/31/2018 12:00:00 AM	0	Y	100,000	0	
	CONCORD ENERGY LLC	113637503	N	FTS	553232	6/20/2008 12:00:00 AM	10/31/2008 12:00:00 AM	0	N	25,000	0	
	CONCORD ENERGY LLC	113637503	N	FTS	553213	7/1/2008 12:00:00 AM	10/31/2008 12:00:00 AM	0	N	15,000	0	
	CONOCO PHILLIPS	1368265	Y	FTS	552037	1/12/2009 12:00:00 AM	12/31/2018 12:00:00 AM	0	Y	400,000	0	
	ENCANA MARKETING (USA) INC.	147350552	Y	FTS	552457	10/10/2007 12:00:00 AM	7/31/2008 12:00:00 AM	0	Y	100,000	0	
	ENCANA MARKETING (USA) INC.	147350552	Y	FTS	551979	2/14/2007 12:00:00 AM	2/13/2022 12:00:00 AM	0	Y	436,000	0	
	ENCANA MARKETING (USA) INC.	147350552	Y	FTS	552130	1/12/2008 12:00:00 AM	12/31/2019 12:00:00 AM	0	Y	444,000	0	
	ENSERCO ENERGY INC.	957194541	N	FTS	553265	7/1/2008 12:00:00 AM	7/31/2008 12:00:00 AM	0	N	15,000	0	
	EOG	186830733	N	FTS	552043	1/12/2008	12/31/2018	0	Y	50,000	0	

RESOURCES, INC.						12:00:00 AM	12:00:00 AM						
KANSAS ENERGY LLC	787916183	N	FTS	553215		6/13/2008 12:00:00 AM	11/30/2008 12:00:00 AM	0	N	18,000	0		
MARATHON OIL COMPANY	55122568	N	FTS	552838		4/1/2008 12:00:00 AM	12/30/2018 12:00:00 AM	0	N	4,000	0	o1	
SEMPRA ROCKIES MARKETING LLC	806789769	Y	FTS	552038		1/12/2008 12:00:00 AM	12/31/2018 12:00:00 AM	0	Y	174,000	0		
SHELL ENERGY NORTH	837565548	N	FTS	552042		1/12/2008 12:00:00 AM	12/31/2018 12:00 00 AM	0	Y	28,000	0		
TENASKA MARKETING VENTURES	624240628	Y	FTS	553266		7/1/2008 12:00:00 AM	7/10/2008 12:00:00 AM	0	N	10,000	0		
ULTRA RESOURCES, INC.	71109974	Y	FTS	552047		1/12/2008 12:00:00 AM	12/31/2018 12:00:00 AM	0	Y	200,000	0		
UNITED ENERGY TRADING, LLC	119162860	N	FTS	553264		7/1/2008 12:00:00 AM	7/8/2008 12:00:00 AM	0	N	200	0		
US MINERALS MANAGEMENT	161559646	Y	FTS	552046		1/12/2008 12:00:00 AM	12/31/2018 12:00:00 AM	0	Y	50,000	0		
WILLIAMS GAS MARKETING, INC.	824678478	N	FTS	553262		7/1/2008 12:00:00 AM	7/31/2008 12:00:00 AM	0	N	40,000	0		
YATES PETRO. CORP.	7785728	N	FTS	552048		1/12/2008 12:00:00 AM	12/31/2018 12:00:00 AM	0	Y	37,000	0		

#### Footnotes

1 MDQ increases to 12,000 Dth/d effective 12/31/08.

# North Slope Borough

## OFFICE OF THE MAYOR



P.O. Box 69  
BARROW, ALASKA 99723  
☎ 907 852-2611 ext. 200  
Fax: 907 852-0337

*Edward S. Itta, Mayor*

July 23, 2008

Representative John Harris, Speaker of the House of Representatives  
Senator Lyda Green, Senate President  
The Alaska Legislature  
State Capitol, Juneau, Alaska 99801-1182

Dear Speaker Harris and Senate President Green:

The North Slope Borough submits these written comments to augment the testimony of Edward S. Itta, Mayor of the Borough, to the Twenty-Fifth Legislature and Governor Palin on July 1, 2008.

Thank you.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Andy Mack'.

Andy Mack, Assistant to Mayor Itta

Attachments (2)

Submitted electronically to the following:

Senate  
[sharon\\_long@legis.state.ak.us](mailto:sharon_long@legis.state.ak.us)

House  
[rynnieva\\_moss@legis.state.ak.us](mailto:rynnieva_moss@legis.state.ak.us)

**Written Comments of the Honorable Edward S. Itta**

**Mayor of the North Slope Borough**

**on the AGIA Findings, the license process and recommendation of TC-Alaska**

Barrow, Alaska – July 1, 2008

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Thank you for the opportunity to submit these written comments to add to my testimony to the Twenty-Fifth Legislature on July 1, 2008.

Residents of our North Slope communities feel like we are on the front lines of oil and gas development, so we appreciate this opportunity to comment on the next major phase in North Slope resource extraction. The gas line project really will define Alaska's experience with natural gas just as Prudhoe Bay characterizes our experience with oil.

We have learned a lot about resource extraction during the past 30+ years. We have been part of the technological, political, economic, social and cultural drama that necessarily accompanies the discovery and production of vast resources in what is considered a frontier region, the region we call home. We have watched and we have participated. We have helped create the legacy of resource development, and like all the participants in this drama, we have learned plenty of lessons. Together we have changed the course of resource history in Alaska and we have been changed by it.

#### **The North Slope Borough Supports the AGIA Process**

First of all, we want to make sure the record reflects our support for onshore development in general and for the AGIA process that Governor Palin and this Legislature have set in motion. AGIA's priorities are clearly designed to jumpstart a responsible project that benefits Alaskans – with well-defined timetables and commitments for construction, multiple off-take points in Alaska for gas supplies, distance-sensitive tariffs to ensure maximum wellhead price, and provisions that encourage the hiring of qualified Alaskans for this project.

#### **The North Slope Borough Supports Responsible Oil and Gas Development**

Our support for AGIA is in keeping with the Borough's longstanding approval of responsible development on the North Slope. We have aggressively supported opening ANWR – in fact we continually assist with visits by political and media delegations. We have also accommodated NPR-A development, except in an area around Teshekpuk Lake, where unusually valuable wildlife habitat and subsistence activities have historically taken precedence, and will continue to do so, since BLM recently decided to defer that area in its final EIS for NPR-A Northeast.

Thirty years of experience with oil development have given us a certain comfort level with onshore activity. When spills occur – and as we have seen several times at Prudhoe in the past year, spills do occur – they can be reasonably contained and recovered onshore. Offshore is a different ballgame. In addition to our fears over the inability to clean up an oil spill in our arctic conditions, there are impacts related to the bowhead whale migration and other marine mammal activities that cannot be avoided in the OCS. It is a fundamental cultural consideration that drives our offshore policy, and we don't see that changing.

At the same time, there are potential technological solutions in near-shore waters. The plan for directional drilling from an onshore location to the Liberty development site offshore is a good example.

#### **The Alaska Gasline Port Authority**

The North Slope Borough joined with the Fairbanks North Star Borough and the City of Valdez to create the Port Authority in 1999. As the three municipalities along the TAPS line, we have a number of common interests, and the Port Authority was established as an additional method of encouraging gas line development.

It is a worthy goal, but it doesn't stop us from supporting any other project that will commercialize North Slope natural gas reserves in a responsible way. We continue to support the Port Authority's basic mandate of instigating a gas pipeline project, as long as that mandate does not undermine the AGIA process or any other competitive projects.

#### **The North Slope Borough Supports the AGIA Findings That Protect the State**

The previous Stranded Gas Development Act process and proposed contract had many flaws. It seems worthwhile to highlight some of the statements from the AGIA Findings as they relate to these issues and the AGIA solutions.

"One needs merely to look back at the terms of the draft SGDA contract presented to the Alaska Legislature in 2006 for evidence of what will be required of the state if the producers have that kind of commercial negotiation leverage over the state. The Major North Slope Producers extracted billions of dollars in concessions from the state with no binding commitments from the Producers. This is far more than the \$500 million investment under AGIA that secures the valuable commitments from TC Alaska to build a natural gas pipeline that serves the state's interests in exploration, jobs, revenues and other issues of importance to the state. The commissioners also recognize that the Producer Project may be pursued to completion outside the AGIA process and without state fiscal concessions."

The 'Duty to Produce' question has been discussed for a number of years now. It is critical that the State of Alaska resolve such questions sooner, rather than later. Development of the resources that lie under the State leases are critical to a gasline project.

"The Producers have an obligation to market their gas when it is reasonably profitable to do so; they do not have an obligation to transport the gas through any particular project. If the Producer Project proceeds to an open season, the TC Alaska project would compete with the Producer Project for gas commitments. However, the Producers have stated that they need concessions from the state to enable them to commit gas to any gas pipeline project."

The following excerpts from the AGIA Findings are very important to us and all Alaskans. The ramifications of these findings should not be ignored.

"In sum, the commissioners strongly believe that if the state forgets the history of the SGDA process, the state will be risking a repeat of the SGDA results. If it pursues the Producer Project alternative instead of the TC Alaska Project, the state will be forced into negotiations that will resemble those that produced the SGDA Contract.

The proposed SGDA contract consisted of an unbalanced set of state concessions and so-called producer "commitments." The concessions made by the state under the contract were broad, material, long-term, and binding. They swept across fiscal and regulatory authorities and surrendered multiple aspects of the state's sovereign rights and prerogatives.

In monetary terms, the state's quantifiable concessions to the Major North Slope Producers under the SGDA contract were estimated to be more than \$10 billion. Additional non-quantifiable concessions were granted, exposing the state to tremendous economic risk. The Producers claimed all these concessions were essential for them to proceed with a pipeline project."

We fully support and agree with findings that determined the SGDA contract did not include any enforceable commitments by the Major North Slope Producers on issues that were critical to protect the state's interests in promoting the maximum development of the state's North Slope natural gas resources and ensuring maximum revenues from our royalties and production taxes.

#### **The North Slope Borough Supports the AGIA Findings That Protect Municipalities**

AGIA ties upstream incentives to gas committed at the initial open season of the AGIA project, to provide the state with the benefits Alaskans require. Certainty is provided on the upstream side for the largest taxes on the project – ten years of production tax rates, without change, for those committing gas to the project.

Municipal taxes are not significant when considering the overall economics of a gasline project, except for the municipalities. The Stranded Gas Development Act (SGDA) contract would have contracted them all away in exchange for a nominal PILT. The SGDA attempted to give away municipal taxing powers, fair valuation methodologies, and all methods of dispute resolution for municipalities, and discouraged new local government formation in the Unorganized Borough. Each of these issues we believed to be contrary to the state's best interests.

The AGIA Findings state in part.

"Reliance on any project that does not include legally enforceable commitments made by the project sponsor similar to those made by TC Alaska would deprive the state of a real opportunity to achieve its objectives. Rejecting the TC Alaska Project would leave the state no other option but to negotiate with BP and ConocoPhillips to obtain pipeline terms similar to those contained in AGIA that benefit the state and its citizens. However, such negotiations would be conducted from a position of ever-increasing weakness as time goes by, as oil production and related revenues decline, and as the state becomes more and more desperate for whatever new revenue it can obtain from a gas pipeline."

The North Slope Borough appreciates the work that has been done by the state to understand impacts on local governments during construction of the gas pipeline and gas treatment plant through its AGIA Findings.

"Historically, the Producers have insisted on much more sweeping (frequently unspecified) concessions by the state with respect to taxes and royalties (and, under SGDA, many other major concessions). As discussed in Chapter 3 of the Findings, **there is no reason for the commissioners to believe at this time that any concessions on the state's part are needed over and above those already available to producers who commit gas to the AGIA project during its first open season.** The upstream inducement provisions of AGIA, however, are available now - and those inducements will be locked in if all of the producers commit their production to the AGIA project. Given the fact that no basis currently exists to support the state's providing any additional concessions to induce parties to commit their gas to a gas pipeline, the availability of the upstream inducements of AGIA represent real value to the Producers."

It is also extremely important to recognize the conclusions in the Municipal Impacts Report, which show that all of Alaska is impacted. The report this group commissioned identified infrastructure impacts across the state. Currently, the infrastructure investment needed to accomplish this project is estimated to exceed \$2 billion. A recent announcement stated that improvements to the Dalton Highway could be over \$1 billion alone. Communities from Barrow to Anchorage to Ketchikan will all be affected by natural gas development. The impacts can be both positive and negative. Nowhere is the impact more clear than on the coastal plain of the North Slope because this is where the development will occur.

#### **The North Slope Borough Supports the AGIA Strategies related to Workforce Development and Training**

The North Slope Borough has high hopes for the four strategies laid out in AGIA related to Workforce Development/Training:

1. Increase awareness of and access to careers in natural resource development
2. Develop comprehensive career and technical education system
3. Increase registered apprenticeships and on-the-job training opportunities
4. Increase training for operations, technical and management workers

We all have the advantage of hindsight as we approach this new era of gas development. We can look back and learn from experiences gained during construction of the Trans-Alaska Oil Pipeline. The TAPS project was supposed to hire Alaska Natives, according to provisions in the right of way lease. TAPS did a miserable job in that respect. We know now that it takes training and workforce development to prepare workers for a project like this. We do remain cautious though. A report entitled "Impact Analysis of the Oil and Gas Industry in the State of Alaska" was commissioned by the Alaska Oil and Gas Association (AOGA) and released on June 30, 2008. It points out just how low North Slope resident employment has been and continues to be in the oil and gas industry.

We are also concerned about what message we should take away from the recent decision by the Governor to Veto \$300,000 to expand training opportunities at Ilisagvik College. Those funds were to be used for an additional instructor for our Workforce Development programs – an itinerant traveling teacher. Also, the college hoped to make capital purchases of equipment and update training tools.

There is no better place to train people for North Slope jobs than on the North Slope. Ilisagvik College in Barrow can offer relevant technical and professional training to prepare Alaskans for real-life jobs. In fact, we are doing just that: training a workforce for jobs in the oil and gas industry.

### **The Cumulative Impacts of the Gas Line Will Be Substantial**

The people of the North Slope have learned a number of lessons from the Prudhoe Bay development experience. One lesson is that a development scenario of this magnitude is not just a single project. Getting natural gas out of the ground and to market will require vast new layers of infrastructure, and will depend on new reserves in different locations to fill the gas pipeline.

It is really a giant expansion of resource development that has two parts. The first part is the pipeline itself, along with a massive gas treatment plant at Prudhoe. The second part is a whole collection of projects to develop reserves that will feed the gas pipeline during its lifespan. The gas line requires a 50-year commitment to a new web of development that will spread across the region in several directions. It will have unique and far-reaching impacts on the North Slope environment and wildlife and our people here who depend on the natural world for their cultural, spiritual and physical survival.

The Prudhoe experience is instructive in this regard. Following are graphics that depict the gradual expansion of oil-related development between 1968 and 2008. We call this evolution of a resource development maze “the spider web effect.”

1968: Development in the Prudhoe area at the dawn of the North Slope's oil era. <sup>1</sup>

1977: The extent of development after the pipeline was built and oil began flowing. <sup>2</sup>

1989: Twelve years later and the development is moving to the west. <sup>3</sup>

1999: An additional ten years later. It was always clear that development would go beyond the immediate Prudhoe area. <sup>4</sup> But how far beyond?

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<sup>1</sup> *[Slide of Prudhoe in 1968]*

<sup>2</sup> *[Slide of Prudhoe in 1977]*

<sup>3</sup> *[Slide of Prudhoe in 1989]*

<sup>4</sup> *[Slide of Prudhoe in 1999]*

2001: The status of oil exploration and development on the North Slope.<sup>5</sup> The black line in this slide shows what we were told would be the outer limits of development from Prudhoe. That was in 1972 before the project was underway, which is similar to our current situation with gas. Nobody really knew the ultimate reach of Prudhoe development at the time, because it was obviously dependent on the location of new discoveries.

2008: Activity has now expanded more than 100 miles outside of the core area.<sup>6</sup> We fully expect that gas resources will be at least as widespread as oil has been. NPR-A appears to have a lot of gas potential, as do the Foothills. And the multi-billion-dollar bid total of the OCS lease sale in the Chukchi suggests a strong possibility of offshore development a very long way from infrastructure.

Another lesson we have learned from the Prudhoe experience is that when it comes to impacts, sometimes  $1+1=4$ .<sup>7</sup> Every oil and gas project goes through an environmental review process to determine what its impacts will be on the land, the wildlife, the habitat and the people nearby. Each of the projects represented by a dot on this slide went through some level of environmental review.

At some point, the impacts of development go beyond the effects of one project or another. When you add projects together, there can be cumulative effects that are separate from – and sometimes greater than – the individual project impacts.

That is what we have found with oil development, and it is going to happen with gas development. It is not just the gas line itself that creates certain impacts – it is the gas line plus all the other projects it leads to, and there can be a total effect that is bigger or different from the projects themselves.

This is important, because a lot of the gas is not co-located with oil. That means we will have a bunch of new roads and buildings and support services and power plants and sewage treatment facilities that fan out in new directions. This map is going to get a lot more crowded as the spider web expands.

When it comes to the subsistence and cultural impacts of a gas line, it is very important that cumulative effects are recognized as a separate category of impacts. The National Research Council did an extensive study of cumulative impacts on the North Slope in 2003. It was one of the only attempts to measure these impacts, and we hope the State will take that study's

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<sup>5</sup> [Slide of Prudhoe in 2001]

<sup>6</sup> [Slide of Prudhoe in 2008]

<sup>7</sup> [Slide of Prudhoe in 2001]

conclusions seriously when it decides how to plan for cumulative impacts associated with the gas line.

### **The North Slope Borough has a Strong Preference for Onshore Oil and Gas Exploration, Development and Production**

#### **International Issues**

The Arctic Council is an organization of the Arctic States - the United States, Canada, Greenland/Denmark, Iceland, Norway, Sweden, Finland and the Russian Federation. A priority of the Arctic Council work is to develop standards for industrial development in the Arctic as oil and gas activities have been a concern of this council since its inception.

A unique feature of the Arctic Council is the permanent participant status the indigenous people of the Arctic have at its proceedings. The Inuit participate in this process through their membership in the Inuit Circumpolar Council (ICC), which was founded in 1980. The North Slope Borough is a charter member of the ICC.

There are local, state, federal and international concerns that can collide in the face of offshore development. Recently, the Arctic Council adopted the Arctic Oil and Gas Assessment, including recommendations related to oil and gas activities in the Arctic. The Arctic nations are honor-bound to follow these recommendations - which include a holistic compilation of all of the issues that have been discussed for the last thirty years by nations affected by oil and gas development. The broad areas of comment include:

- Social and Economic Effects
- Effects on the Environment and Ecosystems
- Managing Oil and Gas Development

The North Slope Borough fully endorses the recommendations in this report. All of the member countries of the Arctic Council have adopted this at the ministerial level.

There is a current effort to update the Arctic Offshore Oil and Gas guidelines. It is hoped that these additional protocols will also be adopted at the ministerial level by Spring 2009.

The entire report is available at [www.umap.no/oga](http://www.umap.no/oga).

#### **Federal Offshore Issues**

In this time of epic climate change, we are worried about environmental stresses on our wildlife populations. The ice pack that provides critical habitat for polar bear, walrus and other species seems to be disappearing before our eyes. And while the ocean temperature is rising, there is also evidence that it is becoming more acidic. The pH level is changing because the ocean absorbs about one-third of the carbon released into the atmosphere from human activity. A shift in the

ocean's pH level could cause real problems at the very bottom of the food chain, which would affect all marine life.

We do not need another cause for alarm, but this is a big one. Our whalers are instinctively focused on the low end of the food chain. We know the bowhead feast on tiny krill, so these krill have always been of great interest to us. Without a continuing abundance of this food source, the bowhead will be in deep trouble. And when the bowhead are in trouble, the Inupiat are in trouble.

So there are many reasons why offshore activity raises our blood pressure. There is plenty of biological disruption happening in the OCS, even without impacts to the bowhead migration from the industrial noise and vessel activity that are likely when oil companies are offering billions of dollars just for the chance to explore. And unlike development onshore, there are no benefits to balance those risks. The borough cannot collect property tax in federal waters. There are no revenue sharing provisions like the state of Louisiana enjoys, or similar to development on federal land like NPR-A. In short, the risks greatly increase and the benefits disappear when the industry moves offshore.

Regardless of any benefits that local residents may or may not receive from offshore development, we can all agree on one thing - industry should be held to the highest standards if it expects to operate in this fragile, culturally critical environment. Oil executives routinely pledge to use the best available technology and the safest operational standards. They stand to reap billions of dollars in rewards, so they should be held to their pledge. In fact, researching the safest and most advanced practices currently being used in the world's northern regions should be a priority.

### **State Management Issues**

One way in which state government, industry and North Slope residents could come together to improve safety standards in arctic waters is by adopting a practice used in state waters elsewhere in Alaska. That is the use of state-licensed marine pilots on vessels engaged in oil and gas operations. This is a tried-and-true method of putting expertise in the wheelhouse and providing independent information to the State on vessel activities. Better yet, the marine pilots have expressed interest in working directly with our whalers to take advantage of our traditional knowledge as they learn their way around these waters.

Is this too much to ask for the protection of our hunting grounds? Is it too much to ask of companies that can afford to spend billions of dollars just for drilling rights? This level of protection is required in Prince William Sound and Southeast and the Aleutians. Shouldn't it be required here too?

All Alaskans owe it to ourselves to demand the very best protections. For those of us who live on the front lines of Arctic development, it is a matter of cultural life and death. You might say this is an issue of "Inupiat homeland security", and we owe it to future generations of whalers to demand the very best protections and practices if the industry is going to expose us to such monumental risks.

For a traditional subsistence-based people, our adaptation to an intensive industrial presence has not always been easy. But we have learned a lot about the needs and methods and attitudes of industry, and we have embraced our role as a participant – not an observer – in North Slope oil development. We have learned that we are better off if we approach development as a partnership between the State, which owns the oil; the industry, which takes it to market; and the people of the North Slope Borough, whose cultural identification with these lands and waters gives us a fundamental claim to this place. If the gas line project is going to succeed, it must continue this tradition of partnership.

The Borough has consistently been supportive of onshore oil and gas development, but we have run into some problems with the State as we try to use our municipal powers in facilitating development. With the recent surge of activity in the oil patch, industry is finding it really difficult to house additional employees at Prudhoe. We could help to break this logjam if the State would pick up the pace in conveying lands we have applied for in the Deadhorse area, lands that we could make available to private industry. Deadhorse is also squeezed for water and sewer capacity and landfill services, all of which we stand ready to provide if the State would only allow it through timely permit approval.

This is one modest but important way for us to fulfill our role as a development partner. People on the North Slope must know that the Borough is being treated as a partner. And that applies to AGIA too. We may not have our signature on the AGIA license, but we need to feel included as a party to the agreement. The license provisions must recognize in their substance that the project starts in our back yard. They must recognize that the North Slope Borough and its people will be uniquely impacted socially, culturally, financially and environmentally.

So we are in this together. A project that is done right creates the basis for our future, just as it does for other stakeholders. A project done poorly threatens our way of life, and if our way of life is threatened, it will not be good for the future of resource development on the North Slope. We look forward to an active partnership in the gas line project. We want to be able to promptly issue local permits for gravel, for dredging, for disposal of excess fill, and for other project needs on land and in the coastal zone.

### **We Value Our Partnership**

We come to this next generation of resource development with some specific expectations based on previous experience. For starters, stakeholder groups need to come together and jointly pursue more scientific data gathering and interpretation. In this regard, we recognize the potential value of NSSI - the North Slope Science Initiative - which is made up of federal, state and local decision-making authorities active on the North Slope (along with our regional corporation). There are large gaps in the biological knowledge base about wildlife species in the development areas. The scientific community must expand its data collection before widespread gas development starts. We need an accurate snapshot of current conditions in various wildlife populations, or else we will not understand how these animals are being affected by the new generation of gas projects. Baseline data will make it possible to respond to changes appropriately, rather than overreacting or failing to act at the right time. This is a top priority for the Borough, and we expect a similar commitment from others for the sake of continued healthy wildlife resources.

And speaking of partnerships, there is no better example of a local, state and federal partnership than the one we used to have when the coastal management program was fully functioning. Until changes made by the previous governor's administration, the ACMP pulled together all stakeholders in balancing responsible development and protection of our coastal resources. It was a very effective program that accommodated projects and addressed local concerns in a really successful process. This process had the effect of expediting projects by resolving issues early on. It was a smart approach, a very cooperative approach, and we hope the Legislature will restore the guts of it in the interest of promoting future development through intergovernmental partnership.

In the end, the success of gas development will rest on the strength of relationships among the stakeholders, and those relationships will depend on really good communication. We need to be talking about issues long before they get to critical regulatory and permitting stages. Lead time is very important to everyone involved in development, so we all must make a commitment to more timely communication as well.

For sure, the next 40 years will not be easy. The population centers of the North Slope will be faced with more competing uses close to home, and impacts will accumulate with the stepping-stone pattern of westward industrial expansion. We believe we can coexist in these times, but we will have to place a greater emphasis on communication, collaboration, science and respect for subsistence. No stakeholder on the North Slope can go it alone and hope to succeed. Our chances for success in the long term will be directly linked to our ability to work together.

This hearing and the AGIA process are all about the urgent considerations of life in the North today, but even more so, it is about the next generation and the one after that. People in all

cultures want what's best for their children and grandchildren. A natural gas pipeline and all of the associated development it entails is what we are providing for the next generation. How we do this determines the degree of success or failure. We all want those who come after us to share in the experiences that give our lives meaning. We want them to enjoy the same cultural traditions and quality of life. The North Slope Borough feels confident that the work we do now and in the near future can help to fulfill the promise of a good life for everyone who has an interest in the North Slope. We can rise to the challenge and make the next 40 years a real model for the generations that follow.

**Rynniva Moss**

---

**From:** Scott, Antony G (DNR) [antony.scott@alaska.gov]  
**Sent:** Monday, July 21, 2008 10:05 PM  
**To:** Rynniva Moss  
**Subject:** RE: 500 mcf Formula

Not a pest at all. Please feel free to get in touch any time.

---

**From:** Rynniva Moss [mailto:Rynniva\_Moss@legis.state.ak.us]  
**Sent:** Mon 7/21/2008 10:04 PM  
**To:** Scott, Antony G (DNR)  
**Subject:** Re: 500 mcf Formula

Thank you for your response. So much information has flowed that it takes time to think out the missing parts. Hope I'm not a pest.

----- Original Message -----

**From:** Scott, Antony G (DNR) <antony.scott@alaska.gov>  
**To:** Rynniva Moss  
**Cc:** Balash, Joseph R (GOV) <joe.balash@alaska.gov>  
**Sent:** Mon Jul 21 21:26:37 2008  
**Subject:** RE: 500 mcf Formula

Rynniva:

sorry I haven't gotten in touch sooner.

Please understand that the Administration has not developed its own assessment of in-state gas demand for more than 5 years. My presentation relied on studies that have been performed in the last year or two by others. The reference on Slide 3 is my first presentation. The reference on Slide 6 of my presentation is the second attachment. Unfortunately, neither study has a breakdown at the level that you are interested in. I appreciate that the main concern is that there is plenty of ability to meet in-state need -- including all military bases, etc. I'd point out that when Elmendorf started purchasing its electricity from Municipal Power and Light (rather than generating themselves) there was only a small uptick in electricity demand for electricity. It's hard to see how bases can materially move things to the point where there are problems under AGIA.

Your subsequent email asked about gas demand for cars -- either CNG, or electric, I'm assuming. I don't think either study looked at this, but I really don't know. But when imagining possible future demand scenarios I think it's crucial to remember two things. First, none of these infrastructure changes happen overnight; it takes a long time to turn over the automobile stock, for example. Second, the prohibition under AGIA of subsidizing competing projects expires upon first gas of the AGIA project, so by the time that possible future demand increases could matter a North Slope gasline will be in place and the state can then do what it wants.

Please call me if you have further questions. My cell is 748-8915.

Thanks very much,

Antony

---

**From:** Rynniva Moss [mailto:Rynniva\_Moss@legis.state.ak.us]  
**Sent:** Mon 7/21/2008 5:25 PM  
**To:** Scott, Antony G (DNR)  
**Subject:** 500 mcf Formula

7/24/2008

I acquired your power point from Senate Judiciary but it doesn't really have a breakdown other than ammonia-Urea, LNG, Gas Utilities, Power Generation. Do you have a breakdown by individual users:

Example:

Fairbanks Natural Gas

Natural gas delivery to consumers in Anchorage, Kenai, Barrow and other take off points along the line.

Flint Hills Refinery

Ft Wainwright

Eielson

Ft Richardson

Elmendorf

Other military installations in the state

Propane plant Yukon River

etc

**From:** cchambers@gci.net [mailto:cchambers@gci.net]  
**Sent:** Friday, July 11, 2008 5:01 PM  
**To:** 'Walter J. Hickel'  
**Subject:** Message from Governor Walter J. Hickel

July 11, 2008

Dear Legislator:

The attached ad will soon be run in Alaska newspapers. Which column will your name be in? The column of those who want Alaska to retain control of our natural gas? Or the column of those who are prepared to allow Canada to take control of this resource worth billions of dollars?

We urge you to say NO to TransCanada and help make an All-Alaska gasline happen that Alaskans can control.

After the TransCanada vote takes place, this ad will be run with your name in the column you choose.

Stand up for Alaska ! We're counting on you.



Walter J. Hickel

Wally Hickel and Backbone III

# Your Alaska of 2008 will decide who controls Alaska's

In which column will your name be listed?

## ALASKA?

- Sen. Bob Bartlett
- Sen. Ernest Gruening
- The Constitutional Convention
- Gov. Bill Egan
- State Sen. John Butrovich
- State Sen. Irene Ryan
- Bob Atwood & Statehood Comm.
- Scott Heyworth and 138,000 Alaskans who voted for Prop 3
- 50 Alaska communities that passed pro All-AK pipeline resolutions
- Alaska Gasline Port Authority
- All Alaska Alliance (labor)
- State Sen. Chancy Croft
- Gov. Jay Hammond
- Gov. Wally Hickel
- **Will your name go here?**

## CANADA?

- North Slope gas producers
- Gov. Tony Knowles
- Bill Allen and VECO
- The Corrupt Bastards Club
- Gov. Frank Murkowski
- Marty Rutherford & gasline team
- **Will your name go here?**

**Vote on**  
Encourage Gov. Palin to build  
owned,  
governed and guided by Alaska for the

(Note to legislators: the All Alaska LNG project has had an export license since 1989. Contact us for a copy.)

ALL-ALASKA  
GASLINE

TRANSCANADA  
GASLINE

ALASKA WILL BE IN CONTROL

CANADA WILL BE IN CONTROL

**From:** Collins, Donna S (GOV) [mailto:donna.collins@alaska.gov]

**Sent:** Saturday, July 12, 2008 4:35 PM

**To:** mroberts@gci.net; mal@gci.net

**Cc:** Sen. Con Bunde; Sen. John Cowdery; Sen. Bettye Davis; Sen. Fred Dyson; Sen. Johnny Ellis; Sen. Kim Elton; Sen. Hollis French; Sen. Lyda Green; Sen. Lyman Hoffman; Sen. Charlie Huggins; Sen. Albert Kookesh; Sen. Lesil McGuire; Sen. Donny Olson; Sen. Bert Stedman; Sen. Gary Stevens; Sen. Gene Therriault; Sen. Joe Thomas; Sen. Tom Wagoner; Sen. Bill Wielechowski; Sen. Gary Wilken; Rep. Bob Buch; Rep. Mike Chenault; Rep. Sharon Cissna; Rep. John Coghill; Rep. Harry Crawford; Rep. Nancy Dahlstrom; Rep. Andrea Doll; Rep. Mike Doogan; Rep. Bryce Edgmon; Rep. Anna Fairclough; Rep. Richard Foster; Rep. Les Gara; Rep. Berta Gardner; Rep. Carl Gatto; Rep. Max Gruenberg; Rep. John Harris; Rep. Mike Hawker; Rep. David Guttenberg; Rep. Lindsey Holmes; Rep. Kyle Johansen; Rep. Craig Johnson; Rep. Reggie Joule; Rep. Scott Kawasaki; Rep. Wes Keller; Rep. Mike Kelly; Rep. Beth Kerttula; Rep. Gabrielle LeDoux; Rep. Bob Lynn; Rep. Kevin Meyer; Rep. Mary Nelson; Rep. Mark Neuman; Rep. Kurt Olson; Rep. Jay Ramras; Rep. Bob Roses; Rep. Woodie Salmon; Rep. Ralph Samuels; Rep. Paul Seaton; Rep. Bill Stoltze; Rep. Bill Thomas; Rep. Peggy Wilson

**Subject:**

Malcolm:

We have had our differences over the direction we are going with the natural gas pipeline. Now you have gone too far. The ad attached to an email sent to all 60 legislators last night crosses the line. It is misleading, distorts the truth, and slanders our public servants and should NOT be published in ANY newspaper.

If, in fact, LNG is economically better for Alaska, it will get its chance. TC Alaska has made clear, repeatedly, that they will build a line to Valdez if customers show up at an open season. Let's be clear, though, that export to Asian markets is the only viable configuration for an LNG project. To suggest—as your ad does—that LNG from Alaska will reach US markets is disingenuous at best.

To claim that some of our state's finest leaders would oppose AGIA today is nonsensical. AGIA steps up and requires those things which will best protect Alaska's long-term interests. I could claim to have the support of such fine Alaskans, but I won't because many of them are no longer living. In fact, I can claim some on your list—they have already contacted you about that. Shame on you for invoking their legacies to prop up your position on this issue.

Perhaps the most outrageous claim in your ad is the association of Marty Rutherford and Tom Irwin with the CBC. These two Alaskans staked their careers and reputations when they stood up for Alaska and opposed the SGDA Contract negotiated by the prior administration. Associating them with the CBC is disgusting. To then go on and threaten sitting legislators—who have the best of intentions when it comes to serving our state—with association in that crowd puts is just bullying.

We live in a great country where Freedom of Speech is cherished and protected by men and women with their lives, but you should not publish this ad. Your facts are wrong, you distort the truth, and you slander the reputations of Alaska's finest public servants.

Sarah Palin

**Rep. John Coghill**

---

**From:** Irwin, Tom E (DNR) [tom.irwin@alaska.gov]

**Sent:** Saturday, July 12, 2008 5:40 PM

**To:** mroberts@gci.net; mal@gci.net

**Cc:** Sen. Con Bunde; Sen. John Cowdery; Sen. Bettye Davis; Sen. Fred Dyson; Sen. Johnny Ellis; Sen. Kim Elton; Sen. Hollis French; Sen. Lyda Green; Sen. Lyman Hoffman; Sen. Charlie Huggins; Sen. Albert Kookesh; Sen. Lesil McGuire; Sen. Donny Olson; Sen. Bert Stedman; Sen. Gary Stevens; Sen. Gene Therriault; Sen. Joe Thomas; Sen. Tom Wagoner; Sen. Bill Wielechowski; Sen. Gary Wilken; Rep. Bob Buch; Rep. Mike Chenault; Rep. Sharon Cissna; Rep. John Coghill; Rep. Harry Crawford; Rep. Nancy Dahlstrom; Rep. Andrea Doll; Rep. Mike Doogan; Rep. Bryce Edgmon; Rep. Anna Fairclough; Rep. Richard Foster; Rep. Les Gara; Rep. Berta Gardner; Rep. Carl Gatto; Rep. Max Gruenberg; Rep. David Guttenberg; Rep. John Harris; Rep. Mike Hawker; Rep. Lindsey Holmes; Rep. Kyle Johansen; Rep. Craig Johnson; Rep. Reggie Joule; Rep. Scott Kawasaki; Rep. Wes Keller; Rep. Mike Kelly; Rep. Beth Kerttula; Rep. Gabrielle LeDoux; Rep. Bob Lynn; Rep. Kevin Meyer; Rep. Mary Nelson; Rep. Mark Neuman; Rep. Kurt Olson; jayramras@hotmail.com; Rep. Bob Roses; Rep. Woodie Salmon; Rep. Ralph Samuels; Rep. Paul Seaton; Rep. Bill Stoltze; Rep. Bill Thomas; Rep. Peggy Wilson

**Subject:** BackBone III flyer

Governor Hickel & Malcolm,

It is with extreme disappointment that I send this email. I am speaking about the BackBone III flyer you just sent to all 60 Alaska Legislators. And I know many other people share my indignation and disgust.

It is totally inappropriate to imply that good government doesn't allow for differing opinions. And it is totally wrong to imply that the Palin Administration isn't working around the clock to protect the State of Alaska, and every individual Alaskans' interests.

We are a state that has amazing potential, with many options available to us. To suggest that choosing a gasline option that differs from your vision is somehow corrupt is so wrong. And it ignores the reality - which is that we can do both projects! The AGIA project will allow an LNG option to proceed if there is market interest in doing so. Nothing in AGIA limits the LNG interests.

It is beyond imagination and good taste that you have chosen to use individuals names as supporting your position without first getting their permission, or who are regretfully not alive to have participated in the AGIA discussion.

Most of all, I am totally and irrevocably disgusted in the insinuation that Marty Rutherford or the Gasline Team has anything but the highest standards in achieving what this state needs, which is a fair, open and transparent process. In fact you have previously commended them for looking out for Alaska's interests. Now I can only that your definition of looking out for Alaska's interests only means doing what you think is best.

Finally, I believe a public apology to Marty Rutherford and the Gasline Team is appropriate. They are the best people we could have representing this state.

This a sad day,  
Tom Irwin

**Former Governor Hickel calls for denial of TransCanada license:  
Urges Palin to build a state-owned All-Alaska line**

Former Governor Wally Hickel called on the legislature today to vote down the proposed license for TransCanada to build the Alaska gasline across Canada and urged the Administration to start immediately to build an All-Alaska gasline to Valdez.

“Why turn over control of a resource this valuable to a foreign country?” Hickel asked. “If TransCanada gets the license, they and their government will determine when it will be built, who gets the jobs, how much it will be taxed (which will come out of our pockets), and how our gas will be used.

“Once you build a \$30 - \$40 billion pipeline, you’re locked in. This is a forever decision. And it’s a bad one.”

In taking this position, Hickel is breaking with Gov Sarah Palin who he has supported since the primary election of 2006 when he served as her Campaign Co-Chairman.

“This is nothing personal,” Hickel said. “I admire Sarah. She is a caring leader and has done a great job. But on this issue, her advisors have taken her down the wrong road.

“It’s up to the legislature to save her, save Alaska and save themselves from the worst decision of the 21<sup>st</sup> century.”

Every Alaskan needs to speak up now, this week, to his or her legislators, Hickel said.

“Ask your legislators, are they voting for Alaska or for

“Once the ill-advised TransCanada plan is out of the picture, the State of Alaska can build our own pipeline,” Hickel said.

“This is by far the best idea. The gas is our resource, found on our land. It belongs to all Alaskans, and we should control it. The State can hire a pipeline company to build an All-Alaska pipeline from Prudhoe Bay to Valdez.

“We can get started immediately, and we don’t have to wait for TransCanada, the producers, the Canadian government, or anyone. Once the decision is made, the world will help.

“That’s what an Owner State must do. We must keep control of our resources and make sure they are used for the ‘maximum benefit’ of our people.

**“Let’s build the best pipeline in the U.S. and ship our clean natural gas to the US West Coast and the world and make billions for the Alaska people. That’s where Alaska’s future is,” he said.**

**“If we think the future is in the tar sands of Alberta or the rustbelt of the U.S., we should have our heads examined.”**

**Governor Hickel met with Governor Palin and her gasline team leaders last week and expressed his views. “I kept asking ‘Why build a gasline through Canada?’ and no one answered,” he reported.**

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**For more information, please contact Carole Chambers at (907) 343-2201 or [wjhickel@gci.net](mailto:wjhickel@gci.net).**

# Alaska State Legislature

## House of Representatives

Session address:  
Alaska State Capitol  
Juneau, Alaska 99801-1182  
1-888-465-2647 (toll free)  
1-907-465-3518 (fax)



Interim address:  
716 West 4th Avenue  
Anchorage, Alaska 99501-2133  
1-907-269-0106  
1-907-269-0109 (fax)

### Representative Les Gara

July 13, 2008

Speaker John Harris  
State Capital Building  
Juneau, Alaska 99801

By Hand Delivery

Dear Speaker Harris:

I am writing to formally state my objection to the delay in the vote on the Gasline contract. Today one of the members of your majority, Rep. Ramras, angrily told me he had the right to delay a vote on this project so he could go home tonight – presumably for 8 days until the legislature reconvenes on the 21<sup>st</sup>. I've had enough of watching what I consider a filibuster, and consider Rep. Ramras' position particularly troubling. Rep. Ramras says he has requested that no vote be allowed until he returns on the 21<sup>st</sup> because, as he stated, he has "a right to vote."

As you know, the Democratic House Minority has requested a vote by Tuesday the 15<sup>th</sup> on the proposed gasoline license. Rep. Kerttula sent you that letter earlier this week. We have been debating this gasoline issue since early June, and have been studying it for over a year. Every subject that could possibly be discussed has been presented to this legislature by experts, industry officials and others. In some cases, issues have been presented so repetitively that many in the legislature, even you, haven't been in attendance at many of this week's hearings. At any given moment I have counted roughly 20 – 50 legislators absent from this week's hearings, because, as we all know, it's time to vote.

Delaying the vote on this project simply bolsters the hand of the opponents of this project, and the oil industry which is aiming to stop it. Letting one member choose to go home instead of work, and to hold this legislature up while he does that, is inappropriate.

I would ask that you disallow members from going home so that we can vote on the license Tuesday, before the 5 day break you have scheduled.

Sincerely,

  
Rep. Les Gara

*cc's to Reps Ramras + Kerttula*

E-mail: [Representative\\_Les\\_Gara@legis.state.ak.us](mailto:Representative_Les_Gara@legis.state.ak.us)





# Representative Beth Kerttula

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## House Minority Leader

July 12, 2008

Speaker John Harris  
State Capitol  
Juneau, AK 99801

Re: Vote on AGIA

Dear Speaker Harris:

On behalf of the House Democratic caucus, I respectfully request that you do what is necessary procedurally to hold a final vote on HB 3001, concerning TransCanada's AGIA license application, by Tuesday, July 15.

We have been reviewing TransCanada's application since May 28, have listened to many hours of testimony during many meetings and most importantly have heard from the public. We appreciate the effort you have made during this process. However, much of the information that is now being presented is becoming repetitive. This is the most important economic question that the legislature has faced in more than 30 years, and we believe legislators have the information they need.

With such a crucial issue, it is important that all members be present for the vote, and delaying until after July 15 will make that difficult because the House is scheduling a break starting the 16<sup>th</sup>.

This special session was also called to create an energy solution for Alaskans. By delaying the vote we lose valuable time to address this critical issue.

Thank you for your consideration of this request.

Sincerely,

A handwritten signature in black ink that reads "Beth Kerttula".

Representative Beth Kerttula

cc: Representative John Coghill, Rules Chairman  
Representative Ralph Samuels, Majority Leader



The Association of Professional Engineers,  
Geologists and Geophysicists of Alberta

July 4, 2008

John Van der Put, P.Eng.  
Vice President, Market Development  
TransCanada Pipelines  
450 - 1 Street SW  
Calgary, Alberta, Canada  
T2P 5H1

**RE: Licensure of Alaska Professional Engineers in Alberta**

Dear Sir:

This letter describes the criteria and process an Alaska licensed Professional Engineer (P.E.) must follow to become licensed to independently practice engineering in Alberta. We can advise as follows:

- 1) The Association of Professional Engineers, Geologists and Geophysicists of Alberta (APEGGA) is the regulatory body that regulates the practice of engineering and geosciences in Alberta. An individual wishing to become licensed to practice engineering in Alberta must apply to APEGGA.
- 2) An Alaska licensed P.E. must meet the same five licensure criteria as any other applicant to APEGGA. An Alaska licensed P.E. is not subjected to any different standards than a Canadian trained Engineer.
- 3) The five licensure criteria all applicants must meet are:
  - Satisfactory Academics – an Alaska P.E. with an ABET degree who has passed the FE exam meets the academic requirement
  - Experience Requirement – four years of engineering experience, at least one of which is 'equivalent North American' experience – experience in Alaska satisfies this
  - Professional Practice Examination - an examination on Canadian and Albertan law, ethics and professionalism that all applicants must pass
  - Good character and reputation
  - English language competency

...12

Page 2

- 4) There is no requirement that an Alaska P.E. must be living in Alberta, or Canada, to obtain a license to practice engineering in Alberta. If the P.E. meets the five requirements noted above and is a Canadian citizen or Permanent Resident of Canada, he or she will be licensed as a Professional Engineer with APEGGA. If the P.E. meets the five requirements noted above and is not a Canadian citizen or Permanent Resident of Canada, he or she will be licensed as a Foreign Licensee in engineering.
- 5) The only difference between a Foreign Licensee and a Professional Engineer is that a Foreign Licensee is not eligible to vote or run for office in APEGGA affairs. Otherwise, the rights and obligations of both categories are the same.
- 6) The application process for an Alaska P.E. is straight forward. We obtain the same documentation from an Alaska P.E. as we do from a Canadian applicant, which includes a completed application form, transcripts, work experience record, and references. We also contact the Alaska State Board of Registration for Architects, Engineers, and Land Surveyors for confirmation of registration. If the P.E. has a NCFES record book, we will accept that in lieu of the work experience record and references.

We trust this provides you with the information required.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Tokarik". The signature is fluid and cursive, with a period at the end.

Mark J. Tokarik, LL.B., P.Eng.  
Director Registration  
Edmonton Office

MJT/bls

# STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES  
OFFICE OF THE COMMISSIONER

SARAH PALIN, GOVERNOR

- P.O. BOX 111000  
JUNEAU, ALASKA 99811-1000  
PHONE: (907) 485-2400  
FAX: (907) 485-3886
- 550 WEST 7<sup>TH</sup> AVENUE, SUITE 1400  
ANCHORAGE, ALASKA 99501-3650  
PHONE: (907) 269-8431  
FAX: (907) 269-8918

April 1, 2008

The Honorable Jay Ramras  
Room 120, State Capitol  
Juneau, AK 99811

Dear Representative Ramras:

Governor Palin has asked me to respond to your letter dated March 12. In that letter, you called attention to an exchange between yourself and the Deputy Director of the Division of Oil and Gas (DOG). You also asked for an explanation of the administration's position on a pipeline from the Alaska North Slope (ANS) to Cook Inlet. I am happy to respond and hope you will accept my apology for the delay in doing so.

First, with regard to a pipeline from the ANS to Cook Inlet it is important that you understand some of the economic realities surrounding such a project. The primary goal of the Palin Administration is to see a large-diameter pipeline project move forward as soon as possible. A simple bullet line that serves in-state needs only will likely have a more expensive toll to Fairbanks. Whether it is an overland pipeline through Canada or a Liquefied Natural Gas (LNG) project at tidewater, the efficiencies of scale afforded by a large project allow the cost of transportation between the North Slope and points south to be lower.

Since a large-diameter project will not move forward quickly enough to resolve the existing energy crisis in Alaska, then it may be appropriate to look at an in-state bullet line to meet Alaskan needs as one alternative to address the problem. Just as with the large-diameter project, it is appropriate to look first to the private sector to advance such a project. If the economics are sufficient, project sponsors can move forward under the laws of the State of Alaska. ENSTAR's interest is encouraging in that regard.

If, however, the economics are insufficient to support an in-state only project, and the need exists to meet near-term supply in Alaska, we then need to ask how best to lend State support to such a project. That raises a whole host of policy questions that the Administration, the Legislature, and the public will need to consider. First and foremost will be whether to rely on a public (government) entity to construct, own, and operate the pipeline. If not, the next question is whether or not it is acceptable to provide subsidies to a private entity. Finally, to the extent a grant or subsidy of public resources are involved at all invites an examination of the larger energy picture—is gas the lowest cost form of energy available? Are there cheaper and/or cleaner forms of energy available? Do they require the same magnitude of public support?

In this context, I would like to remind you that the Palin Administration's efforts to advance a large-diameter project do not conflict with an ANS to Cook Inlet project for in-state markets. AS 43.90, The Alaska Gasline Inducement Act (AGIA) provides a 500 million cubic feet per day exception to

*"Develop, Conserve, and Enhance Natural Resources for Present and Future Alaskans"*

The Honorable Jay Ramras  
April 1, 2008

- 2 -

the no-compete section of that statute. That level of throughput would more than meet the needs of in-state markets, leaving the State of Alaska free to advance and support such a project.

I would like to turn now to your exchange with the DOG' Deputy Director. It is important to note that his comments were made without the knowledge that both I, and the Governor's staff, had already met with representatives and executives of ENSTAR. In those briefings, they made clear their desire to pursue an in-state project as an alternative to securing natural gas supplies out of Cook Inlet later next decade. They also made clear that they do not have firm economics upon which to base a possible investment, but are considering making a significant investment over the next 12 to 18 months to firm up those figures. It is particularly relevant that ENSTAR is not asking the State of Alaska for any support, concessions, or subsidies at present. We are looking forward to their next installment of relevant news.

As a final matter, I am sorry that you feel we at DNR were not appropriately responsive to your interests in a bullet line that serves in-state needs only. As you can see from the above, we are very interested and involved in that discussion. And, as I am sure you know, the Department of Natural Resources tries to be extremely responsive to any and all inquiries from the Alaska State Legislature and its individual members. Your concern for the energy needs of your community is obvious and appreciated. As you know, many of us at DNR are spending much of our time and energy on an AGIA' large-diameter pipeline project that will facilitate exploration and development of Alaska's gas resources, ensuring long-term Alaskan careers, and the availability of Alaska gas for in-state use at appropriate transportation costs. Finally, as a former Co-Chair of the House Resources Committee, you well understand that the Division of Oil and Gas manages our oil and gas resources to maximize revenue to the State of Alaska. That mission is not always in perfect alignment with the desire to lower energy costs in regional communities.

Recognizing that the Alaska Energy Authority (AEA) has among its obligations the development of safe, reliable, and efficient energy systems throughout Alaska as well as reducing the cost of electricity for residential customers and community facilities in rural Alaska, Governor Palin has asked the new AEA' Executive Director, Mr. Steve Haagenson, from your home town of Fairbanks, to serve as the Governor's energy coordinator. Furthermore, Governor Palin has asked him to develop a statewide energy plan. Might I suggest that you direct alternative energy source questions to him in the future. DNR is, of course, committed to working with the AEA wherever and however we can contribute, including integrating our AGIA efforts with their in-state energy work as well as providing comprehensive access to the work of the Division of Geological & Geophysical Surveys' (DGGS) alternative energy survey.

If you have further questions or concerns about the Palin Administration policy with regard to an in-state bullet line from the ANS to Cook Inlet, please do not hesitate to contact me directly.

Sincerely,



Marty Rutherford  
Deputy Commissioner

The Honorable Jay Ramras  
April 1, 2008

- 3 -

cc: Governor Sarah Palin  
Mr. Steve Haagenson, Executive Director, Alaska Energy Authority  
Mr. Gene Dubay, Enstar/Semco Energy



# Representative Beth Kerttula

House Minority Leader

---

July 12, 2008

Speaker John Harris  
State Capitol  
Juneau, AK 99801

Re: Vote on AGIA

Dear Speaker Harris:

On behalf of the House Democratic caucus, I respectfully request that you do what is necessary procedurally to hold a final vote on HB 3001, concerning TransCanada's AGIA license application, by Tuesday, July 15.

We have been reviewing TransCanada's application since May 28, have listened to many hours of testimony during many meetings and most importantly have heard from the public. We appreciate the effort you have made during this process. However, much of the information that is now being presented is becoming repetitive. This is the most important economic question that the legislature has faced in more than 30 years, and we believe legislators have the information they need.

With such a crucial issue, it is important that all members be present for the vote, and delaying until after July 15 will make that difficult because the House is scheduling a break starting the 16<sup>th</sup>.

This special session was also called to create an energy solution for Alaskans. By delaying the vote we lose valuable time to address this critical issue.

Thank you for your consideration of this request.

Sincerely,

  
Representative Beth Kerttula

cc: Representative John Coghill, Rules Chairman  
Representative Ralph Samuels, Majority Leader

## Natural Gas in Alaska - enough to support the world for 100 years

It started in 1985, and one source for this information was in the National Geographic, it stated, "There is one hundred trillion cubic feet of natural gas in Alaska. That is enough to support the world for one hundred years."

Natural gas burns pure, it will eliminate pollution, in a matter of time it will end the green house effect. The Arctic, Antarctica, and Greenland are considered very big weather conditioners for the world.

In the last twenty years Exxon and BP have provided propaganda that there is no market for Alaska natural gas (example is attached, 2002).

Exxon is attempting to get permission from congress to build the gas pipeline. They will abandon their own property publicly for the last twenty years, and the property goes back to the owner.

Economy – Natural gas would cost about \$1.50 at the pump and a car would get twice as much mileage then the gas we use today. This means the average family in the USA would save about 300%.

Our Alaska leaders claim that the 1700 mile gas pipeline would cost only 30 billion dollars. In 1975, the oil pipeline cost 8 billion dollars and was 800 miles. If that oil pipeline was built today it would cost 28 billion dollars.

A 1700 mile gas pipeline today would cost 55 billion dollars. The only way to make a 30 billion dollar pipe line is if Canada uses it own steel mills, iron ore, labor, and truck drivers. Then they can build a 30 billion dollar pipeline.

It is Alaska natural gas and the first 800 miles of gas pipeline are in Alaska, so Alaska should retain the majority interest in the project, because it is Alaska's natural gas. Since Canada will own all that is on Canada land or about 2800 miles, Alaska will have to go 50/50.

When Alaska Natural gas hits the market there will be trillions of dollars to split with Canada.

It would be better to deal with United States of America, to build our gas pipeline and give the USA fifty percent. Alaska will be out sourcing the entire USA.

Henry J. Stevens  
*Henry J. Stevens*  
Alaskan Democrat

po. Box 2-1234  
Juneau Alaska  
-99802-  
ph. 907-463-0119

## REPUBLICAN PLATFORM ( 2000)

The year 2000, President Bush make many promises to get elected

I want to emphasize on several of those Promises:

President Bush was to find ways to make the U.S. independent of foreign oil, no more effort was ever made except to open more land in Alaska to drill for more oil.

United States does not need oil! U.S. needs Alaska Natural Gas.

There is one hundred trillion cu. Yards of natural gas in Alaska, that is enough to support the world for one hundred years.

In the last 20 years, I have read that there is no market for Alaska natural gas, this is only properganda.

Our main market would be ourselves!

- 1) The entire U.S. Army, Navy, Marines would save billion's of dollars a year.
- 2) The entire transportation service would benefit, trucking, buses, cabs, private cars.
- 3) Hotels, resteraunts private homes, factories, all together would save hundreds of billions of dollars a year.

There is three hundred million moving venicles in the U.S., which causes 60% of the air pollution in the U.S., all private homes, hotels would almost extinguish air pollution in the U.S.

In conclusion:

Alaska Natural Gas would cost about 80 cents a gallon and also Alaska natural gas can get twice the mileage as the gas we use today.

This means trucks can transport Construction material all the way to Alaska and save about 60% of its expense.

SUB-MITTED AND REQUEST TO BE PUT INTO RESOLUTION FORM...

Henry Stevens Alaska Native Democrat

*Henry J. Stevens*

P.O. BOX 1234 - January - 99802 -

Phone - 463 - 0119

## THE LUG BOAT

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Monday's Money section.



# MONEY

ANCHORAGE DAILY NEWS • www.adn.com

SATURDAY, JUNE 29, 2002

## North Slope gas 'not competitive'

■ **PIPELINE:** BP chief executive says project wouldn't be cost effective.

By **WESLEY LOY**  
Anchorage Daily News

BP chief executive Lord John Browne, speaking in Anchorage on Friday, deflated a roomful of business people by saying conditions still aren't right to pipe the North Slope's vast natural gas reserves to market.

He went on to describe the deteriorating economics of Alaska's oil patch, where production is falling and costs are rising.

Although billions of barrels of oil remain to be pumped, Alaska production faces relentless competition from other prospects around the globe — including big gas fields closer to grow-

ing markets like Asia, he said.

"At the moment it is not competitive," Browne said of Alaska's gas.

Further dampening chances of production are taxes and royalties that would strip away all profit for BP and other oil companies, he said.

"This is not a debate about subsidy," Browne said. "We are not asking for any subsidy. We do not want corporate welfare."

Rather, he suggested incentives and "setting taxes in such a way that all projects with intrinsic economic merit can proceed."

Browne made his comments at a breakfast at the Sheraton sponsored by the Resource Development Council for Alaska, the Alaska Support Industry Alliance and the Anchorage Chamber of Commerce.

Browne's infrequent visits to Alaska always

are a big deal. Because he is head of one of the world's largest corporate oil giants and one of the state's two biggest producers, Alaskans involved in oil field drilling and support tend to hang on his words as though he were Alan Greenspan.

Small-statured with a ruddy face and regal accent, Browne was utterly humorless Friday, his speech painting a mostly distressed situation for Alaska's oil industry.

"Alaska is now a mature and much smaller oil province," he said, noting that oil production today is half what it was in 1988 — and declining. To compensate, London-based BP has tried to wrench every dollar of excess cost out of its Alaska operations, cutting its Anchorage work

See Page D-4, BP



FRAN DURNER / Anchorage Daily News

## WorldCom ties to create certainty

WorldCom is the nation's second-largest long-distance company. On Tuesday it re-

## SPOTLIGHT: RESOURCES

IN IRAQ



CHARLES REX ARBOGAST / The Associated Press

Fort Campbell, Ky. More than 600 troops from the 101st

# Global warming could wipe out 37% of species

**■ STUDY:** Researchers say greenhouse gases must be reduced soon.

By GUY GUGLIOTTA  
The Washington Post

In the first study of its kind, researchers from northern Britain to the wet tropics of northeastern Australia and the Mexican desert said Wednesday that global warming at currently predicted rates will drive 15 percent to 37 percent of living species to extinction by mid-century.

Dismayed by their own results, the researchers called for "rapid implementation of technologies" to reduce emissions of greenhouse gases and warned that the scale of extinctions could climb much higher because of mutually reinforcing interactions between climate change and habitat destruction caused by agriculture, invasive species and other factors.

"The midrange estimate is that 24 percent of plants and animals will be committed to extinction by 2050," said ecologist Chris Thomas of Britain's University of Leeds. "We're not talking about the occasional extinction — we're talking about 1.25 million species. It's a massive number."

The study marks the first time scientists have produced estimates of the effect of climate change on habitat. Previous work focused on smaller regions or limited species.

Thomas led a 19-member international team that surveyed habitat decline for 1,103 plant

and animal species in five regions: Europe; Queensland, Australia; Mexico's Chihuahua Desert; the Brazilian Amazon; and the Cape Floristic Region at South Africa's southern tip. The study is being published today in the journal *Nature*.

The regions encompass 20 percent of the Earth's surface and "include a fair range of terrestrial environments," said Thomas.

"Obviously it would be valuable to expand the scope, but there's no reason to think that doing so would change our results tremendously," he said.

Researchers said the wide geographical scope also overcame outside factors that might affect a single region only: "A prolonged drought might cause one instance of a dieback" but be offset by changes elsewhere, said climate change biologist Lee Hannah, who worked in South Africa. "When you see the broader context of the regional blips drop out of the picture,"

While there is little dispute that the Earth's temperature is rising, debate over the reasons and speed of change remains contentious. Still, most scientists accept that much of the warming is due to the cumulative effects of greenhouse gases that trap and hold heat in the atmosphere.

William O'Keefe, president of the George C. Marshall Institute, a conservative science policy organization, raised criticisms of the study, saying the research "ignored species' ability to adapt to higher temperatures" and assumed that technologies will not arise to reduce emissions.

## How to cut taxes

the entire middle class, Dean said it is wider than the middle class.

at he has national tax reform is fairer for the middle class. His campaign is planning a television spot in Iowa faulting Dean for not doing the same.

in Wesley Massachussetts and Carolina and cut, seek

ing to present themselves as the more centrist, electable alternatives to Dean, are hitting the issue hard in Iowa and New Hampshire.

"I don't want to go back to being the old Democratic Party that doesn't get it," Kerry said in an interview Wednesday. "I've been fighting all year to protect middle class taxpayers." Kerry has advocated eliminating the tax cuts that benefit the wealthiest Americans, but preserving those for the middle class. His campaign is planning a television spot in Iowa faulting Dean for not doing the same.

Adding to the pressure within the Democratic Party are the first maneuverings of the general election campaign. The Bush camp and its allies clearly look forward to campaigning against their eventual opponent as a throwback to the old tax-and-spend days of the party.

## How gets reversed

ation last effective tax rate absorbed

22 corporations, an expert approved rationally an

Department suspended pending further action by Sullivan.

Mark Zaid, a Washington lawyer who filed the suit challenging the program, called Sullivan's decision lifting the preliminary injunction a temporary setback and said his clients would prevail at trial in challenging the anthrax vaccine.

Zaid said he will soon ask Sullivan to reissue an order blocking mandatory anthrax inoculations because the FDA's approval of

### CORRECTIONS

A headline on a University of Alaska Anchorage hockey story on Page C-1 of Tuesday's Sports section erred in saying Matt Hanson was lost to the team because he was "flunking." Hanson was declared academically ineligible but is not failing.

A correction that ran on Page A-3 in the Dec. 23 newspaper mistakenly said that low income and elderly Alaskans received prescription drug benefits through the state's Senior Care program. None currently gets drug benefits through the program. There is a proposal to give very low income seniors the option of drug benefits instead of cash payments and to provide a limited drug benefit to seniors with slightly higher income levels.

A headline on Page B-1 of Wednesday's newspaper that said small amounts of marijuana could be OK for some and

# TRANSCANADA: Firm says it offers experience

Continued from A-1

Palin's gas team is evaluating the confidential applications and is expected to announce soon which ones qualify to contend for financial incentives and a license under a new law Palin pushed last year, the Alaska Gasline Inducement Act.

To some industry observers, TransCanada already stands out as the leader among the five AGIA applicants.

"You don't need to see what's in their proposal to know they know what they're doing," said Ken Boyd, a former state oil and gas director now working as an industry consultant.

TransCanada says it offers experience building big pipelines, expertise in northern construction, and a clear understanding of the politics in Canada, through which much of an Alaska pipeline would run.

The company also has spent years lobbying in Alaska, and has a link to the head of Palin's gas pipeline team.

The state incentives and license wouldn't guarantee actual construction. Rather, they would obligate the winner to make its best effort toward a risky megaproject costing \$30 billion or more depending on its route and length.

Aside from TransCanada, the other contenders include Chinese energy giant Sinopec, a newly created Alaska firm called AEnnergia, and two governmental organizations with in-state pipeline ideas.

TransCanada has a special attraction to Alaska gas, which would feed into the company's web of pipelines in Alberta and the Lower 48, making those lines more profitable. Kvisle declined to discuss other specifics of TransCanada's bid.

## ALASKA INFLUENCE

TransCanada, headquartered in a gleaming 35-story glass tower in downtown Calgary, bills itself as the largest gas transmission company in North America and one of the largest pipeline players in the Lower 48.

Its experience chasing an Alaska pipeline is as deep as a Prudhoe Bay well, and TransCanada touts that as an advantage.

In the late 1970s, just as Prudhoe crude began flowing through the trans-Alaska oil pipeline, many assumed builders soon would lay a gas line.

The U.S. and Canadian governments awarded a partnership that included TransCanada



Source: TransCanada Corp. RON ENGSTROM / Anchorage Daily News



- **THE BUSINESS:** A top Canadian pipeline and power company with 36,500 miles of natural gas pipelines across Canada, the U.S. and Mexico.
- **HEADQUARTERS:** Calgary
- **WORKFORCE:** 3,550 employees
- **CHIEF EXECUTIVE:** Hal Kvisle
- **2006 FINANCIALS:** \$1.1 billion profit on \$7.5 billion in revenue
- **WEB SITE:** www.transcanada.com

Source: TransCanada Corp.

ing proposal from Conoco, BP and Exxon Mobil, died under Palin's predecessor, former Gov. Frank Murkowski.

Now, TransCanada is bidding once again.

The company has worked behind the scenes to bolster its position in Alaska.

One of its lobbyists, lawyer Tom Roberts of Washington, D.C., was chief counsel and legislative director for Murkowski from 1985 to 1990 when Murkowski was a senator.

For the 2005 deal, TransCanada negotiated with Marty Rutherford, a deputy natural resources commissioner under

## NO GAS, NO PIPE

All the bidders come into Palin's pipeline competition with some handicap.

For TransCanada, the company lacks what any viable pipeline must have — North Slope natural gas.

Most of the Slope's 35 trillion cubic feet of gas is controlled in roughly equal shares by Conoco, BP and Exxon Mobil, the latter two opting not to bid last month.

Canadian industry analysts say TransCanada's long pursuit of an Alaska gas line is easy to understand. With western Canada gas fields expected to produce much less in 20 years, the company wants new supplies to keep its vast pipeline network filled, said Bill Gwozd of the Calgary consulting firm Ziff Energy Group.

As a company, TransCanada is highly regarded, analysts say.

"They have an excellent management team that has a track record of successfully executing large projects," said Daniel Shteyn of Desjardins Securities in Montreal.

Kvisle, the TransCanada chief, said he doesn't need Alaska's gas. But the gas presents a chance for new profits, and the extra volume could lower pipeline fees for all customers, he said.

Before construction can start, the oil companies controlling the gas must commit to use the pipeline, Kvisle said.

"We can't make this project go on our own," he said.

## MEGAPROJECT EXPERIENCE

During legislative hearings this year, TransCanada executives fought one important AGIA bidding requirement — that the winner of the state license promise to seek an expensive federal pipeline certificate even if North Slope gas producers decline to use the pipeline.

Whether TransCanada has made that commitment — that is, whether its application is complete — remains to be seen.

Kvisle said he's optimistic the oil companies will come along. He ticked off projects on which his company and the oil majors are partners, not rivals, such as a \$5 billion oil pipeline TransCanada and Conoco are planning between Alberta and Oklahoma.

In its proposal to the state, Conoco told Palin it would be willing to have a pipeline company share ownership in an Alaska gas line.

As for the job of actually building a superpipe across rugged northern terrain, TransCanada is most qualified



Kvisle

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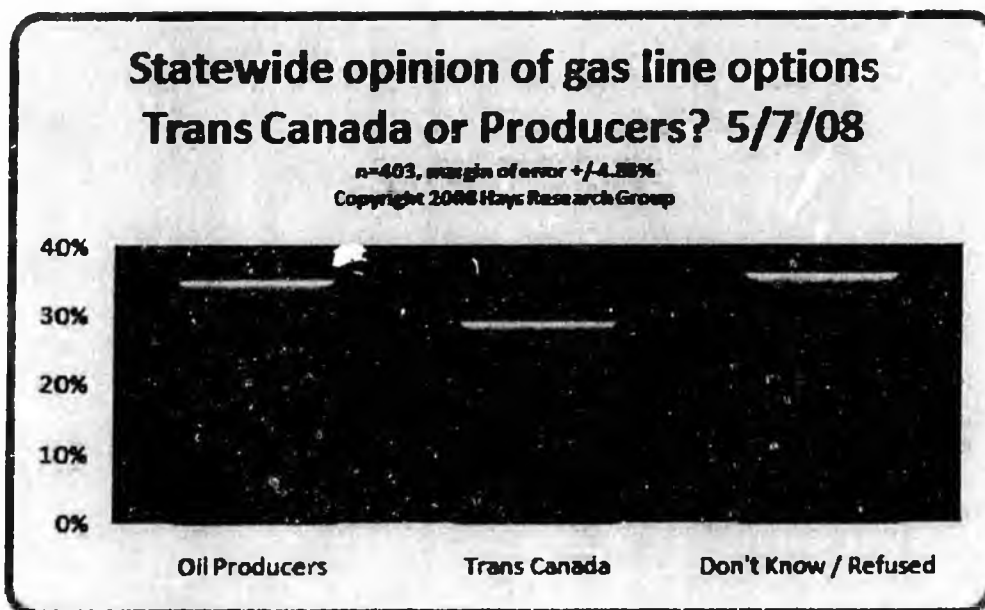
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## Rynniva Moss

**From:** Christopher Clark [cgcalaska@yahoo.com]  
**Sent:** Friday, May 23, 2008 8:45 AM  
**To:** Tim Benintendi; Peter Fellman; Linda Hay; Crystal Koeneman; Paul Labelle; Karen Lidster; John Manly; Rynniva Moss; Jane Pierson; Julianna Singh; Cheryl Sutton; Will Vandergriff; John Bitney; John Bitney; Shannon Devon; Tom Maher; Debbie Richter  
**Subject:** Hays Research Survey - TransCanada (29%) versus Producers (35%) versus Undecided (36%)

### Question 1

"What would be the most beneficial for Alaskans, to have the oil producers, or the governor's AGIA applicant, TransCanda, build a gas pipeline?"



This survey was conducted within the State of Alaska on May 6th-7th, 2008. 403 respondents were contacted by telephone for the survey. The margin of error for this survey is +/- 4.88% with a 95% confidence interval.

----- Forwarded Message -----

**From:** Hays Research Group <info@haysresearch.com>  
**To:** cgcalaska@yahoo.com  
**Sent:** Friday, May 23, 2008 8:39:55 AM  
**Subject:** Survey Results from Hays Research - Gas Line

We are excited to announce that some additional results from our latest statewide 'Opinion Counts' survey have just been released, and are available to view online now. This month Hays Research Group asked 403 Alaskan Residents their opinion on:

7/25/2008

What would be the most beneficial for Alaskans, to have the oil producers, or the governor's AGIA applicant, TransCanada, build a gas pipeline?

As always, the results of this scientific survey are free for you to view online at:

<http://www.haysresearch.com/OC050708agia.htm>

If you would like to purchase a question for the next statewide 'Opinion Counts' survey, please contact Hays Research Group. You may opt to have the results kept confidential, or to have the results released in our monthly newsletter.

If you know anyone else who you think might like to receive our monthly newsletter and free 'Opinion Counts' survey results, please encourage them to sign up for our newsletter at [www.haysresearch.com](http://www.haysresearch.com)

And finally, if you have any questions about this survey, or any of the public opinion research services Hays Research Group provides, please feel free to contact me!

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