SB

104

(FILE 2)

ALASKA STATE LEGISLATURE

Sen. Charlie Huggins, Chair
Sen. Bert Stedman, Vice Chair
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Senate Resources Committee

Butrovich Room 205

Friday, March 23, 2007

AGENDA

- **SB 104 – Natural Gas Pipeline Project**
  "An Act relating to the Alaska Gasline Inducement Act; establishing the Alaska Gasline Inducement Act matching contribution fund; providing for an Alaska Gasline Inducement Act coordinator; making conforming amendments; and providing for an effective date."

1:30-5:30

ExxonMobil US
Martin W. Massey, Joint Interest Manager

Anadarko
Mark Hanley, Public Affairs Manager

BP
David Van Tuyl, Commercial Manager Alaska Gas

ConocoPhillips
Wendy King, Director, State Negotiations

AGIA Testimony

INTRODUCTION

Good morning Senator Huggins and members of the Senate Resources Committee. My name is Marty Massey. I am the U.S. Joint Interest Manager for ExxonMobil, a position I have held since November 2001, and I am responsible for the commercialization of ExxonMobil's gas resources in Alaska

ExxonMobil has been in Alaska for over 50 years and has been a key player in Alaska's oil industry development. We hold the largest working interest at Prudhoe Bay (36.4%) and our current net production in Alaska is approximately 150,000 barrels of hydrocarbons per day.

We have benefited from our involvement in the State of Alaska, and we believe that Alaska has benefited from this long-term relationship as well. Commercializing Alaska's North Slope gas will allow us to continue this relationship for another 50 years or more.

EXXONMOBIL READY TO PROGRESS PROJECT

With that introduction, I would like take a moment to emphasize the importance of the Alaska Gas Pipeline project to Alaska, to ExxonMobil, and to our nation. The Project has the potential to generate billions of dollars in revenues for the State of Alaska, the U.S. federal government, and Canada, and could provide a stable and secure source of clean energy for Alaska and North America for decades to come. ExxonMobil supports efforts to advance a pipeline project and we are ready to work with Governor Palin and her cabinet and with the Legislature to move forward the Alaska gas pipeline project.

Let me demonstrate the importance of this project to ExxonMobil. It has the potential to add over 1 billion cubic feet per day (EM share) of gas sales, which would be more than a 10% increase to our current worldwide daily gas production. Given the significant impact this project could have on our business, we are obviously very interested in progressing it.

As an illustration of our commitment, EM has spent more than $180 million studying ways to commercialize Alaska gas. Since the 1970's we have evaluated LNG, gas to liquids and gas pipeline alternatives. Based on these studies we have determined that a Producer gas pipeline project will result in the best value for the State, the Producers and the nation. It is important for me to say ExxonMobil is aligned with the Governor, the legislature and the people of Alaska regarding the overall objective—we are committed to moving the Alaska Gas pipeline project forward.

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PROJECT RISK / PRODUCER CAPABILITIES

Because there is a perception this is "simply" a gas treating / gas pipeline project, the tendency exists for many to underestimate the size, magnitude and risks associated with this undertaking. The Alaska Gas Pipeline Project is a world-scale undertaking with significant risks. In fact, the Project would be the largest private investment in North America – significantly larger than most "model" worldwide oil and gas "mega" projects. There is not really another project that compares.

Because of this size, many factors impact commercial viability.

First there is cost:

Our previous estimate of $20 billion ($2001) is now substantially higher. Since 2001, steel prices have nearly doubled. Industry and construction labor costs are experiencing hyperinflation. In addition, world-wide mega-projects are placing pressure on pricing and availability of global materials, and skilled manpower.

Next there is gas price:

Despite recent increases, natural gas prices remain highly volatile. The price of natural gas before 2000 was less than currently estimated gas treating and transportation costs.

Finally, there are many other risks.

These include cost overruns, schedule delays, construction conditions, and regulatory and State fiscal uncertainties. It is also important to note that project investments would have to be made 10 or more years before gas flows down the pipeline and is sold at the marketplace.

With size comes complexity, and an even greater premium on getting the design concept, contracting and marketing plans right...and then executing these plans efficiently and effectively. Most importantly, size also amplifies the consequences of poor execution. If a mistake is made on this project it would cost us all dearly.

HOW PIPELINES ARE FINANCED AND WHO BEARS PROJECT RISKS

Let me now make a few comments on how projects are financed and who bears the risks. Commercially-sound oil, gas, and pipeline projects traditionally have been able to obtain financing if they have strong sponsors with proven track records and the financial strength to both provide sponsor equity and to backstop key project commitments. For the Alaska gas pipeline project, key project commitments take the form of firm, long-term gas transportation commitments. Firm transportation commitments (often abbreviated and called FT) are binding obligations made by companies (known as "shippers") to pay for the cost of reserving a quantity of gas capacity on a pipeline over a specified period of time, typically many years. These commitments are made during an "open season", which, according to FERC Order 2005 for the Alaska gas pipeline, is a period of at least 90 days during which any and all prospective gas shippers can make binding commitments for a specific volume of transportation capacity.

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Financial institutions generally require substantial, long-term, firm transportation commitments to provide funding for a gas pipeline project. These commitments must be provided by creditworthy shippers. In this case, the shippers will be the Producers, and, directly or indirectly, the State or the State's shipper. These firm transportation commitments are substantial, in the tens of billions of dollars and must be paid whether the shipper making those commitments actually transports gas through its reserved transportation capacity. The shipper is also required to pay this commitment regardless of the price of gas in the market place.

Pipeline investors use these firm transportation commitments from shippers to show creditors they have capacity confirmed over a sufficient duration to secure financing and must rely on the financial strength of the companies backing the transportation commitments to secure project financing. Thus, the development costs and the associated over-run risk are ultimately borne by the shipper via this commitment. In other words, shippers must make long-term ship or pay transportation commitments and agree to pay transportation and treating rates that are based on the ultimate cost of the pipeline and treating facilities. The only information known in advance of making these commitments will be a projection based on each project entity's initial estimate of costs.

For that reason, the parties taking the risks need to be able to manage those risks. The Producers, as shippers, cannot make firm transportation commitments during an open season unless they are confident the gas pipeline project can be built cost effectively and operated on a long-term, commercially viable basis, including being competitive with other sources of gas supply. This is especially true for a project of this magnitude.

IMPORTANCE OF STATE / PRODUCER ALIGNMENT AND BENEFITS OF THE PRODUCER PROJECT

Maximizing the value to the State of Alaska and the resource holders means selecting the right design concept for this mega-project and then executing the project to deliver the lowest possible cost.

On a mega-project of this size and magnitude, project construction and operating experience should be a significant consideration. Only a limited number of companies have demonstrated the capabilities and financial strength to effectively participate in and manage world-scale mega-projects.

The Producers have mega-project experience on numerous projects world-wide and have demonstrated success in meeting project objectives. For example, ExxonMobil operates in nearly 200 countries and territories and on every continent except Antarctica. We are the world's largest non-government producer of both oil and natural gas. ExxonMobil's global project development company is unique within industry. This global development company leads the industry in project cost and schedule performance. Over time, development costs are 25% lower than industry average on a $/barrel basis. Nearly 90% of ExxonMobil projects with costs greater than $1 billion are delivered within 15% of estimated costs at the time of project funding and nearly 80% of those were delivered within 15% of the funding schedule. ExxonMobil's superior performance was independently validated in a report (dated September 21, 2005)

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published by Sanford C. Bernstein and Co. On the topic of project delays, the report stated "ExxonMobil came out on top of this analysis, with the lowest slippage rates, despite undertaking some of the largest projects. We believe this to be a direct result of its highly competent internal development company, which assumes full responsibility for monitoring a new project from idea to profit." Combining our capability with BP and ConocoPhillips will provide the best chance of delivering a successful project.

The Producers also have Arctic experience in Alaska and throughout the world. ExxonMobil's arctic experience is extensive - over 40 years – with developments in multiple types of arctic environments. Our Arctic offshore activity started in 1968 with the installation of the ice resistant Granite Point platform in Alaska's Cook Inlet, which is still producing oil. In the 1970's we provided a significant amount of research and engineering for the Prudhoe Bay project, where our completion designs for permafrost were of key importance to the project. We also developed the combined hydraulic flow model and thermal simulator on which the design of TAPS was based. In 1984, we installed the Concrete Island Drilling System (CIDS) to drill exploration wells in the Alaska Beaufort Sea. This was the first mobile drilling platform to operate in the ice covered waters of the Beaufort. In addition to our Arctic experience in Alaska, ExxonMobil also has extensive Arctic experience in Canada, developing the Norman Wells Field in the Mackenzie River area near the Arctic Circle. Offshore Newfoundland, we completed the Hibernia platform, the first and only iceberg resistant offshore structure in the world. In Russia, we recently started up the Sakhalin 1 development which involved an offshore drilling platform where CIDS was reused and renamed Orlan, an onshore drillsite where we have set new industry limits for extended reach drilling, an onshore oil and gas plant with a capacity of 250,000 barrels per day, and purpose built tankers which are used year-round. All of this work is being done in an arctic and seismically-active area. At Sakhalin we are currently producing 250,000 barrels of oil per day.. I hope you see from these examples that large projects with significant complexity are what we do and we are extremely qualified to take on this work.

These successful efforts were the result of a long-term commitment to technology development which has played an important role in the advancement of oil and gas development in Alaska. ExxonMobil believes innovation is the key to meeting the world's energy challenges. Technology is the lifeblood of our industry, and it always has been. We are the leader in our industry in technology development. In 2006, we spent $730 million on technology development and we have spent more than $3 billion since 2002.

In addition, ExxonMobil has demonstrated world-class leadership in safety, health and environmental performance. ExxonMobil is a leader in operating efficiency and a pacesetter in operating safety. Our total recordable incident rates for employees and contractors are substantially below the average of US Petroleum Industry benchmark of participating American Petroleum Institute companies. We believe a company's commitment to the highest standards of safety, health and environmental care manifests itself in superior performance in all aspects of its operations.

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It is important to remember that the Alaska gas pipeline project is a basin-opening project that will benefit the State and the oil and gas industry in Alaska. Basin-opening projects throughout the world have progressed and been successful when there is alignment between the host government and the leaseholders. The Producers and the State both want a pipeline project to commercialize the known ANS gas resources and open the basin to gas exploration. So, at a very high level we are aligned.

We believe a Producer gas pipeline project will result in maximum value to the State and the Producers. The reason is the Producers and the State have maximum incentive to control costs. Low capital and operating costs, which result in lower treating and transportation costs, and access to premium market price, results in higher netback value on gas. It should be noted that the State will receive the majority of its revenue from the value of gas sales via revenue received under its lease royalty agreements and from production taxes, which are valued based on the netback received from the gas.

Third-party owners do not share the same incentives in that they actually benefit from increased capital costs.

Based on the demand for workers that this project will generate, Alaskans are obviously key to successful project execution. Both the State and the producers want Alaskans to benefit from the many job opportunities that will exist. When you consider carefully the options available, a producer pipeline will provide maximum value to the State of Alaska.

IMPORTANCE OF FISCAL STABILITY

For us to progress the project and mitigate its inherent risks, we do need some things from the State. Because of the nature and magnitude of the risks associated with this project – billions of dollars of financial commitments, unprecedented cost and scope, potential for construction delays, as well as the inevitable risks associated with the commodity price of gas - fiscal terms that are predictable and durable are necessary. As with all of our other mega-project investments, and we share this with the resource owners where those investments are to be made, we are willing to take geologic risks, we are willing to take cost risks, and we are willing to take commodity price risks, but we cannot take the risk of fiscal terms changing. Let me expand on this important concept further. The first two risks, geologic and cost risk are risks for which we have developed an industry leading expertise to manage. This is what we do day after day at EM. Market risk is inevitable in a commodity business such as oil and gas and we manage that by attempting to ensure that we deliver those products into the highest value market hub. Fiscal risk, however, is of a completely different nature and wholly outside of our control. We must have agreements that will allow us to develop this mega-project under predictable and durable terms, so that we can make an adequate investment decision. If fiscal terms can be changed in the future, then we are not able to make a well founded investment decision on behalf of our shareholders.

The Alaska Gas Pipeline Project will require massive investments to be made ten or more years before any revenue is generated from those investments. As a result, increases in taxes on oil and gas related activities during the life of the project could

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significantly impact the commercial viability of the project and offset the benefits of taking on a project of this magnitude. Because fiscal terms could be modified under the proposed AGIA legislation, it does not provide the fiscal stability necessary to ensure a commercially viable project.

Development of a predictable and durable fiscal framework means that the terms agreed between the Producers and the State recognize the magnitude and risks associated with the project; balance State and Producer needs; and provide for the calculation of total State take in a transparent and predictable manner.

SPECIFIC FEEDBACK ON AGIA

With that background, I would like to now give some feedback on AGIA which is based on the conclusions and principles I've mentioned. I will also outline our thoughts on how AGIA should be modified to provide the best chance of a successful result. For example, alignment between the State and the leaseholders is essential to a basin opening project of this magnitude. Therefore, establishing the right approach going forward is the most important activity for the project at this time. It is important that AGIA bring together the upstream and the midstream and provide for an integrated proposal. Let me expand on this point. The upstream and midstream at some point in time will have to come together. The reason is simple – the upstream pays for the midstream. When I say upstream I mean the revenue generated from sale of the gas and liquids from the pipeline project. To be able to calculate the revenue from the upstream we must have clarity on the taxes and royalty from our oil and gas operations and the taxes and royalties must be set at a level that makes the project viable. In order to ensure a viable project from the outset, we believe this must be done at the beginning.
At a minimum, any proposal should demonstrate how a successful open season would be achieved.

Also, it is important that AGIA allow applicants to define how they could achieve the State's key objectives rather than prescribing specific requirements that must be met. To ensure the best result, AGIA should establish broad key objectives and allow applicants flexibility in meeting those objectives by providing requirements they feel are necessary to make the project commercially viable. For example, we think it would be better to let the applicant determine whether or not they require any capital contribution from the State.

ExxonMobil recognizes the importance to the State, explorers and others of having access to the project so their gas can be treated and transported to markets. To ensure that a project is constructed, it must be commercially attractive to shippers at the time they make their initial firm transportation commitments. Shippers, particularly those who must invest substantially to explore for, develop and produce gas resources, will not be willing to enter into long-term financial commitments for the transportation of gas if they believe there is a substantial likelihood that their initial rates will be significantly increased in the future in order to accommodate expansions.

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Under the Alaska Natural Gas Pipeline Act, Congress struck what it determined was the proper balance between encouraging investment by those willing to commit to pay for initial capacity and encouraging exploration by providing an opportunity for future access to the pipeline. Because of the unique nature of the Alaska gas pipeline project, FERC approved unprecedented policies to enable a FERC-mandated expansion to benefit explorers.

The issue of how potential future shippers may access initial capacity and future expansion capacity, if needed, should be administered by the FERC for all elements of the project in the United States. For example, shippers (producers) should not be required to subsidize other expansion gas holders (competitors) at 115% of initial maximum rates due to a mandated roll-in of expansion costs. For example this 15% increase could increase my FT commitment by 30 to 50 cents per MBTU on gas shipped. This is an increased cost of $500 to $800 million per year on the initial shippers. You could also consider this a subsidy to the expansion shipper. We are not in the business of subsidizing our competitors. This is too high of a risk to take. In addition, the pipeline entity should not be required to accept a FERC certificate irrespective of FERC imposed conditions.

As I discussed previously, with regard to upstream terms, the proposed upstream inducements would require significant modification to ensure a commercially viable project is obtained. It would be better to leave that issue open for now and allow an applicant to make a proposal to address those necessary terms.

AGIA also prescribes activities that must be completed within a specific timeframe or date certain. Setting arbitrary target dates is not consistent with good project management practices. Further, milestones are not necessary if the project is commercially viable. The producer's builder will progress the project at the maximum prudent pace, consistent with the industry proven "gate" process for project development.

In general, AGIA lacks specifics on key fiscal terms and other requirements. To address these gaps, AGIA gives commissioners broad authority to adopt additional requirements and establish regulations. Not knowing their requirements now creates significant uncertainty. AGIA also does not establish criteria for evaluating proposals and selecting the successful bidder, which is likely to lead to litigation from project proponents not selected for inducements.

Finally, because of the complexity and risk associated with this project, the parties must have an efficient and impartial means of handling disagreements when they arise. We believe project related agreements should provide for binding neutral arbitration as the mechanism for resolving disputes. Binding neutral arbitration is widely utilized in U.S. and international commercial agreements and is not a new concept with the State of Alaska. Arbitration is the method used to resolve disputes under the State's Royalty Settlement Agreements. In addition, Alaska courts have recognized a strong public policy in favor of arbitration.

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CONCLUSION

In closing, I would like to reiterate that ExxonMobil is committed to moving the gas pipeline project forward. Our company possesses the financial strength and project experience required to make this project a success. We are ready to work with the Administration and the Legislature to establish a framework that recognizes the integrated nature of the project and mitigates the risks I've discussed to allow the project to progress. We would suggest AGIA be amended to include the broad objectives the State wants to achieve and allow each applicant to decide how best to meet those objectives and to identify what is required from the State to advance the project. The State can then accept the proposal that delivers the most value. We are ready to participate in a competitive open transparent process under the approach I've outlined.

Thank you for your attention and for the opportunity to address this important topic today. I look forward to addressing your questions.

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Alaska Natural Gas Pipeline Project

Getting Alaska's Gas to Market

Senate Resources Committee

March 23, 2007

bp

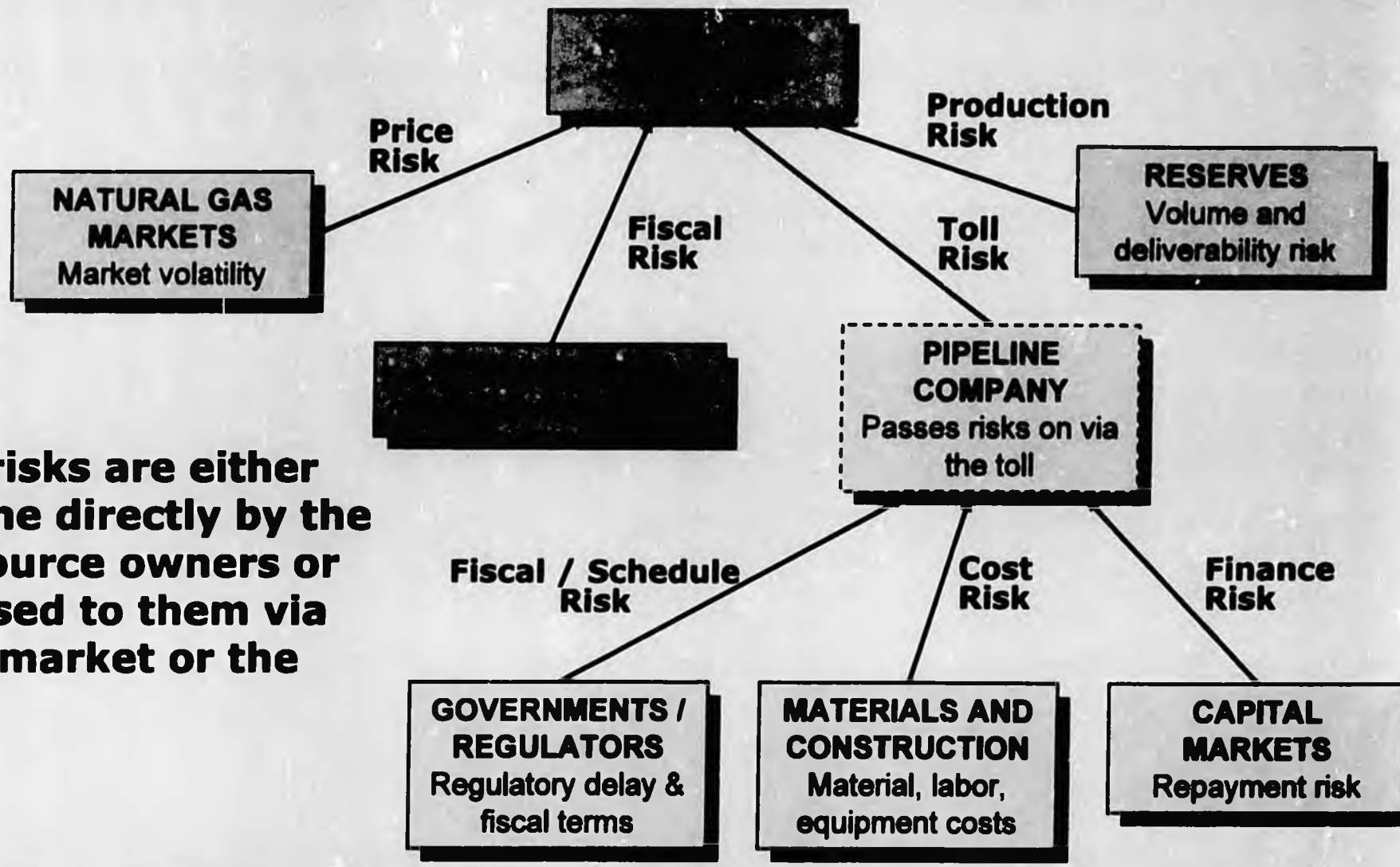
BP Key Messages

- BP wants and needs a gas pipeline
- We support Governor Palin's desire to get Alaska's gas to market
- We are concerned that AGIA as drafted creates some unintended consequences

Key Concerns to Address

- AGIA would result in an exclusive winner before any work is done; based on promises, not performance
- AGIA requires base shippers to subsidize expansion shippers, which adds risk to the pipeline
- Inducements could be suggested by project sponsors, rather than stipulated in advance
  - $500m may attract underfinanced sponsors
- Solving resource issues with clarity enables a successful open season which is the key to advancing the project

Project Risk Resid...s with the Resource Owners



All risks are either borne directly by the resource owners or passed to them via the market or the toll.

➡ **Those bearing a risk are commercially motivated to manage that risk**

Summary

- BP wants and needs a gas pipeline
- BP supports an open and transparent process
- Upstream framework is critical
  - Must be addressed for a successful open season
- Key midstream issues must be addressed to ensure there are no unintended consequences
  - Granting an exclusive license before any work is performed prevents participation of others and reduces competition
  - "Inducements" should be based on performance, not promises

10 Largest Oil and Gas Pipeline Project Financings

(greenfield and expansion only – excludes acquisition financing and refinancings)[1]

1.	Alliance Pipeline Project (Gas), Canada/US (3,000 km)	$3.73 billion ($2.59 billion debt)	Coastal, IPL, Williams, Fort Chicago Energy, Westcoast Energy
2.	BTC Pipeline (Oil), Caspian Basin (1,730 km)	$3.6 billion ($2.59 billion debt)	Amerada Hess, BP, ConocoPhillips, Eni, INPEX, Itochu, SOCAR, Statoil, Unocal,
3.	Cusiana – Cupiagua Pipeline (Oil), Colombia (800 km)	$2.2 billion ($1.54 billion debt)	Ecopetrol, BP, Total, Triton, TransCanada, IPL
4.	Chad – Cameroon Pipeline (Oil), Chad (1,070 km)	$2.0 billion (pipeline only) ($700 million debt)	ExxonMobil, Petronas, Chevron
5.	Bolivia-Brazil Pipeline Project (Gas) Bolivia / Brazil (3,075 km)	$2.23 billion ($1.4 billion debt)	Petrobras, BG, El Paso, YPFB, BHP, Enron, Shell

[1] Also excludes primarily upstream projects with an integrated pipeline component. Based on Dealogic database.

10 Largest Oil and Gas Pipeline Project Financings

(greenfield and expansion only – excludes acquisition financing and refinancings)[1]

6.	OCP Heavy Crude Pipeline (Oil) Ecuador (503 km)	$1.2 billion ($900 million debt)	Alberta Energy, Repsol, YPF, Occidental, Agip, Pecom Energia, Techint, Kerr-McGee
7.	Mozambique-South Africa Pipeline Project (Gas), Mozambique (865 km)	$1.2 billion ($543 million debt)	Republic of South Africa, Republic of Mozambique, Sasol Polymers
8.	Malhas Project (Gas), Brazil (expansion)	$1.0 billion ($900 million debt)	Petrobras, Mitsui, Itochu, Mitsubishi
9.	Kern River Expansion II (Gas), United States (part refinancing)	$875 million loan	Williams, Tenneco
10.	Camisea (Gas), Peru	$865 million ($480 million debt)	Techint, Sonatrach, PlusPetrol, SK, Hunt Oil, Tractebel

[1] Also excludes primarily upstream projects with an integrated pipeline component. Based on Dealogic database.

BP Testimony on SB 104 (AGIA)
Senate Resources Committee
March 23, 2007

- Mr. Chairman, members of the committee, for the record my name is Dave Van Tuyl. I am the Gas Commercialization Manager for BP Alaska. Thank you for the additional time to prepare our testimony, and for the opportunity to testify before you this afternoon.

BP Key Mesaages

- I'd like to start by emphasizing a few general points.

- First, **BP wants and needs a gas pipeline.** And we need that pipeline to be built for a low capital cost and then operated cost efficiently. We believe that is what is required to make the project happen and be successful. Low costs are good for both BP and the State because it results in lower tariffs, higher netbacks and more revenues for the State and BP.

- Also, a low cost project will provide incentive to explore for more gas to keep the pipeline full into the future. That is also good for the State and for BP.

- The best way to ensure there is gas exploration in the future is to et a gas pipeline built in the first place, and to get it built for a low cost.

- This is a **hugely important project to BP, to Alaska and to the nation**. It represents the largest, known, undeveloped gas resource in the United States, and in BP's global portfolio. The gas project is important in its own right – but it also extends the economic life of Alaska's oil production for decades. Extending oil production is good for the State, the nation and for BP.

- Second, we **share the governor's and the legislature's desire** to get a gas project moving, and **BP stands ready** to engage with the administration and legislature to reach a balanced fiscal framework that works for all the parties.

- And finally, a successful framework will set the foundation for **a stable, healthy, and viable oil and gas business for decades** to come. BP's future in Alaska is directly linked to the gas pipeline project.

- That's why we are very encouraged by the Governor's and the legislature's enthusiasm about getting Alaska's gas to market. That is also our vision, and so we share your enthusiasm. It's the key to Alaska's future, and to BP's future in Alaska.

- Therefore, it's important that we get it right.

- BP sees AGIA as the Administration's expression of its commitment to advance the gas pipeline project in an open and transparent way. We applaud that good faith expression.

- Developing the right process is difficult. Since first seeing AGIA at its roll out on March 2nd, we have identified a number of important areas of concern for you to consider.

- We believe AGIA may create some unintended consequences that could jeopardize the vision of getting Alaska's gas to market quickly, and at low cost. We believe it is important for the Legislature to consider these areas of concern as you deliberate on AGIA.

- Next I'd like to turn your attention to a few of those key areas of concern with the current AGIA bill.

Key Concerns

- The first concern is that AGIA would result in an **exclusive winner** before any real work is done and awards State funds based on promises, not results
    - We think it wise that the State consider **avoiding any notion of exclusivity** or the government 'picking a winner': I'm not aware of any example where that has worked successfully.
    - We recognize that the Administration has, in good faith, laid out selection criteria to enable the selection of the exclusive winner in as transparent a way as possible.
    - We believe that the **State can help to advance the project by setting out a clear framework for investors** - from there the market will work to identify the most effective project
    - And we support open competition in the **marketplace**, rather than in advance of actual performance or before the competition actually starts
    - In fact, the FERC requires that the **market demonstrate that it wants that application** before awarding a certificate to an applicant. That's what happens in a successful open season.
    - We certainly understand that from the State's perspective, there are a number of **specific things desired from ANY project** (jobs and training for Alaskans, gas access for Alaskans, pipeline expansions).
    - We support all of these objectives.
    - Those objectives can and will be addressed by a successful project through open competition in the marketplace.

- The second concern is that AGIA as drafted can result in one party subsidizing another. AGIA specifically requires initial **shippers** - who financially underpin the project and who already bear most of the risk associated with the project - to bear yet another risk and additional cost: the risk of tariff increases of 15% or more **by subsidizing expansion shippers**
    - We understand and we fully share the State's desire for a pipeline to be expandable - it's absolutely good business.

- However, we believe that the **State should carefully consider** the potential adverse consequences of requiring pipeline owners to increase rates on their initial customers to subsidize expansion shippers.
- A policy of subsidization places additional risk on the initial shippers, making the project less attractive, and therefore puts the project at risk.
- Now if the **State wants to subsidize others**, it can certainly do so itself, directly, as a policy choice. But we don't believe it's good policy to do so with other peoples' money.
- Congress made clear in the Alaska Natural Gas Pipeline Act of 2004 that rates for initial shippers should NOT increase if a mandatory expansion was ordered. In fact, the language of the Federal Law states that

> *"the [FERC] shall…ensure that the rates do not require existing shippers on the Alaska natural gas transportation project to subsidize expansion shippers." - ANGPA, Sect. 105(b)*

- Also, in Order 2005, FERC put in place a rebuttable presumption of rolled in rates for expansions provided it did not require subsidization by initial shippers [and I'd like to read paragraph 125 of the Preamble]:

> *"In conclusion, to provide guidance to potential shippers in advance of the initial open season that is the subject of this rule, the Commission intends to harmonize both objectives (rate predictability for initial shippers and reduction of barriers to future exploration and production) in designing rates for future expansions of any Alaska natural gas transportation project. It is consistent with our guiding principle that competition favors all of the Commission's customers, as well as with the objectives of the Act, to adopt rolled-in rate treatment up to the point that would cause*

there to be a subsidy of expansion shippers by initial shippers, if any subsidy were to be found." [Order 2005, paragraph 125]

- These two excerpts from Federal law and regulation, suggest that AGIA and Federal law could be in conflict. This conflict issue actually becomes quite complicated, and we are continuing to study it. If indeed there is a conflict, resolving it would add delay and uncertainty. We do not see how that is in any of our interests.

- We heard FERC testify yesterday and speak very favorably about the bill, but this area of conflict was not specifically addressed. So in fact, we plan to consult with FERC in the very near future just to ensure there is not a conflict problem in the future.

- In any case, we believe that this type of provision, requiring a subsidy for not-yet-ready shippers at the expense of initial shippers, would be a disincentive for potential shippers participating in an open season. That's also not in any of our interest.

- And for the record, I just wanted to ensure that the nature of the producers' challenge to Order 2005-A was clear. We are only challenging the issue of whether or not FERC should be able to dictate design changes after the conclusion of an open season. We are not challenging the rebuttable presumption of rolled-in rates provided it does not result in a subsidy. A contrary statement was made earlier in the week, and we wanted to ensure that we made that point clear.

- Our motivation for the challenge is to prevent cost increases, and to avoid unnecessary project delay.

- A third area for careful consideration, and perhaps the centerpiece of AGIA, is the **$500 million grant**
    - I would like to be clear, this was not requested by BP
    - It may be attractive to underfinanced project sponsors or companies not willing to risk all of their own money
    - **Rather than specifying in advance what inducements are needed, the State could ask project sponsors to propose specific midstream inducements – this gives the free market opportunity to do what it does best**
    - The State could then determine what inducements to offer and make them available to all parties
    - We've heard the Administration say that the $500m is provided up front because this is the riskiest phase of the project. We have a very different view.
    - The up-front phase is risky for a non-resource owner who is not confident that it will have customers participate in its open season; we heard Enbridge share this view last week. But the riskiest phase for the ultimate shippers in fact is the construction period – where cost control is critical, and will be the key determiner of what the ultimate toll will be.
    - In fact, as we've previously shared, ALL project risks ultimately flow to the resource owners who make those initial firm transportation commitments, which I'll discuss in more detail shortly.

- A fourth area we suggest be considered carefully is that, although AGIA seeks to get a project moving, and we fully support that objective, **it does not sufficiently address the resource framework, which is the key enabler for a financeable project**
    - It is widely understood that the resource owners will pay the cost and bear the risk in building a pipeline **whether they own it or not**

- Resource owners will pay all the costs of the pipeline, either directly or indirectly by reimbursing the pipeline owner through the tariff for the costs they incur
- Multi-billion dollar commitments spanning decades are needed to financially underpin this project;
- Just like Wall Street needs to know the rules before lending money, resource owners need to know the fiscal rules that will govern the project before making commitments that will enable the pipeline to be financed.
- Although this is widely known, the details of an upstream framework are complex and take time and effort to agree - but unless they are addressed, a project won't secure financing; it won't advance

Risk Diagram

- This next slide attempts to show how **risk is ultimately allocated** in a major resource development project like the Alaska Gas Pipeline Project

- I'm going to **step through it one bit at a time.**

- First, we start with the **Resource Owners** – that's of course the State of Alaska, and it includes the lessees, like BP, CP, EM, Chevron and others.

- There are certain risks that are inherent to the resource itself.
  - There is always price risk associated with selling a commodity like gas
    - that's the risk that the price of gas will fall in the future, possibly below the tariff
  - There's also production risk
    - Keeping the pipeline full for project life
    - Being able to deliver the full volume every day

- These risks are important considerations when a resource owner has to make the firm transportation commitments necessary to underpin the project

- Next, there's fiscal risk for a lessee, that's the risk that the fiscal terms on the upstream business might change. On major infrastructure projects like this around the world, it's not uncommon for host governments to address fiscal risk with a mutually agreed framework.

- There are also a whole host of risks associated with constructing the pipeline itself
    - Regulatory process could change → schedule risk
    - Material, labor and equipment costs → cost risk
    - Need for finances from the capital markets → finance risk

- Just to put the finance risk in perspective, I have this handout that my finance folks sent me yesterday that summarizes the 10 largest oil and gas pipeline project financings ever.

- You'll notice that the largest financing to date is $3.7 billion, which is a fraction of the anticipated cost of this project. I thought this might be useful context for the committee.

- All these project-related risks that are taken by the pipeline company are ultimately passed through to the resource owners through the toll
    - The Pipeline company receives a regulated rate of return
    - Gets a limited but reasonable return on investment, come rain or shine
    - That's the pipeline's reward
    - In exchange for this regulated rate of return, the regulators ensure that the pipeline does not take on certain risks

- These instead are passed through to the resource owners
- That's how the risk / reward balance is struck by the pipeline regulators

- So ultimately, **ALL RISKS** are either borne directly by the resource owners, or are passed through to the resource owners through the toll

- To ensure a low cost project, it's important that those that are bearing a risk are able to manage that risk
    - They are commercially motivated to manage that risk downwards

- To reiterate, it's critical that the fiscal system is established in such a way that the risks associated with the resource or "upstream" are adequately addressed to ensure the risk / reward balance is right.
    - That will maximize the likelihood of having a successful open season and a successful project.
    - The State is uniquely positioned to address this risk

Summary

- So in summary, I'd like to leave you with four messages.

- First, BP wants and needs a gas pipeline. It's critical to our vision of the 50-year future in Alaska.

- Second, BP fully supports an **open process** that leads to a mutually agreed fiscal framework with the State that **allows a project to advance and attract financing**

- We think there should be an **open and transparent public review** of the resulting framework

- The Governor has already committed to keep the legislature and the public apprised - we fully support her in that.
- It is critical that the legislature supports and endorses that framework
- The judicial branch should review that framework to ensure constitutionality
- The people of Alaska and all 3 branches of government should and will be consulted.

- We think that the resulting framework should be **available to all investors** to ensure competition

- Third, **mutually agreeing an upstream framework is critical**. The resource issues must be resolved for the project to proceed and to ensure the resource owners have sufficient confidence to make the necessary long term financial commitments in an open season required to advance the project. We are ready to engage on developing that upstream framework.

- And fourth, we believe that a number of midstream details in AGIA should be fixed.
    - **any notion of exclusivity** or the government 'picking a winner' should be avoided
    - Any process should allow competition in the marketplace to work
    - Finally, **any payment of State 'inducements' should be made after promises are delivered, not before**
        - For example, we think it would be appropriate that a sponsor earn inducements by actually conducting a successful open season that results in firm transportation commitments, rather than before actual results are delivered.
        - It is easy to make hopeful promises
        - but it is harder, and vitally important, to deliver performance

- That is what we believe the State should require. **Delivery, not promises.**

- Thank you for the opportunity to testify today. I'd be happy to answer any questions you might have.

Response to Questions Raised by Senate Resources Committee
Following Testimony Provided by BP Exploration's
Gas Commercialization Manager David Van Tuyl
at March 23, 2007 SB 104 AGIA Hearing

1. **Is there anything in the PBUOA that would prevent one owner from participating in an open season if the others didn't choose to?**

   No. Strictly speaking, at an open season a company makes a financial commitment to pay demand charges for firm transportation services, and is not committing gas directly to the pipeline. No provision of a unit agreement would prevent a company from choosing to commit its funds at an open season. However, it is reasonable to expect that that company would only make that commitment if it was sufficiently certain that it could actually deliver the volume of gas that corresponds to the firm transportation services it was seeking to acquire.

   Although one owner could participate in an open season if the other owners did not, the owner would not likely participate unless the owner could actually deliver gas to the proposed project in compliance with the applicable unit operating agreement and any applicable other agreements. Whether the owner could comply with those agreements would depend on the terms of those agreements, which vary unit by unit, and the circumstances surrounding the delivery of gas. For example, the provisions for taking gas under the Prudhoe Bay Unit Operating Agreement (PBUOA) are quite complex and, before any owner in that unit would participate in a binding open season, an exhaustive analysis of the entire agreement would be undertaken as well as analysis of any other applicable agreement. In short, before an owner could take gas for a major gas sale, some agreements among the owners would likely be required.

   In sum, before an owner individually would participate in an open season, the owner would want to ensure that all conditions necessary in the applicable operating agreement and other agreements for the taking of gas production and delivery of that gas to a pipeline may be satisfied. That may require additional agreements among the owners depending on the circumstances.

   We plan to conduct a more complete analysis of the PBUOA and offer a response when that analysis has been completed.

2. **What percentage of your total company's gas production would this project represent?**

   In 2006, BP produced 1.45 million barrels of oil equivalent in gas (~8.4 bcfd). Therefore, if BP's share of gas provided to a 4.5 bcfd Alaska gas pipeline project was 1 bcfd BP net, Alaska gas would represent just over 10% of BP's total worldwide gas production.

3. What does Order 2005 say about regulation of the GTP? Would the rate resulting from a GTP expansion be rolled-in or incremental?

In Order 2005, FERC requires that regulations for a GTP provide for an "unbundled" service, that is, that the gas treatment service must be offered separate from the gas transportation service. This would allow a shipper to choose between the services offered. The FERC's statement is summarized in paragraph 128 of the preamble to Order 2005:

> *"The Commission is stating in the final rule at section 157.34(c)(6) that the open season notice must contain an unbundled transportation rate. Moreover, section 157.34(c)(10) prohibits a prospective applicant from requiring prospective shippers to process or treat their gas at any designated facility. The Commission is satisfied that it can address any other discriminatory conduct in connection with gas quality requirements or other ancillary services through the provisions of section 157.35 in conjunction with existing Commission policies and procedures."*

Additional details as to the FERC's requirements related to a gas treatment plant are specified under Order 2005-A. Specifically, under paragraph 87:

> *"The Commission did not intend to preclude the inclusion of jurisdictional natural gas conditioning facilities from the open season. If, pursuant to ANGPA section 103, a project sponsor intends to file an application under section 7 of the NGA for authorization of a project that includes a jurisdictional natural gas conditioning service, we will review the open season plan and notice to ensure that such service is offered in its open season notice, subject to the same requirements as apply to transportation service. However, the prospective applicant must offer a separate rate for the gas treatment service and separate rate for the transportation service. Furthermore, the prospective applicant can neither require bidders to bid on both services, nor evaluate the bids based on whether bidders requested one or both services. Moreover, while the prospective applicant can require specific natural gas quality specifications such as would be met by using the conditioning services offered, it cannot reject an otherwise qualified bidder that states that it will deliver to the pipeline facilities gas that meets the stated quality specifications."*

The Order continues, in paragraph 88, to address the inclusion of a gas treatment plant into the ANGTS design, which originally excluded a GTP:

> *"On the other hand, if a prospective applicant is proposing to apply to revise the Alaska Natural Gas Transportation System (ANGTS) application now held*

in abeyance, then a conditioning service will have to be included as a part of the open season, but again, with all services offered priced separately."

The FERC does not specifically address the issue of the rate treatment of a GTP expansion (that is, whether the rate would be incremental or rolled-in).

4. **Please provide additional information on the "Top 10 Oil and Gas Pipeline Project Financings" chart provided to the Committee, including dates of projects and cost information if available. Also, why is TAPS not included on the list?**

The summary provided to the Committee is a listing of the 10 largest oil and gas pipeline **project financings**, not necessarily the largest projects. TAPS is not included in the table because it was not project-financed. For reference, project financing is when lenders look to the revenues generated by the project itself for repayment of monies loaned.

We are continuing to attempt to compile the additional details requested by the Committee and will provide a more detailed response once that information is available.

5. **What is the volume of liquids that will be carried in the gas pipeline?**

The total volume of liquids carried in the Alaska gas pipeline project at any point in time is dependent on a number of factors, including the inlet volume of gas delivered to the pipeline, the heating value or "richness" of the gas delivered, the disposition of ethane (which can be marketed as either gas or liquid) and the operating temperature and pressure of the system.

Assuming an inlet gas rate of 4 bcfd, heating value of 1080 btu/mcf, with the pipeline operating at 2500 psi with a 30 degree compressor discharge temperature, the total liquids potential is approximately 180,000 barrels per day, of which approximately 100,000 barrels per day is ethane.

ALASKA STATE LEGISLATURE

Sen. Charlie Huggins, Chair
Sen. Bert Stedman, Vice Chair
Sen. Lyda Green
Sen. Gary Stevens
Sen. Lesil McGuire
Sen. Bill Wielechowski
Sen. Thomas Wagoner

State Capitol, Room 119
Juneau AK 99801-1182
907-465-3878
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Senate Resources Committee

Senate finance Room 532

Saturday, March 24, 2007

AGENDA

- **SB 104 – Natural Gas Pipeline Project**
  "An Act relating to the Alaska Gasline Inducement Act; establishing the Alaska Gasline Inducement Act matching contribution fund; providing for an Alaska Gasline Inducement Act coordinator; making conforming amendments; and providing for an effective date."

1:00 – 3:00

Joint Senate Resources and House Special Committee on Oil & Gas

Public Testimony

Time Limit May Be Set

3:00 – 5:00

Senate Resources Committee

ConocoPhillips

Wendy King, Director, State Negotiations

ALASKA STATE LEGISLATURE
SENATE RESOURCES STANDING COMMITTEE
March 24, 2007
2:50 p.m.

MEMBERS PRESENT

Senator Charlie Huggins, Chair
Senator Lyda Green
Senator Lesil McGuire
Senator Bill Wielechowski
Senator Thomas Wagoner

MEMBERS ABSENT

Senator Bert Stedman, Vice Chair
Senator Gary Stevens

OTHER LEGISLATORS PRESENT

Representative Ralph Samuels
Representative Vic Kohring

COMMITTEE CALENDAR

SENATE BILL NO. 104
"An Act relating to the Alaska Gasline Inducement Act; establishing the Alaska Gasline Inducement Act matching contribution fund; providing for an Alaska Gasline Inducement Act coordinator; making conforming amendments; and providing for an effective date."
HEARD AND HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 104
SHORT TITLE: NATURAL GAS PIPELINE PROJECT
SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

03/05/07	(S)	READ THE FIRST TIME - REFERRALS
03/05/07	(S)	RES, JUD, FIN
03/14/07	(S)	RES AT 3:30 PM BUTROVICH 205
03/14/07	(S)	Heard & Held
03/14/07	(S)	MINUTE(RES)
03/16/07	(S)	RES AT 3:30 PM BUTROVICH 205
03/16/07	(S)	Heard & Held
03/16/07	(S)	MINUTE(RES)

03/19/07	(S)	RES AT 3:30 PM BUTROVICH 205
03/19/07	(S)	Heard & Held
03/19/07	(S)	MINUTE(RES)
03/21/07	(S)	RES AT 3:30 PM SENATE FINANCE 532
03/21/07	(S)	Heard & Held
03/21/07	(S)	MINUTE(RES)
03/21/07	(S)	RES AT 5:30 PM SENATE FINANCE 532
03/21/07	(S)	Heard & Held
03/21/07	(S)	MINUTE(RES)
03/22/07	(S)	RES AT 4:15 PM FAHRENKAMP 203
03/22/07	(S)	Heard & Held
03/22/07	(S)	MINUTE(RES)
03/23/07	(S)	RES AT 1:30 PM BUTROVICH 205
03/23/07	(S)	Presentation: Industry Representatives
03/24/07	(S)	RES AT 1:00 PM SENATE FINANCE 532
03/24/07	(S)	RES AT 3:00 PM SENATE FINANCE 532

WITNESS REGISTER

WENDY KING, Director
State Negotiations
ConocoPhillips Alaska, Inc.
Anchorage AK 99510
POSITION STATEMENT: Commented on SB 104.

ACTION NARRATIVE

CHAIR CHARLIE HUGGINS called the Senate Resources Standing Committee meeting to order at [illegible] PM. Present at the call to order were Senators Wagoner, McGuire, Green, Wielechowski and Huggins. Representatives Kohring and Samuels joined the committee.

^#SB104

SB 104-NATURAL GAS PIPELINE PROJECT

CHAIR HUGGINS announced SB 104 to be up for consideration and that the committee would first receive comments from Wendy King.

[The following is a verbatim transcript of Ms. King's comments]

[illegible] PM

WENDY KING, Director of State Negotiations, ConocoPhillips Alaska, Inc.: I work for ConocoPhillips in Anchorage and I

have been working on the ANS gas development project for four and a half years. I'm pleased to be here today to testify on SB 104 or the proposed AGIA bill. And I'd highlight - I think there are some handouts or some presentation materials and rather than work off the screen, we're going to work off the handout. I'll try to do my best to try to follow you through, even though there's not slide numbers on here. I'll do my best to draw your attention to the different points in the slides.

Before I discuss the bill and we'll turn to that first slide labeled "Investing in Alaska Today" I want to reintroduce to the committee ConocoPhillips and what our business in Alaska looks like. ConocoPhillips is the state's largest oil and gas producer. We have had 1,200 uninterrupted LNG shipments since 1969 from the Kenai LNG plant. We are the state's largest acreage holder on the ANS and we have drilled over 60 exploration wells since 1999. We have drilled 16 wells in NPRA where we're the operator.

ConocoPhillips - I get to learn these little facts about my company all the time - but one of them was that ConocoPhillips' heritage company, Phillips, was the first oil company to establish an office in Alaska.

Just to move on to some general comments, I wanted to emphasize that timing on this project is important. I would agree with the administration that the timing is an important issue. Our company is committed to developing the ANS gas resources and ConocoPhillips is willing to consider creative solutions. We are eager to find a framework by which both parts of the project, both the midstream and the resource parts of the project, can be advanced. And I want to step back for a second and define that.

The midstream sides of the project - and I'm going to use that term quite a bit - for me it involves what we call the gas transmission lines, the gas treatment plant, the big pipe that would go to Alberta and then what the different alternatives might be from Alberta to markets in the Lower 48. So, all components of that I would call the midstream portions of the project.

Upstream are the resource portions of the project or the assets that would be asked to be making shipping commitments to the project - so assets like the working

interest owners in Prudhoe Bay or NPRA or other exploration. So, it's more from the perspective of a resource owner - a working-interest owner. That's the terminology I'll use.

The next slide in your packet is what makes the Alaska project different. And what you've got here is a graph of the North American gas pipeline projects that have happened since 1997 that are greater than $100 million. And I think from a visual perspective, the first thing eyes always go to when we look at this graph is that the cost of the Alaska gas pipeline project is just off the scale. I mean this has got the $20 billion 2001 estimate on it. But you can see, here's the Rockies Express Project, a pipeline project that is in construction right now. Its estimated cost for a 1,300 mile pipeline is $4 billion. The Alliance project which was completed in December of 2000, is a 1.3 bcf/day pipeline cost around $3.6 billion and it's an 1,800 mile pipeline. Mac Delta, I'm sure most of you have read, the MacKenzie Delta project - the cost increases that are just incurred on the MacKenzie Delta project - I believe the public estimate that was just made on that is $14 billion including the upstream development - that's U.S. dollars and that's a 1.2 bcf/day project. So just a flag - you know the Alaska gas pipeline project being a 3,600 mile pipeline with a cost estimate greater than $20 billion is just not comparative of these. It's much bigger. The scale is significantly larger.

And I would also highlight that comparing - you know, you can't just take and say it's a $30 billion project or a $20 billion project, whatever the number ends up being - and say that's 10 times $2 billion projects.

The scale is just different. You can't just multiply it out. The next point I would like to make was on...

SENATOR WIELECHOWSKI: Since the cost is so much for this - how many miles did you say it was?

MS. KING: It's 3,600 miles from Alaska's North Slope to Chicago, which would be one of the markets in the Lower 48.

SENATOR WIELECHOWSKI: Since that is - 3,600 miles - doesn't it make sense to start maybe thinking a little bit more

about building a simply 800-mile line down to Valdez and shipping it by LNG?

MS. KING: Senator Wielechowski, through the Chair, actually that is a question that ConocoPhillips, being the current operator and have had an existing LNG operation in Alaska for decades, it's a question we consistently look at. And we still believe that the cost - you'd still have to build a 800-mile pipeline - you'd still have to have the gasification, tankers, move it to a market and get it to it - a disadvantaged market in the context of you can only access the coast and have to bring it in. We still believe the total costs are better going with a pipeline project through Canada to the Lower 48. So, we've looked at it; we continually look at it; we think we bring a unique perspective on that. We have proprietary technology on LNG and we still believe the cost is better to go with a pipeline project to markets in the Lower 48 through Canada.

2:56:46 PM

The next slide, if you turn to - and this is - you know, predicting natural gas prices - it's a risky business. And this graph is actually to just highlight a quick critical point here. What you've got on here is the forward curve that was published on December 9, 2005. That's the black line on this graph. And what's underneath it is what the actual gas prices were over the course of that year. So for me, I find this quite a staggering graph in that it kind of grounds me that we can't even predict natural gas prices within a one-year timeframe. Can you imagine trying to do that for a 30 or 40 year timeframe? And that's one of the key risks that the resource owners bear in this project - is that the volatility and the uncertainty on natural gas prices.

I'd also like to highlight that ConocoPhillips wants to work with the Alaska legislature and Governor Palin on a framework that will advance a project. We agree a public transparent process is needed and we also believe a balanced deal is needed to stand the test of time. The project is just too big to have a winner/loser mentality. We've got to find a balanced deal to go forward.

We believe ConocoPhillips can bring a lot of value to this project. We have financial strength; we have Arctic experience; we have Alaska experience; we operate in

Alaska. We have project management skills and we have mega-project skills and we have key learnings from other pipeline projects that we're involved in. We also believe we bring a unique perspective to this in that we are an existing producer, but we are also an explorer. We have a track record of trying to advance the Alaska gas pipeline project and we have spent millions of dollars trying to do that.

My primary focus today is to convey that we want to work in a constructive way with you to move forward, but more work is needed. The first time ConocoPhillips saw the proposed bill was on March 2, which was the first day it was released to the public. We have had our teams reviewing the bill and are eager to find a framework that will allow development of ANS gas resources to advance. We need to be able to work through some critical issues with the Alaska legislature and Governor Palin. We are not locked into the old proposal, but we need to find a framework that addresses the critical resource issues that are needed to support long-term shipping commitments for this project.

One aspect of the proposed bill that we have noted in particular is the distinction between the midstream and the resource terms. The risk/reward balance is very different between the regulated return portions of the project, particularly when they're backed by strong firm transportation agreements. Just to remind people, firm transportation agreements are those agreements where a shipper would be asked to pay a pipeline what is called a demand charge, day in/day out. And for a project of this magnitude, it could be 20 - 25 years that people are asked to sign that shipping commitment for. And I'd point out as well - you pay for that charge regardless if you ship gas or not.

The split between the midstream and that resource we think will help to illustrate the differences on risk and reward within the project. That being said, the project will only be successful if both the midstream and the resource risks are addressed.

Based on our initial review of the bill, ConocoPhillips has four key question areas that we would like to discuss with you. We have some suggestions on some of these, but we still don't have solutions for all of these. The four key

areas are first - exclusivity or what we would call creating roadblocks to alternative projects; the second one is the resource terms, themselves; the third one, we'll buck it, is called the midstream bid requirements; and the fourth one is the expansion terms. And I'll go into more detail now on these four areas.

Exclusivity or roadblocks to competing projects - I'd first like to flag a key question - Why would the state want to block alternative projects instead of letting the free market work most efficiently? And I want to draw your attention to section 440 in the bill.

CHAIR HUGGINS: I'm sorry, Wendy, would you say which section again?

MS. KING: Yes, Chairman Huggins, section 43.90.440. This particular section reads:

> Except as otherwise provided in this chapter, the state grants the licensee assurances that the licensee has exclusive enjoyment of the inducements provided under this chapter.

CHAIR HUGGINS: Okay, hold on just a second. Okay - page 18, line 22 - we're now prepared.

MS. KING: Sorry chairman Huggins. I was reading from line 22 and I'll read that again.

> Except as otherwise provided in this chapter, the state grants the licensee assurances that the licensee has exclusive inducements - 'Excuse me, I can't read today - Oh, jeez, it's been a long week - I apologize - starting over again.'
>
> Except as otherwise provided in this chapter, the state grants the licensee assurances that the licensee has exclusive enjoyment of the inducements provided under this chapter. If the state extends to another person preferential royalty, tax, or monetary treatment for the purpose of facilitating the construction of a competing natural gas pipeline project in the state, and if the licensee is in compliance with the requirements of the license and with the

requirements of state and federal statutes and regulations relevant to the project, the licensee is entitled to payment from the state of an amount equal to three times the total of reasonable costs that the licensee has incurred in developing the licensee's project as of that date that the state first extended preferential treatment to another person.

Then I'd like to draw your attention to sections 340 in the bill and I'll try to find the pages here for you.

Actually sections [43.90.]330 and 340, I'm particularly looking at what the induce nts are on pages 16 and 17 in the bill. The midstream inducements include streamline coordination for the project. Why wouldn't the state offer the benefits of streamline coordination to any project? That is how the federal process is set up.

The inducements and particularly in section 340(b), line 7, indicate that the inducements - you can not put burdens - and I recognize that is a word I am using, but you can read your own words there - on a permit by any state agency would only apply to the licensed project. Does that then mean that the state would be willing to put burdens on a competing or alternative project through the permitting process? The way the bill is currently conceived, it would from a practical perspective make it incredibly difficult to permit an alternative project with the state for potentially as long as ten years. It is not clear what that the state could ever provide streamline permitting to any other project without creating litigation exposure to the original licensee.

The exclusive inducements also include the benefits of a state-funded training program for Alaskans. Why would the state be willing to train Alaskans for only one project - the licensed project? Shouldn't qualified Alaskans have the opportunity to be trained and work on any project that is being advanced by mixing streamline permitting, the office of the state coordinator - AGIA coordinator, training for Alaskans and creating obstacles to work with resource owners except with regard to the licensed project with exclusive inducements of AGIA, it becomes difficult to see...

CHAIR HUGGINS: Wendy, could you please give us a page and which line you're on.

MS. KING: Oh, I'm skipped ahead in the bill, but I'm back on 440 and I'm kind of closing in this section here.

CHAIR HUGGINS: Yes, when you do that if you would just give us a page and line number, it would help us.

MS. KING: I apologize, Chairman Huggins.

Section 440 again - and I'm going to draw in here...

SENATOR WAGONER: Page?

MS. KING: Page 18, line 22 through 31 again. I'm back to the reference to the exclusive inducements and also the treble damages clause.

The exclusive inducements - they include the benefits of streamline permitting - that's listed in the bill, the office of the AGIA coordinator - the state coordinator, training for Alaskans, and creating obstacles to work with resource owners except with regard to the licensed project. It becomes difficult to see how an alternative project could be advanced anytime over the next ten years unless the licensee agrees that the project is uneconomic or if there was an arbitrator's award saying that it was uneconomic, that that was not challenged by the licensee.

I want to emphasize, ConocoPhillips is a supporter of streamlined permitting. We worked very hard on the federal legislation that was passed with the Alaska Natural Gas Pipeline Act. If the state is going to pass similar provisions, we believe they should be available to any project that is being advanced.

We request that these sections be amended to make it clear that other projects can advance. So that is particularly the focus in those sections of 440 on page 18 and I'll go back on pages 16 and 17 to the inducements associated with the Alaska Gas line Inducement Act coordinator. So that's our first area of...

SENATOR McGUIRE: Wendy, on that point. So you know the theory behind these inducements if you will and the exclusivity of them is to get the project going. To incentivize people who have been similarly situated over the last three decades, two decades, depending on how you argue it and yet nothing seems to be moving forward. So would your argument be that these incentives aren't needed? Or I guess what I'm trying to - and I don't disagree by the way. I'm very concerned about the treble damages associated with that section because I think that a lot of those inducements are things we'd like to offer to anybody that's willing to develop resource development projects in Alaska.

But I guess my question is, do you think these inducements are needed in the exclusivity and if not, what is the alternative?

MS. KING: I do believe there are value in these inducements. I believe that streamline permitting - I believe that the state helping with the training program - Labor is clearly going to be a challenge for these projects so I do believe that there are value in these inducements. My concern stems, again, the exclusive nature of the inducements. So I do believe - and I understand your concern of wanting to motivate a gas pipeline project going forward.

And I believe ConocoPhillips' record since 2000 clearly demonstrates our commitment to try to move this project forward. We are doing what we can to do that, but we see that these inducements should be out there for any project and if the state takes the chance of tying up those inducements, which would be normal - Let's just say permitting a project is a normal sovereign power the state would have. If you give - grant those exclusively, we could see ourselves - if you've chosen the wrong winner for some reason - the state's chosen the wrong winner, being delayed for a decade with those inducements being tied up to that licensee.

So that's where our concern stems. I do believe there's value in some of these inducements - particularly those around streamline permitting and those around getting Alaskans ready for the jobs. We would prefer to see those apply to any project that is being advanced. And let the market choose which project goes forward.

3:08:49 PM

MS. KING: The next area that I wanted to talk about is the resource package. And once again I want to draw our attention to what do I mean when I say "the resource." The resource, once again, is getting the owners, the leaseholders, explorers, whoever else that might want to show up for an open season - those that would be asked to make the shipping commitments to the project. And the issues that they face, they're unique in being asked to make that shipping commitment.

As we stated last month in Senate Resources, the resource risks have always posed the greatest obstacle to a gas pipeline. The predominant resource risk that we want to continue to focus on with the state is in obtaining clarity on the state taxes and royalties that are needed in order to secure long-term shipping commitments. Addressing these issues remains a critical component to make this pipeline a reality.

ConocoPhillips appreciates the recognition of the importance of resource issues for a proposed gas line project. Sections 300 - 320 in the bill.

CHAIR HUGGINS: Give us your page number and line.

MS. KING: I'm looking them up right now. Page 14, Chairman Huggins, page 14 is the qualifications for resource inducement. 310 is the royalty inducements.

CHAIR HUGGINS: Line 7

MS. KING: Actually, in moving all the way through pages 14 -16 is the whole package of resource inducements that are in the bill.

Those sections, 300, 310 and 320 - so pages 14-16 - would not be in the bill if the administration had not recognized that changes were needed on the resource side. We also appreciate the administration identified that fiscal stability is a critical resource issue by proposing the ten year stability provision.

A troubling aspect of the resource inducement package is the tie to the exclusivity of the licensed project and the treble damages clause. So I'm going back again now to

section 440 in the bill. Is the state not willing to provide term inducements to any potential project that is being advanced and to any party that underpins the pipeline construction with a firm transportation commitment? What if the chosen winner makes some promises that can't be delivered on? What happens if the licensed project stumbles? Is the state willing to give up their right to change tax terms and royalty terms, which is a contractual arrangement, outside of the licensed project without creating litigation exposure with the licensee? What if the state picks the licensee but we know that the licensee can not deliver on what they say? We will not have the right to get upstream stability and provisions for any other open season on a different project for up to ten years or expose the state once again to damages.

We do not want to see the project tied up in exclusive arrangements or exposed to the larger damages in order to have a backup plan.

More to the specific side of the resource provisions, we remain concerned that the provisions in the bill need more work. The present bill promises to make some changes in the royalty contracts, but rather than negotiate changes to the contract, the bill would require the resource owners to accept being subject to as yet unwritten regulations and the regulations are subject to change every two years.

The bill promises a degree of protection against potential changes to the gas production tax, which is a start. However, it does not identify the protected production tax rate, and the period of relative stability is insufficient for a project of this magnitude. In addition, there is no protection against increases in other taxes that may be aimed at circumventing the protection. To give an example of that: If you had gas production tax stability, state corporate income tax could be increased to offset what you...basically the terms that you had there. So that balance of looking at the entire tax structure is something we think is important. We need to develop a complete resource package, and it's going to require creativity, open dialogue, and consensus. We believe that developing a resource-inducement package is important. In fact, [it is] the most important aspect that will advance a project to a successful open season--but more work is needed.

The next area that I want to move to is midstream requirements. My first question is: Why would the state be so proscriptive in the midstream requirements? The current version of the bill has a long list of requirements that a party must demonstrate to the administration's satisfaction before their bid would be reviewed by the public and the legislature. Any bid that did not meet all of the bid requirements would be rejected out of hand, even if it brought the best all-around solutions to the challenges facing this project. For example, a bid that met every one of the requirements, but said, "I cannot meet three fixed-date requirements, because we felt that that might not be consistent with the best project management tools and skills that are out there," the bid would be rejected as a non-conforming bid. For approximately a year, ConocoPhillips has indicated that we have alternatives on different work commitments if the right resource framework was in place, but the proscriptive nature of the requirements would not even allow us to bring that creativity to the table; it would be rejected as non-conforming bid. Another example of this is what if a company decided they did not want the state capital contribution prior to the open season? For our project, we have estimated it could cost $400 to $500 million to get to the open season. The bid requirements would require us to take $200 to $250 million of state contributions to be a qualifying bid. Should we be required to take that money from the state as part of the bid?

SENATOR WAGONER: You keep saying 'our requirements'. You talking producers as a whole, or you talking just ConocoPhillips?

MS. KING: First and foremost, I am always speaking on behalf of ConocoPhillips; I'm not speaking on behalf of a producer group or big oil. I am here representing ConocoPhillips. Now with respect to the second part of that-the midstream requirements I'm talking here are the ones that are actually laid out in the proposed AGIA bill. I'll probably get the number wrong, but there's a number of requirements that are in there that you need to meet to be considered a conforming bid. And that long list of requirements is the one that I'm speaking to now, Senator Wagoner.

One of the few times that a pipeline really has risk in this project is prior to that open season. I guess there's a question in my mind, if you're not confident enough that you can have a successful open season, and you require an inducement from the state to get through those relatively small costs–we're talking $500 million out of a project that could be in the magnitude of $30 billion–you have to question what role you can play in the project. What about the objectives of the customers, the shippers? How do you balance the fact that many of these requirements flow through directly to the shippers? What stops a pipeline company from promising all of these terms, knowing that they can pass them on to the shippers and have the benefits of the exclusive inducements for over a decade? What happens with an empty promise? How does the state deal with someone saying they can deliver a particular size pipeline and then eight years later saying: I can't, I didn't get the firm shipping commitments, they were inadequate, financing wasn't available, or FERC wouldn't approve the project? The current bid process encourages bidders to bid high and then beg forgiveness rather than to bid realistically. We suggest changing the current list of bid requirements to bid variables that would be consistent with the administration's goal of fair and transparent process, but would allow companies like ConocoPhillips, who have a lot of experience in these types of deals, to use our creativity. We understand the state has some must-haves. Isn't it an easier way to say to the industry, we have these demands: Alaska-hire, options for gas for Alaskans, rock-solid work commitments, and others? Please bring us, industry, the most creative solutions you can to meet those demands. The final area that I wanted to move to is the mandating expansions and rolled in rates.

Why would the state want to mandate enhancements for late shippers that could threaten the viability of the basin-opening project and impair state revenues? ConocoPhillips is the state's largest explorer, and I draw your attention to this slide here. And I think we can bring a different perspective to this issue. From this slide you can see that ConocoPhillips has a strong land position. The color in orange is lands that we hold that are ConocoPhillips operated. The ones in yellow are ConocoPhillips non-operated. We drill a number of exploration wells in Alaska every year, and we continue to explore in a region that we know is gas-prone: the NPRA. ConocoPhillips is concerned

that the initial shippers, who will be asked to sign up for billions and billions of dollars in firm shipping commitments that will make the pipeline project feasible, are being asked to take on more risk under the proposed bill than under existing statutes and regulations. Why would a party sign up as an initial shipper if I could wait, secure in the knowledge that an expansion could be mandated and its tariff mitigated through rolled in rate subsidies? At some point you have to ask: Are all these promises for explorers actually driving the behaviors you want?

For over four years, I have heard companies saying they need more time prior to an open season so they can drill. We have been actively trying, since 2001, to advance a gas pipeline project and get the government frameworks in place. These issues—or explorer issues—have been debated with the federal legislation—the Alaska Natural Gas Pipeline Act—and have been debated in front of FERC with orders 2005 and 2005a. And both times a balance was struck, and there's still no drilling. Why should I drill now when the state continues to push to provide guaranteed subsidized rates for those that defer drilling? ConocoPhillips continues to spend millions of dollars every year to advance a gas pipeline. We believe the single largest variable that will motivate new exploration on the slope is a gas pipeline and a successful open season. With costs going up the way they are, we are letting a million dollar issue drive the billion dollar issues. Let's keep our eye or first things first. Let's compare the risks - the next graph here – that [an] initial shipper faces versus a later shipper. And I recognize this is a subjective, qualitative-type analysis, and we might have debates about whether there should be one and a half X's here or two X's here. It's more intended to be just an indication.

I'd flag initial shippers—just going down here through the list—the initial shippers are going to be asked to sign up for shipping commitments, potentially a decade before gas is delivered to the market and with huge levels of uncertainty in the resulting toll they may have to pay. The cost environment for those upstream developments that the resources are facing, and the expenditures that you could be facing, and trying to advance those upstream developments in parallel to the largest pipeline project in

North America. Let me just highlight this issue again. We're going to be trying to get our assets ready on the upstream side—trying to get Prudhoe Bay ready for gas productions; trying to develop other fields, and for us that can involve things with NPRA in parallel to the largest private construction project in the world.

Our upstream developments will be competing with the pipeline project for the very goods and services that we're going to need to have the gas ready, and that is a risk that an initial shipper is going to face in having your gas ready for the day the pipeline's ready. We do acknowledge that gas reserves and deliverability—that's a risk that any shipper faces, whether you're an early shipper or a late shipper. The increased state take over a period of FT is also there for initial shippers versus late shippers, but the initial shippers are going to be asked to sign up for shipping commitments that could last for decades. A late shipper may not have to sign up for that duration of a shipping commitment.

The increased tariffs from rolled in rates on expansions--that's something that the initial shippers will face, and to a degree, a later shipper might face to, and I'm going to give an example of that later on here. The project delays that usually account to more costs; usually projects being delayed, you're spending more money and it translates to more costs. So, yes, that is something a pipeline entity carries a risk while they're in the construction phase, but when the costs are finished, they will be able to pass them through, in its whole, to the initial shippers and to the late shippers. And then the pipeline also has a risk around obtaining those shipping commitments from credit-worthy parties. Once again, will the market support that this is the best project to do? I want to just flag: the risks are very great for the initial shippers, and we think we have to be careful that we don't set up an environment where you're in a place where everybody would say: I'd rather be a late shipper. We have to get the project out of the starting gate. The fact remains [that] the magnitude of these initial shipping commitments are huge, at a toll of $3.50 for a 20-year shipping commitment, that initial shipping commitment can be in excess of $26 billion for a 1 bcf/day commitment. Now multiply that number times 4 to get to a 4 bcf/day pipeline; it's about $100 billion worth of shipping commitments that will sit behind this project when

it has an open season. That value is several times the value of many of the companies that might apply under this process. I ask myself, who has the financial strength to sit behind those types of numbers if natural gas prices plummet for a period of time, or if a field has deliverability problems? I also want to emphasize that I'm surprised that access is being raised as a question. I'm actually not aware that access has been a problem for anyone to date on the North Slope. Anadarko is our partner, and Alpine has access to facilities to produce their oil in NPRA. They have access to TAPS. We know their spare capacity in TAPS, and we have demonstrated a willingness to work facilities access with parties like Pioneer.

With respect to the Alaskan Natural Gas Pipeline, the US Congress already created an unprecedented provision with mandated expansion provisions to ensure access to this pipeline. She emphasized that there's no similar provision on any other pipeline in the Lower 48 than the mandated expansion that was passed in section 105 of the Alaska Natural Gas Pipeline Act. If a shipper is willing to sign up for firm shipping commitments, which translates to pay for the expansion, and can demonstrate that that expansion won't require others to subsidize it, the FERC can order an expansion of the Alaska Natural Gas Pipeline. In addition, there's absolutely no issue with a party making a firm shipping commitment on the gas pipeline project, even if you haven't found gas. You just need to be prepared to pay the toll. Isn't the real issue here not access, but the cost of that access? I understand why the state wants to create enhancements for exploration.

As an explorer I'm happy about that. We want to see new gas volumes, we want co-venturers to explore with Unalaska's North Slope, and I think I've communicated this before, but it's pretty risky drilling exploration wells at one hundred percent dollars; we like to have partners to explore and help spread our risks. We are the state's largest explorer and we can see both sides of the equation on many of these issues regarding expansions and rolled-in rates. ConocoPhillips does not oppose the application of rolled-in rates, for some expansions.

We do have some concerns with mandating that application, that application, for all potential expansions. We are not opposing the language in FERC order 2005 and in 2005 A, that grants the presumption of rolled-in rates. I'm going to read from that order 2005.

> In conclusion, to provide guidance to potential shippers in advance of the initial open season that is subject of this rule, the commission intends to harmonize both objectives: rate predictability for the initial shippers, and reductions of barriers to future exploration and production in designing rates for future expansions of any Alaska natural gas transportation project. It is consistent with our guiding principle that competition favors all of the commission's customers as well as with the objectives of the act to adopt rolled-in treatment up to the point that would cause there to be a subsidy of expansion shippers by initial shippers if any subsidy were to be found.

That's on page 44 and 18 CFR part 157 order number 2005, which was February 9, 2005. Let me illustrate a few concerns with the approach we have with mandating rolled-in rates for all expansions and mandating expansions that may be commercially unreasonable. Some of the exploration volumes could be from federal or private lands and some may even be from lands that the state can't tax. I'm drawing your attention to this graph here that was in your pack. This is here just to kind of illustrate - we tend to focus a lot of our attention right here, on this little circle in blue here, where the existing infrastructure is. But in reality, these exploration volumes we're talking about are likely going to be in the Chukchi [Sea], the Beaufort [Sea], NPRA, ANWR [Arctic National Wildlife Reserve], and the foothills, so we tend to focus in on a small area and the exploration volumes are going to be out in these different regions.

If you skip then to the next slide that I've got in the pack, these are from public ally available sources from different - the United States Geological Survey assessments, and I've put the dates down as to when the different assessments were made, but I'd like to draw your attention to the three biggest numbers on here: the 83, the

potential, the largest potential areas; 83 tcf in NPRA, 72 tcf in the Beaufort, 210 tcf in the Chukchi - and I've worked on these, these are technically I think recoverable-type numbers. But those three biggest numbers are in areas where the state has no royalty, or no, or some of these, not even production tax. Let me explain an example of where I think, from the state's perspective, you might question whether or not mandating rolled-in rates would work.

Prudhoe Bay has a toll, for example, of four bucks. There's an expansion that comes along that says the toll would go up to four-sixty, a fifteen percent increase. The state would receive less royalty in production taxes, less permanent fund contributions from Prudhoe Bay by the fact that the toll was going up. Now many people have argued saying, there could be state-wide inducements or benefits from that other [indisc.] exploration coming in here. But what if that exploration volume is from a field in the Beaufort where the state has no royalty or no production taxes from it. So you would be in a place where you're receiving less royalty and less production taxes from Prudhoe Bay, but no new revenue coming in from that field, coming from the Beaufort. And I do acknowledge there's gonna be some socio-economic benefits of having developments going on in the Beaufort, but you will not be getting a revenue stream directly from those developments. Another example of mandated rolled-in rates which could be problematic is an NPRA example.

What if we are successful in NPRA after initial open season and we think we've got a good expansion; 800 million a day, cubic feet a day, kind of expansion? And I'm actually just grabbing numbers for illustrative purposes, I'm not actually calculating. The toll, once again, let's just say the toll was four bucks. If that toll, due to this 800 million-a-day expansion, through the application of rolled-in rates, was a good expansion, you might see the toll go down for everybody to $3.80. That explorer that was making the development decision to produce or develop that field said the toll is $3.80. It looks like I should go ahead with this development. Five years later, there's another expansion where the toll would go up to five bucks because it's an expansion from the Beaufort. You made your investment decision thinking that you had a $3.80 toll, and all of a sudden now you're facing a five dollar toll. That's the type of uncertainty that even as an explorer or

a late-shipper, you might be exposed to by mandating rolled-in rates.

Another example would be, for example, if there is some short-haul service to Fairbanks, and short-haul means that you just said I want to take capacity out on open season just to ship my gas from the North Slope to Fairbanks, and let's just assume that that toll was fifty cents. If there was an expansion, they could be exposed to the toll going up from fifty cents to fifty-seven point five cents and all of a sudden, consumers in Fairbanks are saying, why am I having to pay more to transport the gas when there's an expansion coming in from somewhere else that's not delivering any more volumes here? So there's both, on the customer end, as well as on the shipper end, scenarios where mandating rolled-in rates may not be in the best interest of all the parties involved. All we are suggesting is let the FERC be the adjudicator on this issue.

ConocoPhillips might very well be the company in there arguing for the application of rolled in rates, and the state might want to be on the opposite side, or vice versa. Our perspective is, we just don't know what the expansions might look like, what they might come from.

FERC has rebuttable presumption of rolled-in rates that's not being challenged. What we'd say is just let the FERC adjudicate those issues and all of us have the flexibility then to argue our case for whether we think the subsidy's been made at that point in time in the future. I'd also highlight that there are many tools in the state's toolbox to deal with the issue of enhancing exploration and motivating expansions, including things like royalty reductions and tax credits. The state could put a capital contribution in on an expansion at some point in the future; there's many tools in the state's toolbox to incent that exploration. What is inappropriate, though, is to require the initial shippers, the ones who have already taken exploration risks to find the existing known resource, you'll be taking on the multi-billion dollar risk that will make this pipeline possible, to subsidize those that have not yet taken those risks. We can't let unknown gas prospects that could take a decade to explore, appraise, and develop, drive the timing and development of the approximately 35 tcf of known resources, and the largest private construction project in North America. I'll

conclude my remarks today by summarizing what I think are the key issues.

ConocoPhillips is ready to solve issues with the Alaska Legislature and the governor. We want to actively work with you to achieve a framework that promotes the development of the ANS gas resources and addresses the legitimate interests of all parties.

The key to advancing the gas pipeline is really to address the resource issues and providing adequate security to companies so that they can make the long-term shipping commitments, is the critical issue that will result in a project. We urge you to not lose sight of this fundamental issue. The project is so difficult that we have to be on the same team and we have to recognize that compromise, like in all major decisions in life, is necessary for all parties. We have to have focus on doing what it takes to get this project moving forward. We can't lose sight - the costs are going up on the project. The recent announcement on the MacKenzie Delta project - the costs increasing confirms this, and should make us all step back and pause for a second.

We need to remember the real prize: the tens of billions of dollars in new tax and royalty revenues, the countless jobs, the new economy that will be created with a new gas exploration and development industry for decades to come. To achieve this prize the risk must be realistically addressed and risk and rewards must be balanced. We've had thirty years of an oil economy; we need to look forward to a new gas economy. We need to find a creative way to make it happen. No company will work harder than ConocoPhillips to make this project a reality. I'd be happy to try to answer any of your questions.

[End of Ms. King's verbatim transcript]

SENATOR WAGONER asked for a copy of Ms. King's testimony.

ALASKA STATE LEGISLATURE

Sen. Charlie Huggins, Chair
Sen. Bert Stedman, Vice Chair
Sen. Lyda Green
Sen. Gary Stevens
Sen. Lesil McGuire
Sen Bill Wielechowski
Sen. Thomas Wagoner

State Capitol, Room 119
Juneau AK 99801-1182
907-465-3878
Fax: 907-465-3265
800-862-3878

Senate Resources Committee

Butrovich Room 205

Monday, March 26, 2007

AGENDA

- **SB 104 – Natural Gas Pipeline Project**
  "An Act relating to the Alaska Gasline Inducement Act; establishing the Alaska Gasline Inducement Act matching contribution fund; providing for an Alaska Gasline Inducement Act coordinator; making conforming amendments; and providing for an effective date."

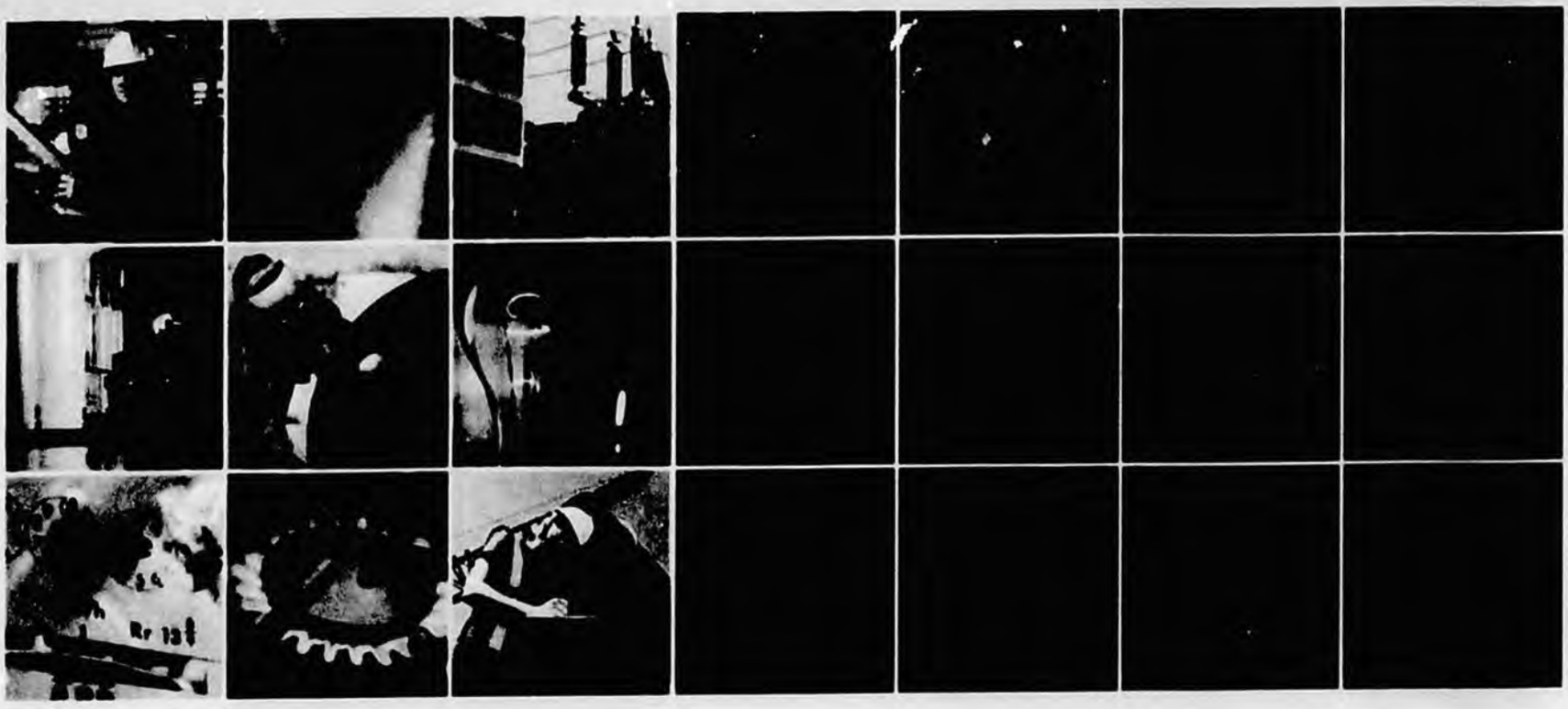
3:30 – 7:30

TransCanada –
Tony Palmer, Vice President Alaska Development

Alaska Gasline Port Authority
Bill Walker, General Counsel and Project Manager
Paul Fuhs, Government Affairs

ONLINE

Radoslav Shipkoff, Financial Advisor

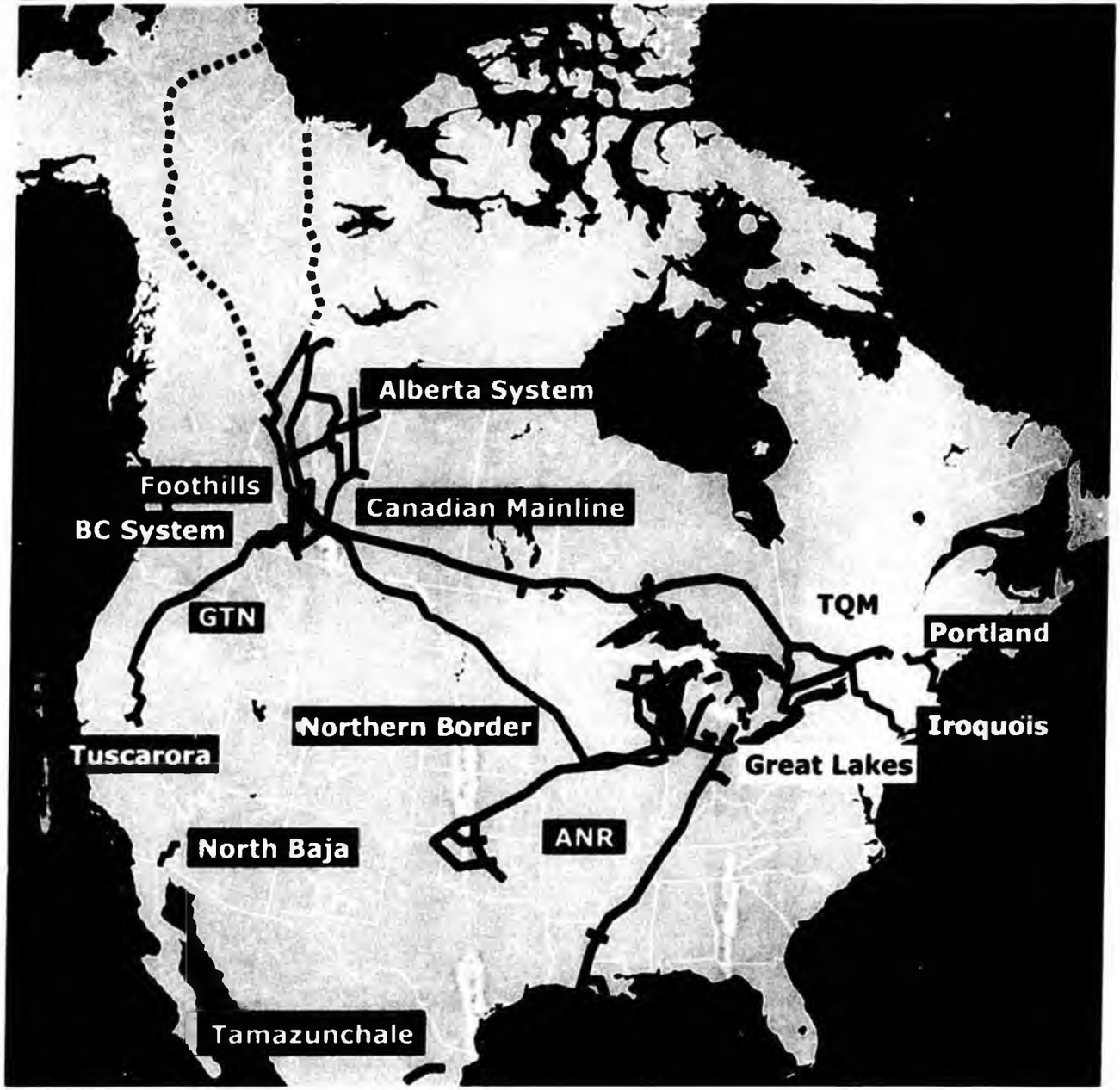


Alaska Legislature Testimony
Alaska Highway Gas Pipeline Project

Juneau, Alaska
March 26/27, 2007

TransCanada
In business to deliver

TransCanada Natural Gas Pipeline Network



- **36,500 miles of wholly-owned pipeline**
- **Interests in an additional 4,600 miles of pipeline**
- **Unparalleled connections from traditional and emerging basins to growing North American markets**
- **Average daily volume of approximately 15 Bcf**

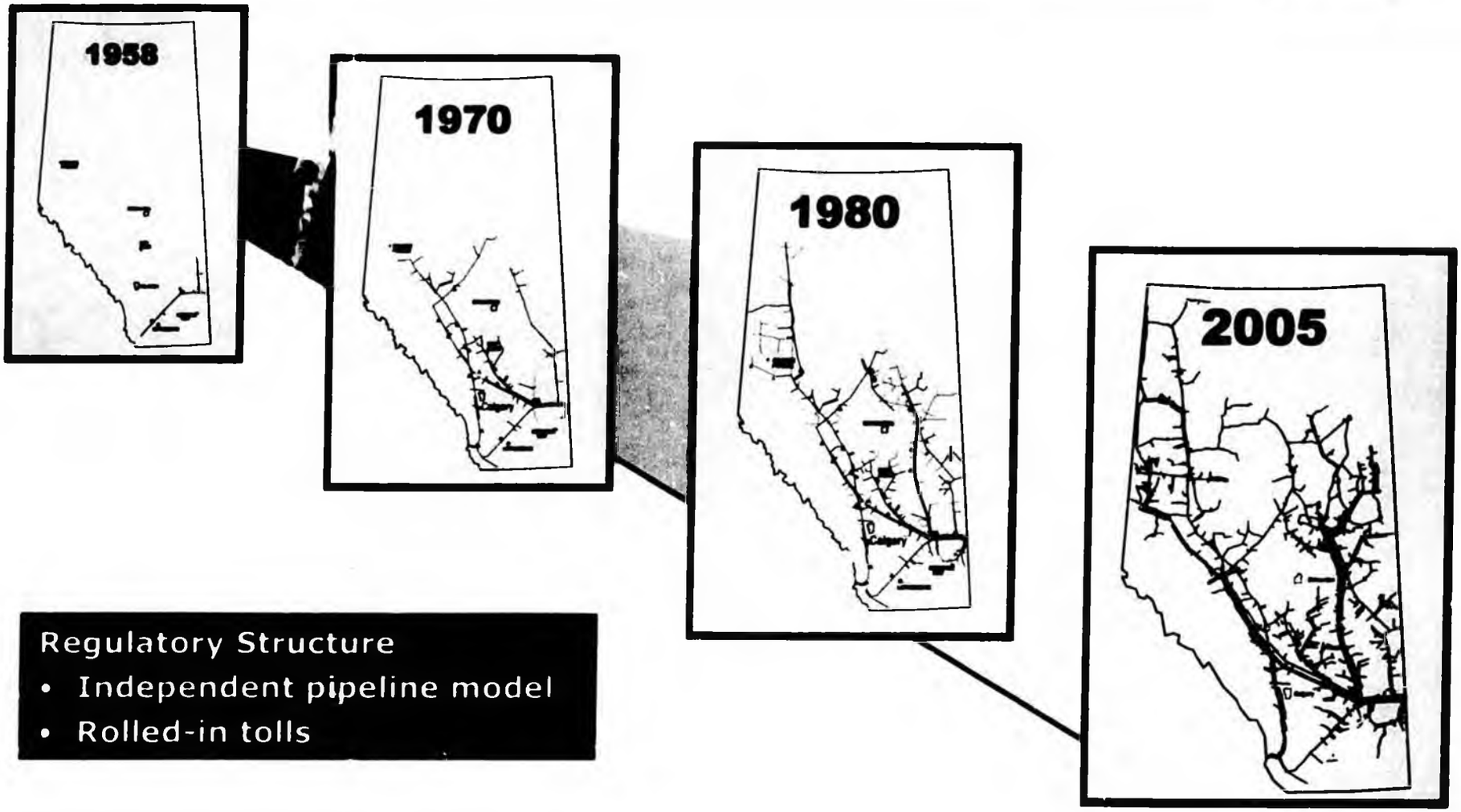
TransCanada

TransCanada's Pipeline Assets

- TC is North America's largest gas transmission company, owning approximately 2/3 of the take-away capacity from Alberta hub to North American markets.
- TC owns 36,500 miles of natural gas transmission pipelines and provides service to Northeast, Midwest, Pacific NW, California, Eastern Canada and Western Canadian markets WCSB markets.
- TC also owns 360 Bcf of natural gas storage capacity.
- One-third of the Alaska Highway Pipeline Project is in the ground and transporting approximately 3 Bcf/d every day (Foothills Prebuild, Northern Border and GTN loops).
- TC has strong cash-flows (C$2.4 B in 2006) and growing financial capacity from its pipeline assets and 7700 MW of power generation assets (in-service or under development).
- TC has 50 years experience as a builder/owner/operator of cold-weather North American regulated pipelines.

TransCanada

TransCanada - Proven Basin Developer

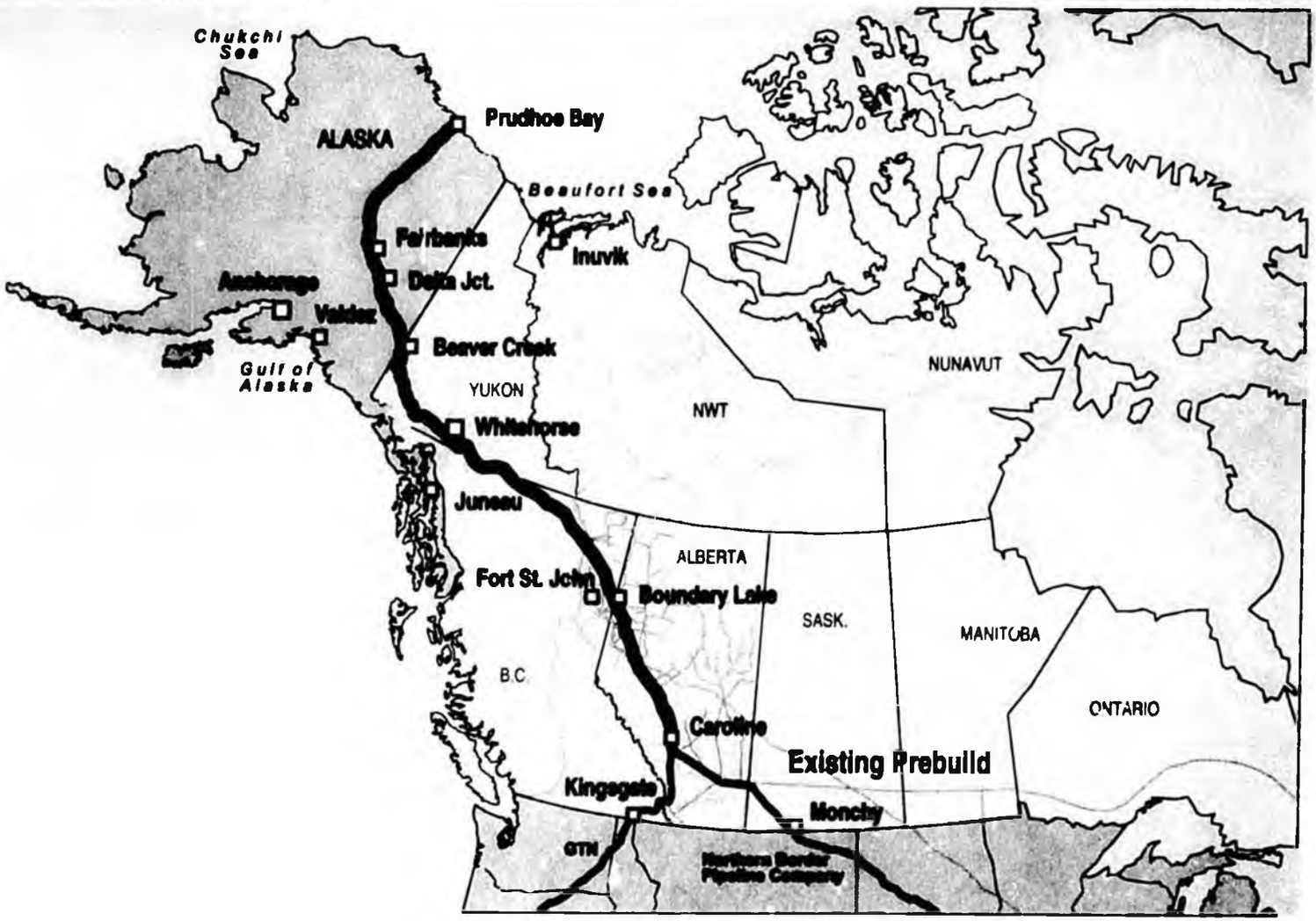


Regulatory Structure

- Independent pipeline model
- Rolled-in tolls

TransCanada

Alaska Highway Pipeline



TransCanada

TransCanada's Interest

- TransCanada (TC) has been a lead player in the project since its inception. We have more than $2B and 30 years invested in bringing Alaskan gas to market.
- TC's subsidiary, Foothills, holds valid and exclusive certificates issued under the Northern Pipeline Act (NPA) for Canadian section of the project – these certificates do not have a sunset or expiry date.
- Foothills is named Canadian Project Sponsor in Canada/U.S. Treaty.
- TC has an easement under NPA for entire route in Yukon recognized in Umbrella Final Agreement between Government of Canada, Government of Yukon and Yukon First Nations.
- TC holds key land and environmental permits in Alaska.

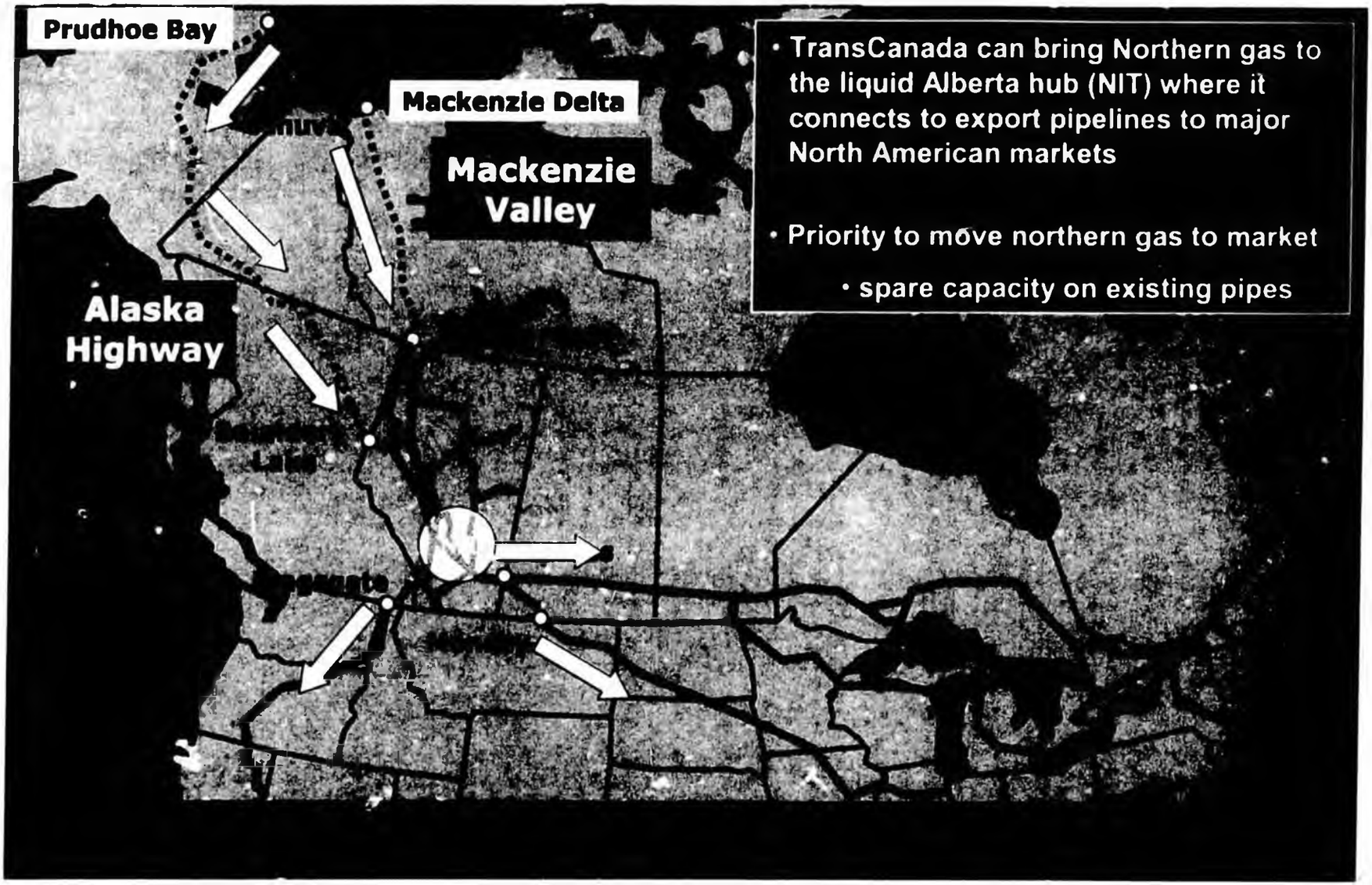
TransCanada

Legislative/Regulatory Structure – Competitive Hearings Held, and Canadian Project Sponsor Selected

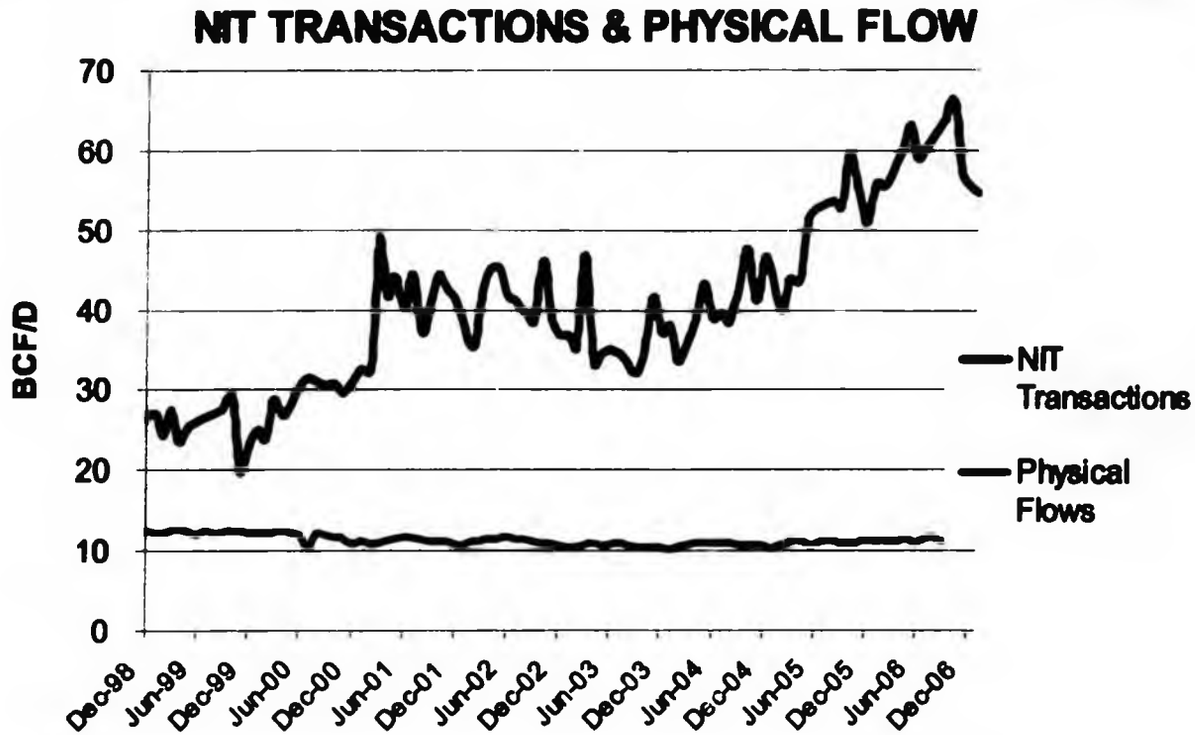
- NEB held competitive hearings, open to all parties
  - Selected Foothills as Canadian project sponsor
  - Rejected other applications (Arctic Gas)
- Canada / U.S. negotiated Treaty for Alaskan gas project
  - Canada obtained benefits in exchange for access across Canada for Alaskan gas
  - Foothills named Canadian sponsor in Treaty
- Canada enacted Northern Pipeline Act (NPA)
  - Enshrined Foothills rights and obligations
  - Established single-window regulator, complement to NEB
- Foothills granted exclusive rights – only reasonable interpretation.
  - Project expedition not achievable unless exclusive
  - No commercial party would invest necessary billions without exclusivity.
  - No expiry or "sunset" date in Foothills certificates.

TransCanada

TransCanada is ready to move Northern Gas to North American markets



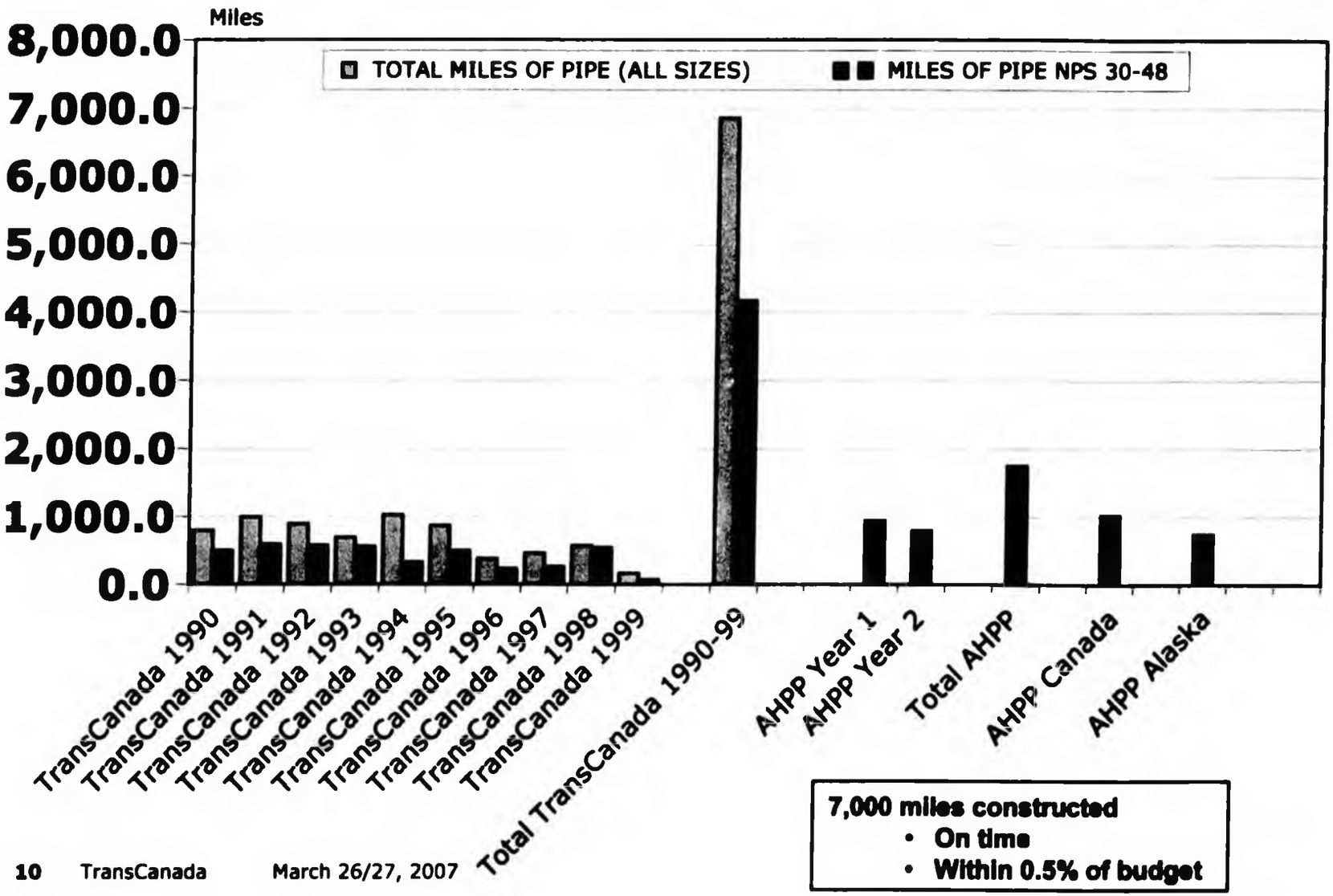
The Alberta Hub (NIT) is the most liquid natural gas market in North America



- **Alberta liquidity continues to grow**
- **Transaction statistics suggest that NIT is the most liquid market in North America**

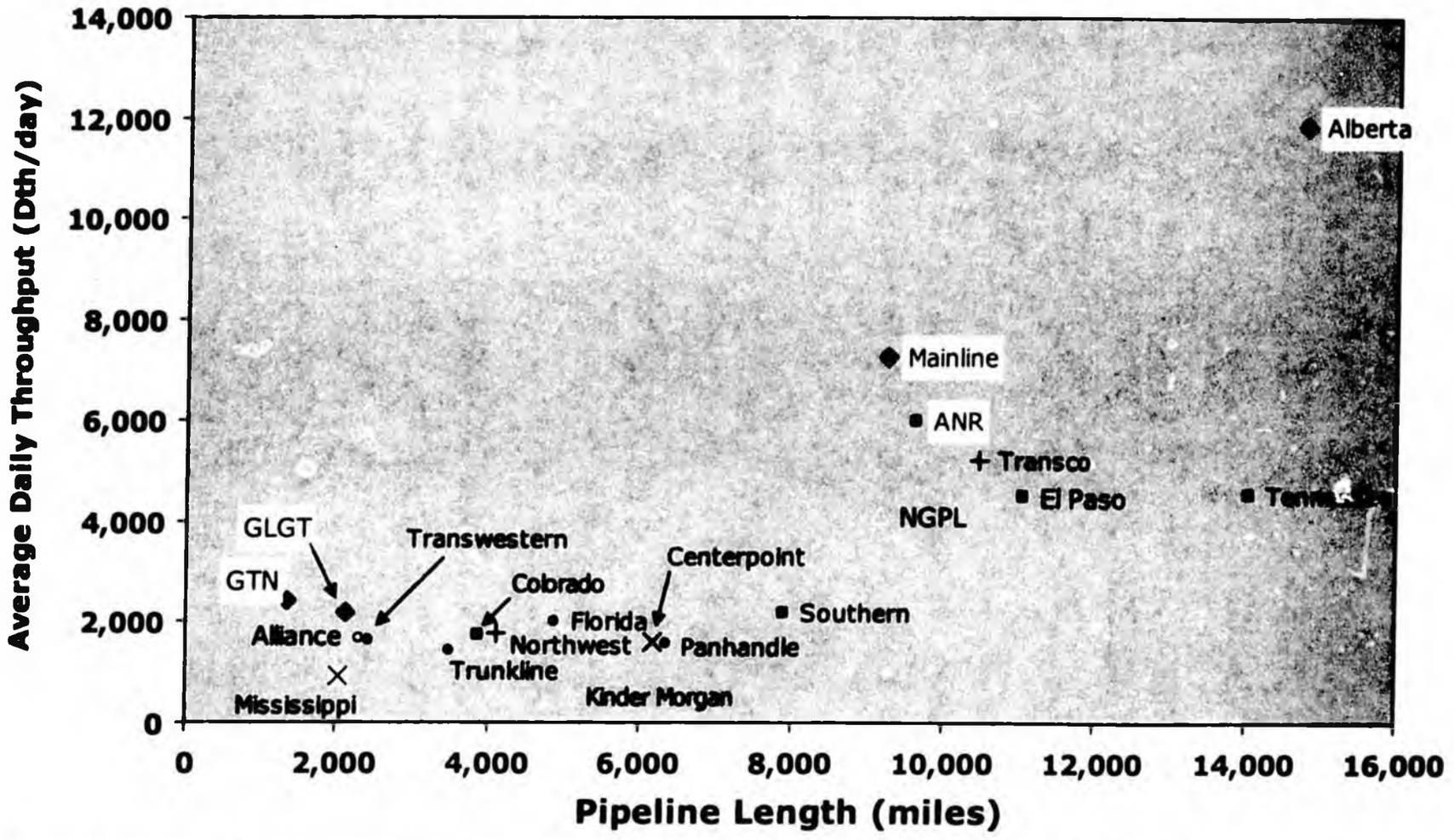
TransCanada

Our Western Canada Track Record: 1990s Miles Constructed



7,000 miles constructed
- **On time**
- **Within 0.5% of budget**

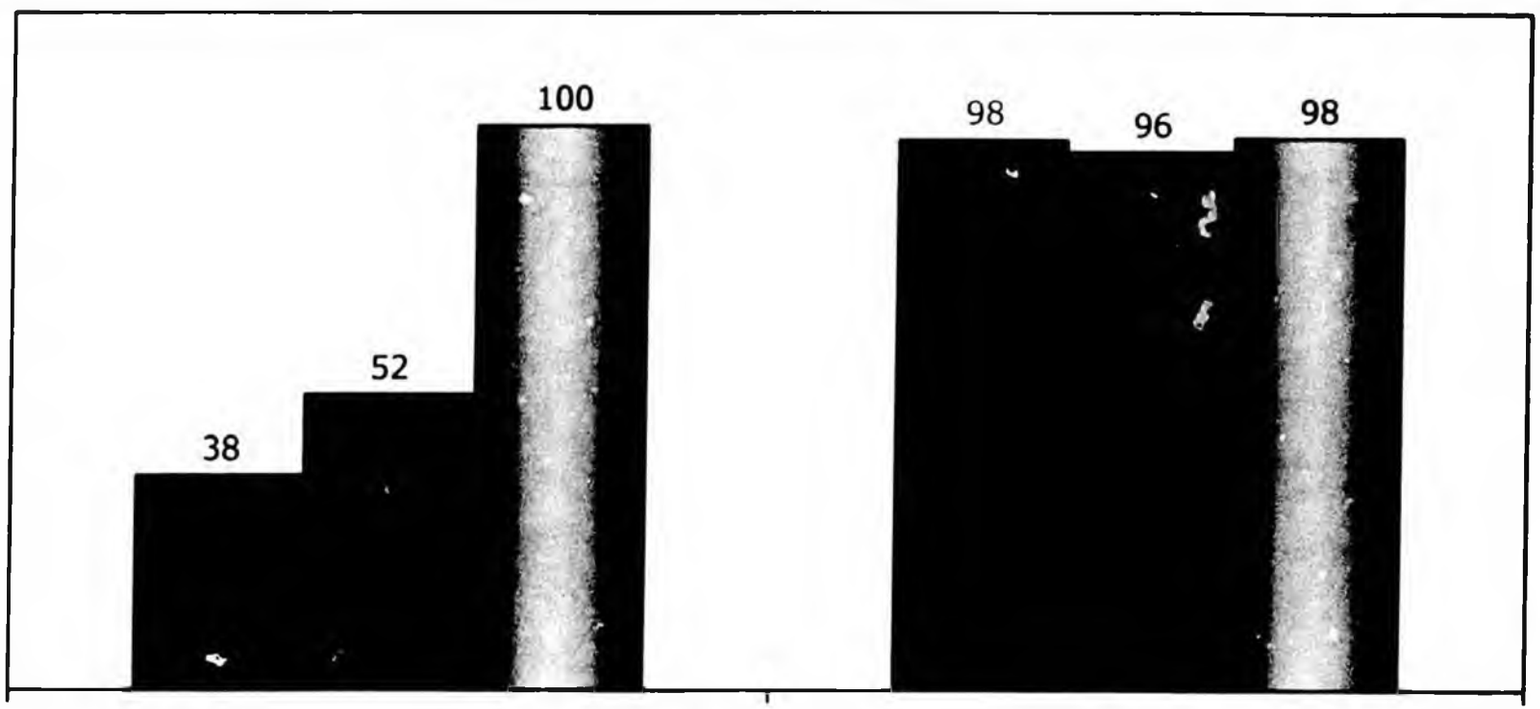
Operating Costs & Reliability – Study Participants



Source (Operating data): ***"Major Interstate Pipelines" (2004, Foster Associates)***

TransCanada

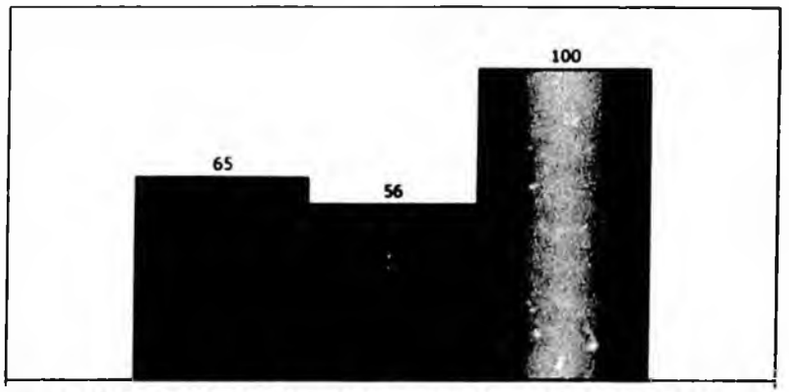
Compression Maintenance Comparisons



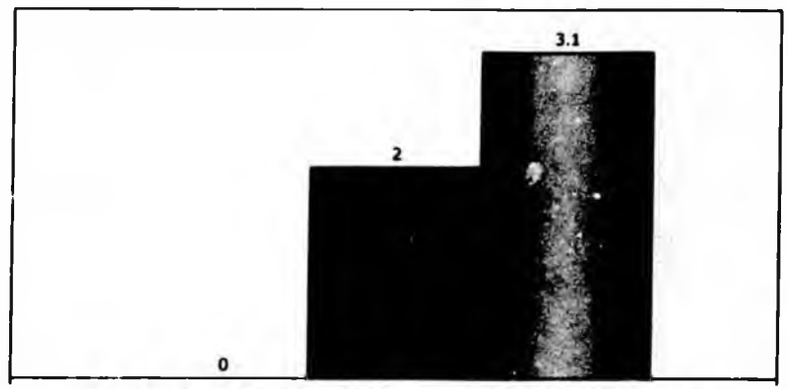
Source: Solomon Associates Natural Gas Transmission System Performance Analysis for Operating Year 2004

TransCanada

Pipeline Maintenance Comparisons



Relative Cost Per Diameter Inch-Mile (% of Study Average)



# of Leaks or Ruptures that required Immediate Action

■ TC Mainline ■ TC Alberta □ Study Average

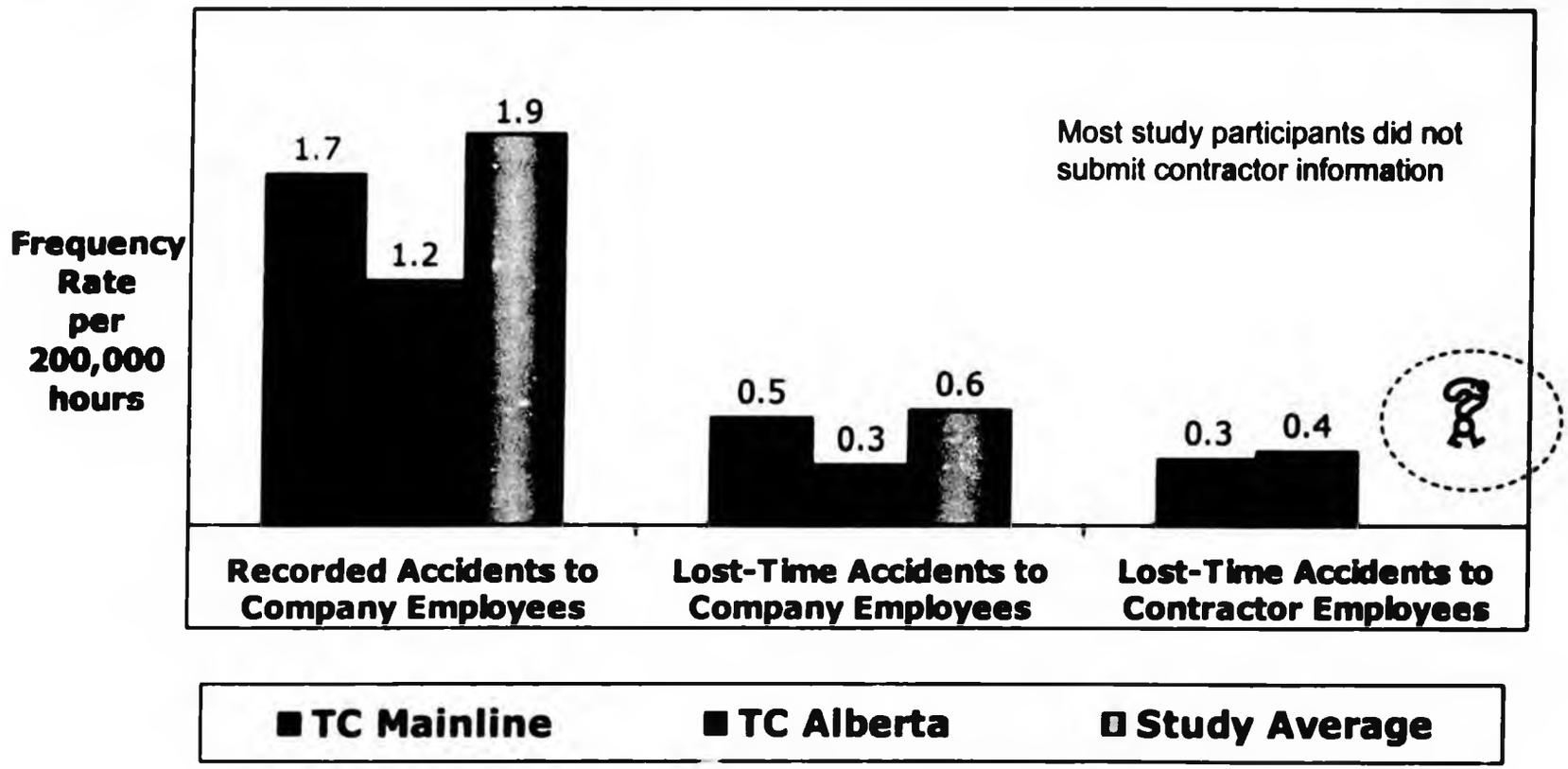
■ TC Mainline ■ TC Alberta □ Study Average

Note: Diameter Inch-Mile (DIM) is calculated by multiplying each pipe diameter by its length and summing the products

Source: Solomon Associates Natural Gas Transmission System Performance Analysis for Operating Year 2004

TransCanada

Safety Performance

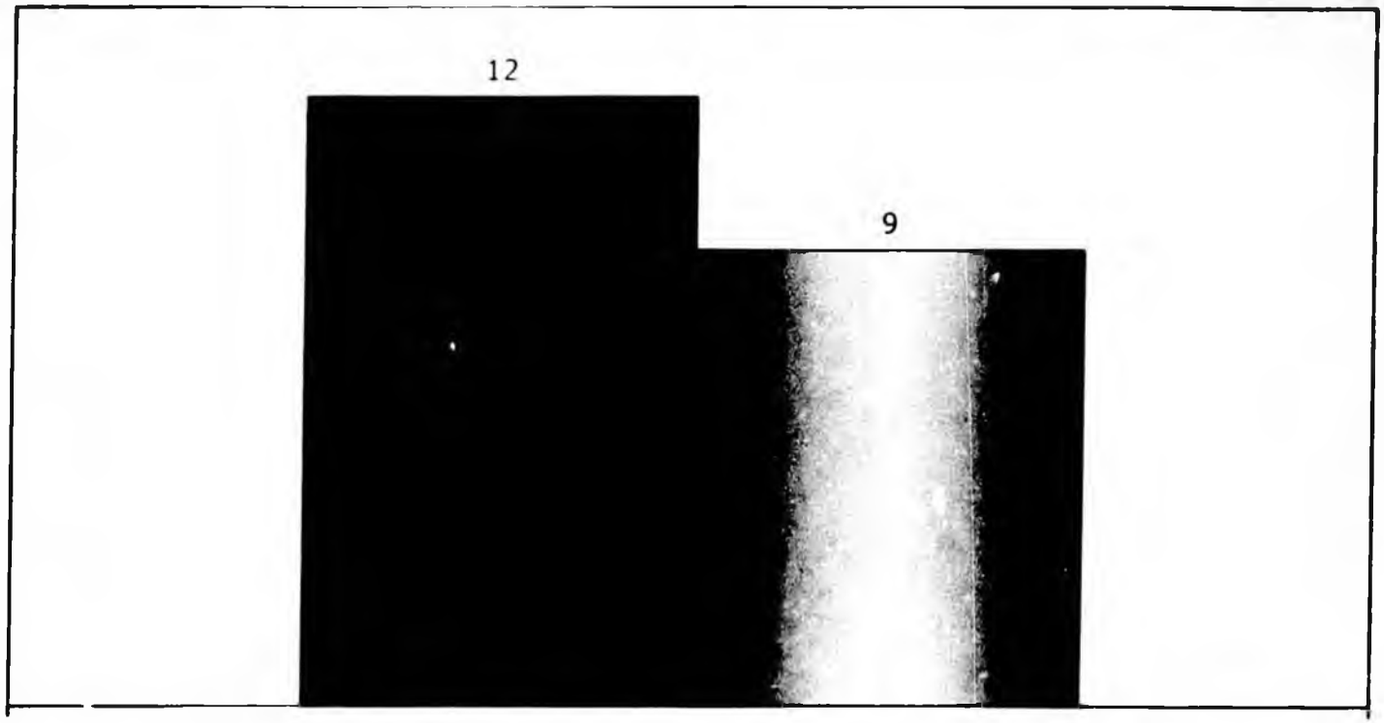


TransCanada expects the same high standards of Health, Safety and Environmental (HSE) performance from its contractors as from its employees

Source: Solomon Associates Natural Gas Transmission System Performance Analysis for Operating Year 2004

TransCanada

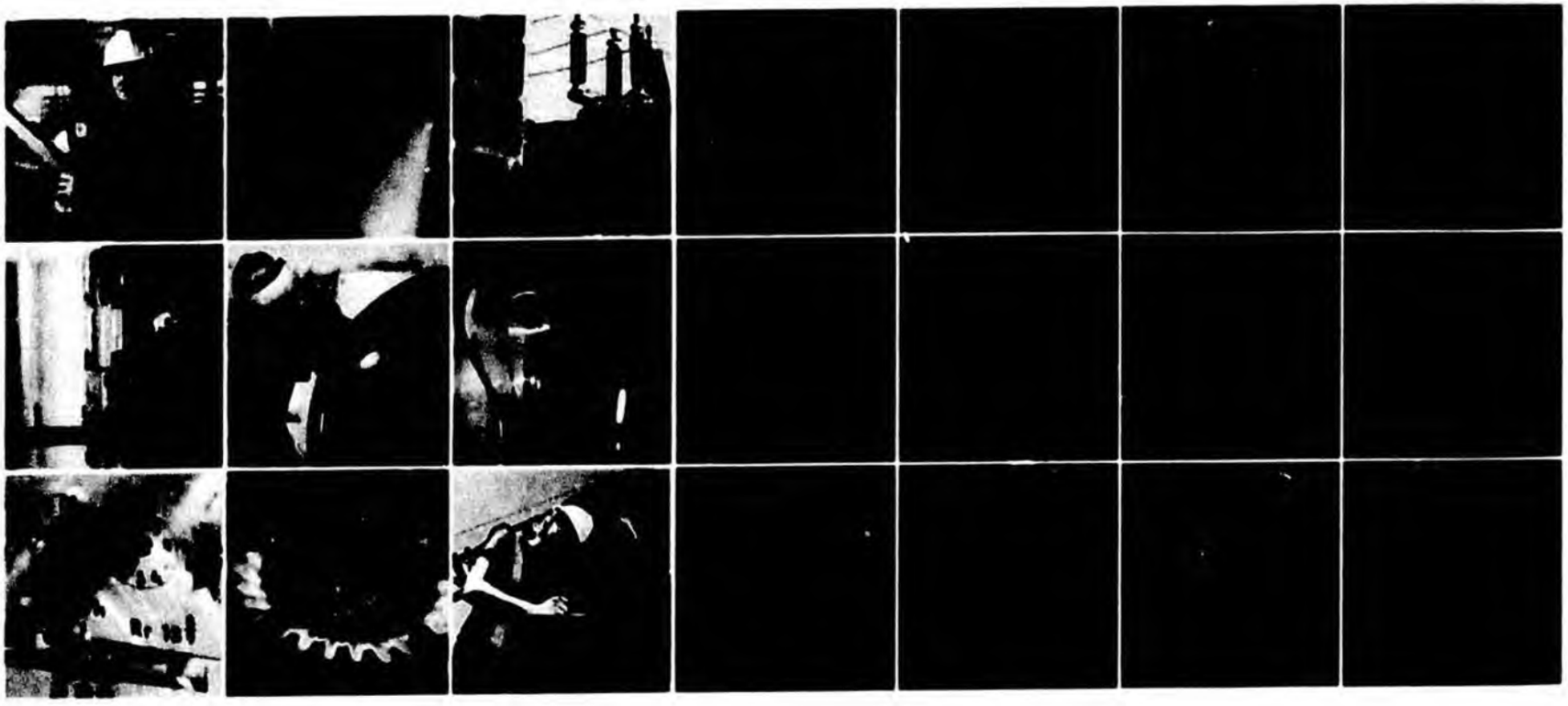
% of Total Pipeline Length Inspected Annually



Mainline is a similar type of pipeline as the proposed Alaska project

***Source:** Solomon Associates Natural Gas Transmission System Performance Analysis for Operating Year 2004*

TransCanada



Thank You

TransCanada

In business to deliver

Alaska Gasline
Port Authority

Testimony to Senate Resources Committee
March 26, 2007

Comments and recommendations for
Alaska Gasline Inducement Act

Mr. Chairman and Members of the Committee,

My name is Bill Walker and I am General Counsel and Project Manager for the Alaska Gasline Port Authority. Joining me today is Mr. Paul Fuhs, our governmental relations representative, and on the telephone is our financial advisor, Mr. Radoslav Shipkoff, with Greengate, LLC.

As you may know, the Alaska Gasline Port Authority is a Municipal Port Authority formed in 1999 pursuant to Alaska statute to build or cause to be built an Alaska gas pipeline. Since its inception, the Port Authority has received an IRS ruling confirming our tax exempt status and has purchased the exclusive rights to the Yukon Pacific Corporation's state and federal regulatory permits and environmental data for this Project.

Additionally, we have, worked with internationally recognized firms such as Bechtel Corp, Sempra Energy, TOTE, and Mitsui OSK lines to bring together the entities that have the experience and the ability to put together a gasline project that is commercially viable, and brings the greatest benefit to the people of the state of Alaska. That is our charge....we are an "Alaska benefits" driven project.

As we look at the development of Alaska's North Slope natural gas, our mission is the same as yours...to maximize benefits of Alaska's gas to the people of the state of Alaska. We are, as you are, working hard towards ensuring a gas line

project that is the best for all Alaskan's to finally commercialize the vast resources of gas on the North Slope.

It is from that perspective that we come before you today to discuss (HB 177, or SB 104) the Alaska Gasline Inducement Act, and to offer our suggestions as to how it can advance an Alaska North Slope natural gas pipeline.

First, let me describe for the Committee the basics of our Project. We are proposing to build or cause to be built an initial 2 to 2.5 bcf/day Project that is expandable as required by the marketplace. Our pipeline would run parallel to the existing TAPS line to Valdez where the gas would be liquefied. If a Canadian project applicant requested, and made a commitment for firm transportation, we would pre build sufficient capacity in the line to Delta Junction for an eventual Canadian line. An important component of our Project is the supply of 250 to 500 million cubic feet of gas per day to South Central Alaska to satisfy gas demand requirements in that region.

We have entered into a Memorandum of Understanding with the Alaska Natural Gas Development Authority to share information that would benefit ANGDA's efforts towards a spur line from Glennallen to Palmer to bring ANS gas into the South-Central gas grid.

From our Project, gas will be made available along the route to Fairbanks and to every community where the need for gas is demonstrated and provision is feasible.

AGPA views itself as a facilitator of a project, bringing together all the participants necessary for a successful project – producers, pipeline builders and operators, LNG terminal builders and operators, LNG ship owners and most importantly the markets for Alaska's gas. We have been encouraged to hear the producers

promise you that they will sell gas necessary for a gasline. This would allow a third party to make firm transportation commitments without risk to the producers.

It is from this perspective that the Alaska Gasline Port Authority views the AGIA legislation and how it can benefit Alaskans.

AGIA APPROACH.

The Port Authority endorses the open and transparent approach of AGIA in which all applicants have the opportunity to submit a proposal that outlines what they require in order to begin work on a gasline project, but also specifies what benefits their project will bring to the state. We do not believe that the state needs to regress back to the position of attempting to negotiate tax breaks with leaseholders in an effort to encourage them to move forward on a gasline project when there are other entities willing and eager to develop the project themselves without such concessions.

We are pleased that the AGIA would require applicants to address certain criteria on issues very important to Alaskans, and then to use these criteria to evaluate proposals. This process ensures that Alaskan interests will be addressed in what most likely will be the most important project for the future of our state.

And now we will comment on some of the specific requirements in the AGIA:

- We support the requirement for rolled in rates on expansion tariffs. We believe that rolled in rates make expansion more likely, and thereby allow for increased exploration and production of our resources. Greater exploration and production is what will ultimately drive the growth of our economy and improve the quality of life for all Alaskans.

- We also are supportive of the requirement for gas offtake points along the pipeline that allows for the maximum use of ANS gas by Alaskans. Gas off take valves are not a prohibitive expense in pipeline construction, and to provide for opportunities for Alaskans to benefit from a cleaner burning, more cost effective energy, plus feed stock for additional petrochemical industries, will truly provide the greater benefit to the people.

- Regarding the $500 million state match, AGPA did not request that this be included in the bill. However, we believe it is appropriate for the state to be willing to invest in commercializing ANS gas for the benefit of its people. In it's current form in the bill, it is not an outright grant, but a reimbursement match by the state for actual work that is done to move a project forward. We believe this provision can be helpful in advancing a project. It also sends a strong message that the State of Alaska is committed to the development of its gas resources. Unlike the previous Administration's proposed contract that provided for in excess of $10 billion in concessions to current North Slope producers, this inducement is available to all pipeline project applicants.

- Industry representatives have come before you insisting that the state contract for "fiscal certainty", or guaranteed tax rates on oil and gas before they will proceed with a gasline project. The Port Authority believes that in order to protect the interests of the people of Alaska, the state legislature should retain the authority to make decisions on the rate of taxation. You should be perfectly clear here that this request is an attempt to go back to the failed process of the stranded gas act.

While the Port Authority would be willing to submit an application under the AGIA in it's current form, we believe the bill can be improved through the legislative process and make the following suggestions for improvements to this legislation:

1. Section 43.90.140(2) (D) ii requires approximately 10 specific areas of information for an LNG project applicant, however if you are an applicant for a project through Canada there are little specifics required as to that route. We would suggest a Canadian line project applicant include (a) a detailed description of all access and tariffs for downstream elements (b) if it is a project to Alberta, how does it get from there to the Midwest (tariffs and terms) (c) where do they intend to offtake the liquids and at what terms (d) who will own and control the facilities. Basically, the same things that they are asking from the LNG project should be included for a Canadian line.
2. Applicants requiring an initial offtake from PBU in an amount greater than that presently allowed by the Alaska Oil and Gas Conservation Commission (AOGCC) should be required to have already filed an application with the AOGCC for a determination that the amount of offtake in excess of the current Rule 9 limit on Prudhoe Bay offtake will be allowed.
3. If the applicant's project requires the discovery of additional gas, they should include a cost estimate and timeline for the additional gas exploration.
4. The applicant should be required to provide an analysis of how their project would affect oil loss and ultimate oil recovery of a field.
5. An additional criterion should be added which would identify if the applicant is making gas liquids available within Alaska for value added processing.
6. Timeliness of project construction should be given a high priority in the evaluation. Alaskans need access to our gas now. Previous net present value analyses have shown that an earlier project brings substantial value to the state.

MANAGING RISK

Throughout the testimony on AGIA so far, much of the discussion has centered around risk associated with a gas line through Canada. The project is described as being so big and unprecedented, it is so expensive, costs have doubled for steel, labor rates have gone up, there is potential volatility in the market, there are insufficient known reserves for a project the size of the proposed Alcan highway project, there is the possibility of cost overruns.

AGPA shares these concerns and offers the following comments:

The most important decision will be in choosing the right sized project – a project that is actually doable within a reasonable time frame that can deliver gas to Alaskans, and that carries the lowest risk of failure.

Some have concluded that a larger project is obviously better. However, if an applicant were to propose a project of 8 to 12 bcf/day, would those same people support that project, assuming it was better, or would the size of the project raise serious questions?

A massively expensive 3600 mile pipeline with rapidly escalating costs through a foreign country requires 4.3 to 6.0 bcf/day to be remotely feasible. However, a project of this size contains certain inherent risks. First, it requires the full participation of every producer on the North Slope. The testimony given and the history of negotiations in the past administration shows clearly that there are different levels of commitment and urgency among the companies involved.

When one company can hold out for maximum leverage against the state and the other participants, everyone is in a compromised negotiating position. Furthermore, such a project requires immediate commencement of significant

exploration activities, as the gas reserves required to supply such proposed volumes exceed what is currently discovered on the North Slope.

An initial 2bcf/day project as proposed by the Port Authority can be done with the state's gas, one or two of the majors, and a group of independent explorers and producers. The project can be expanded later through additional LNG trains when new reserves are identified and produced, or through the implementation of a tie in at Delta Junction for a Canadian Highway line.

The major factor in cost increases of the Canadian gasline is the uncertainty surrounding the capital cost of the pipeline, including the cost of steel. In this regard the much shorter pipeline length of an All Alaskan project is a distinct advantage as a smaller fraction of overall project cost will be subject to the high cost overrun risk associated with the pipeline. By comparison, the costs of liquefaction facilities and LNG tankers will be subject to a substantially smaller degree of uncertainty. For example, BGT, an LNG shipping company with whom we have a memorandum of understanding, has 8 US built LNG tankers that are already in existence that will be available to transport LNG from our project. The ships are already built, thereby avoiding any risk of unknown construction costs associated with the shipping.

The Port Authority's view of how our project will come together also mitigates financing and cost overrun risk. Our view is that we will facilitate a consortium of producers, pipeline builders, LNG terminal builders and operators, tanker owners and operators and end market buyers to secure financing for the project. These elements can be committed and financed by the companies specializing in these areas, thereby reducing the risk to the overall project. You have heard testimony from many of these potential participants and I think you would have to agree that they all bring important contributions to a project.

A Canadian highway pipeline project also carries the risk of legal and regulatory uncertainty based on competing claims of permits and licenses, unresolved First Nations claims, new environmental permitting requirements. etc.

By comparison, the Port Authority already holds the right of way and many of the senior environmental and regulatory permits for its project, giving a timing advantage over a project that would have to start from scratch. This also includes a right of way agreement with the Ahtna Corporation, the only private land owner on the route. The Port Authority project is in the congressionally designated corridor for gaslines and does not require extensive negotiations with thousands of land owners in its route.

An LNG project must address the risk of available receiving terminals and end markets on the West Coast and must also identify total transportation costs. We recognize these challenges and will address them in detail when we present our project.

AGIA clearly requires that an applicant address cost overrun and potential delay factors in its application. The open and transparent nature of AGIA ensures that you will have full access to this information, so that you can judge this for your selves.

Without question, we feel that an All Alaskan project will carry a much lower risk profile than a much larger Canadian project, may be more practical in terms of feasibility, and may be able to move ahead in a more timely fashion that will deliver gas to Alaskans.

The risk profile of greatest concern to all of us should be the risk to Alaska's future if Alaska gas misses the market window in the lower 48. Almost all project risks can be mitigated. However, if Alaska's gas misses this market opportunity, it will be Alaska alone that suffers the consequences.

We ask that you keep an open mind and allow the AGIA process to move forward so that all these issues can be addressed in an open, comparative process.

Thank you for your time and we would be happy to answer any questions you may have.

ALASKA STATE LEGISLATURE

Sen. Charlie Huggins, Chair
Sen. Bert Stedman, Vice Chair
Sen. Lyda Green
Sen. Gary Stevens
Sen. Lesil McGuire
Sen. Bill Wielechowski
Sen. Thomas Wagoner

State Capitol, Room 119
Juneau AK 99801-1182
907-465-3878
Fax: 907-465-3265
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Senate Resources Committee

Butrovich Room 205

Tuesday, March 27, 2007

AGENDA

- **SB 104 – Natural Gas Pipeline Project**
  "An Act relating to the Alaska Gasline Inducement Act; establishing the Alaska Gasline Inducement Act matching contribution fund; providing for an Alaska Gasline Inducement Act coordinator; making conforming amendments; and providing for an effective date."

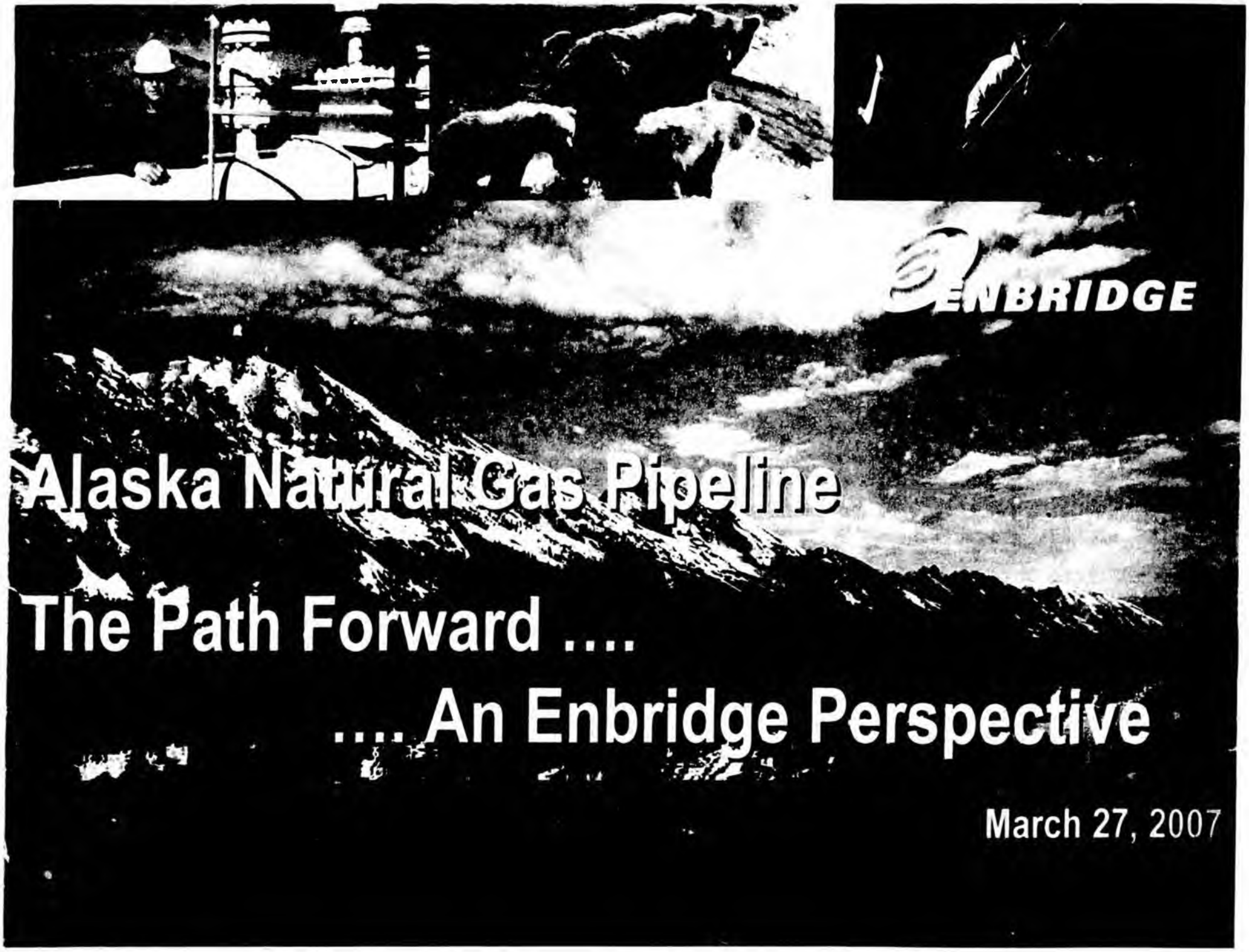
3:00 – 6:00

Presentation

Enbridge Inc.

Ron Brintnell – Director, Gas Development

Darren T. Cleveland – Manager, Gas Development



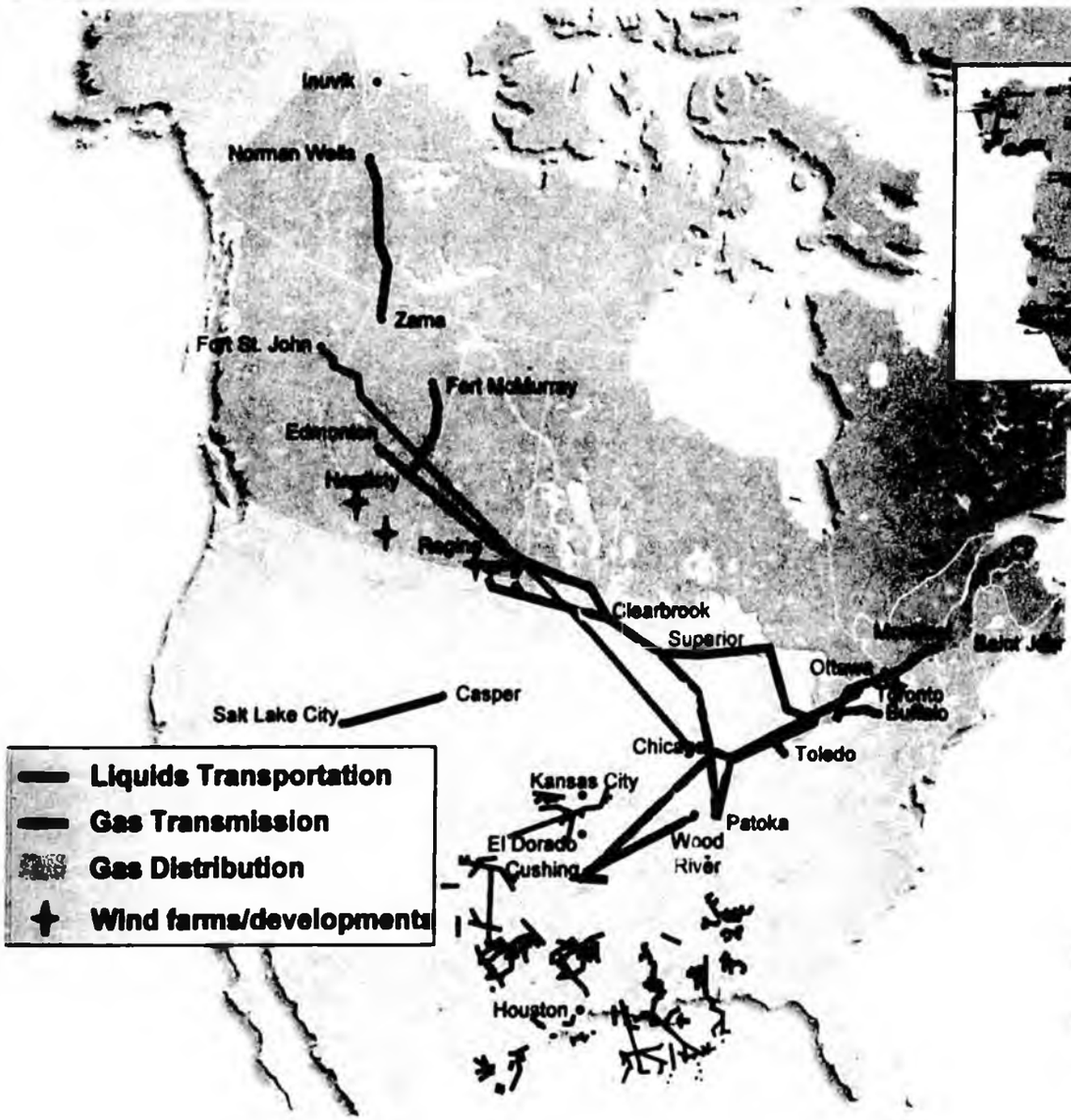
Alaska Natural Gas Pipeline

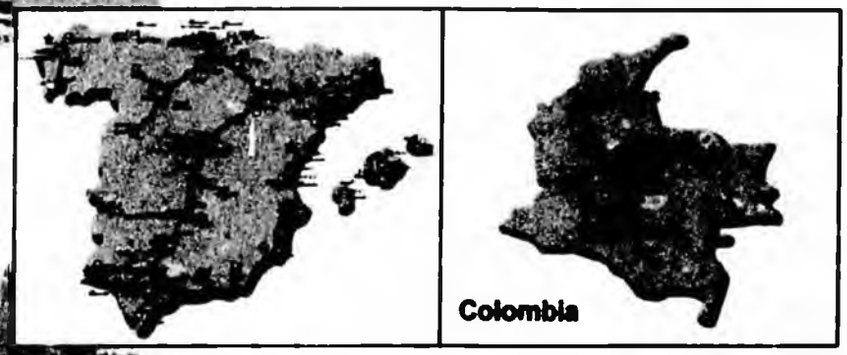
The Path Forward ....

....An Enbridge Perspective

March 27, 2007

Enbridge Overview



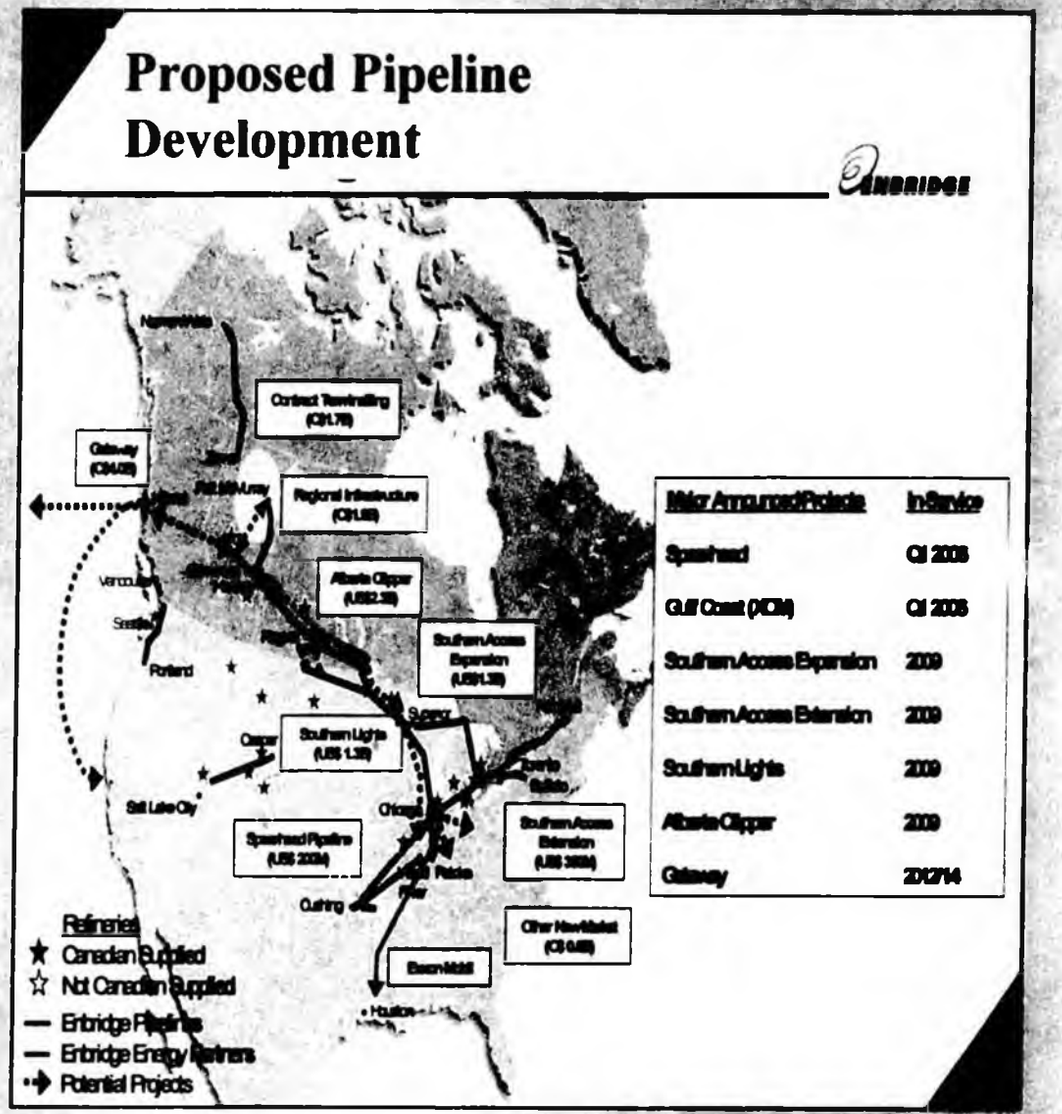


- **Interest in 50,000 miles of pipelines**
- **Own and operate world's longest liquid petroleum pipeline**
- **Deliver 70% of WCSB crude oil production**
- **Deliver half of deep water Gulf of Mexico natural gas production**
- **Canada's largest natural gas local distribution company**
- **Employ 4,900 people**
- **One of the *Global 100 Most Sustainable Corporations in the World***

Unparalleled Experience
Recent Pipeline Development

ENBRIDGE

- $15 billion over the next 10 years
  - Unmatched recent experience managing labor, construction, procurement, environment, regulatory and cost-control challenges
  - Today's development environment is substantially different than 10 years ago
- Alliance Pipeline
  - Technical and commercial similarities



Moving the Pipeline Forward

ENBRIDGE

- Process ***Requires State – Producer alignment***
  - No producers No pipeline
    - Timing is Key – market degredation/capital competition
    - Focus on what is essential vs. what is desirable
      - Producers' goals / motivations
      - North American supply / demand fundamentals make timing critical
      - The FERC Regulatory process is well defined and will work

Moving the Pipeline Forward

ENBRIDGE

- AGIA introduced as a catalyst to expedite the construction of a natural gas pipeline
  - Applaud the new Administration's high priority given to moving the pipeline development forward
- AGIA process will likely not produce the desired results because:
  - AGIA focus is on the pipeline and not Producer alignment
  - Project is too risky to move forward without Producer commitment
    - Enbridge will not participate in AGIA or any other similar process unless we are part of a consortium that includes producer commitment
- AGIA adds unnecessary regulatory layer
  - FERC process well defined and effective

Why Producer Involvement is Important

ENBRIDGE

- Promotes efficient development through:
  - Alignment
  - Financial resources
  - Previous experience
- Most importantly they will bear lion's share of risk

Project Progression

ENBRIDGE

- Binding shipper commitment is required prior to spending significant $'s on regulatory applications
  - Not commercially prudent to assume producers will show, or that gas can be "acquired"
  - Risk too high even with government cost sharing
- Even binding shipper/pipeline agreements will have conditions including:
  - An acceptable FERC Certificate
  - Acceptable Financing
  - Shipper resolution of Alaska state taxation issues
  - Defined project milestones / timing
- An unconditional commitment to proceed will not happen
  - Regulatory certificates may have conditions making project uneconomic
  - Events between application and certificate could make project uneconomic

Regulatory Application

- FERC and NEB (Canadian) applications require:
  - Detailed project cost evaluation
  - Project management plan
  - Environmental assessment
  - Stakeholder engagement
  - Finalization of tariff structure (Cost of Service / Incentives)
  - Environmental assessment

In Conclusion

ENBRIDGE

Enbridge believes:

- AGIA does not resolve producer fiscal (tax) concerns
- Producers unlikely to commit to pipeline brought forward by another company under AGIA unless and until fiscal issues resolved
- Producer support is required and achievable without AGIA
- Government financial assistance not essential
- Government can achieve key goals without adding to regulatory process
- An unconditional commitment to proceed with project is not achievable

ALASKA STATE LEGISLATURE

Sen. Charlie Huggins, Chair
Sen. Bert Stedman, Vice Chair
Sen. Lyda Green
Sen. Gary Stevens
Sen. Lesil McGuire
Sen Bill Wielechowski
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Senate Resources Committee

Butrovich 205

Thursday, March 29, 2007

AGENDA

- **SB 104 – Natural Gas Pipeline Project**
  "An Act relating to the Alaska Gasline Inducement Act; establishing the Alaska Gasline Inducement Act matching contribution fund; providing for an Alaska Gasline Inducement Act coordinator; making conforming amendments; and providing for an effective date."

5:00 – 6:30

Presentation

Kern River Transmission Co, subsidiary of **Mid American Energy Holding Co.**

Kirk Morgan, President

Testimony of Kirk Morgan, President Kern River Gas Transmission Company
to the State of Alaska
Senate Resources Committee
March 29, 2007

Good afternoon.

Thank you Mr. Chairman, I appreciate the opportunity to testify to this committee on behalf of MidAmerican Energy Holdings Company concerning the proposed Alaska Gasline Inducement Act.

My name is Kirk Morgan. I am president of Kern River Gas Transmission Company, a wholly owned subsidiary of MidAmerican Energy Holdings Company. MidAmerican has assets totaling $37 billion and an employee base of 18,000. MidAmerican, through Kern River and its sister company, Northern Natural Gas, owns and operates more than 17,500 miles of interstate natural gas transmission pipelines with a combined capacity exceeding 6.4 Bcf/d. MidAmerican's pipelines deliver approximately 8.3% of the natural gas delivered in the United States. The Kern River pipeline, which our company built in 1991, brings natural gas from the Rocky Mountain supply basins across 926 miles of rugged mountainous and remote desert terrain to customers in Utah, Nevada and California. Kern River was the largest gas pipeline project to have been built in the United States in more than a decade. In 2003, Kern River expanded the pipeline, more than doubling its capacity, adding 717 miles of 36-inch and 42-inch diameter pipeline. The $1.2 billion project was completed on time, $87 million under budget, and helped restore stability to energy markets in the Western United States.

MidAmerican is a subsidiary of Berkshire Hathaway, Inc. Berkshire is one of only a few companies in the world with a AAA credit rating. Berkshire has a market capitalization in excess of $160 billion. It is recognized world-wide for financial strength, investment acumen and integrity.

The development of Alaska's huge natural gas reserves is essential to both Alaska and the United States. Projected market growth, combined with a decline in North American production, has created a growing supply/demand imbalance that cannot be adequately addressed by traditional gas supply basins alone. Alaska's natural gas is needed to help ensure energy security, reliability and price stability in the United States.

The Alaska natural gas pipeline project is unprecedented in its scale and complexity. The successful development of the project will require an alignment of stakeholder interests, including the state of Alaska, the North Slope producers, future North Slope explorers and producers, a pipeline developer, shippers and the federal government.

Projects of this scale can be easily delayed. (That has been the history of this project.) Only through proper planning, organization and execution can the project achieve its goals to accelerate development of Alaska's natural gas resources and transport gas to lower 48 markets at the lowest reasonable cost. To do otherwise will relegate this project and development of this resource to reacting to the next energy crisis where goals are frequently compromised in the interest of expediency.

MidAmerican has a serious interest in developing this project in a manner that is consistent with the state of Alaska's interests. From our perspective, the negotiations conducted by the pervious administration under the Stranded Gas Act were not fruitful for many reasons. Foremost among these were that they produced proposals not supported by the people of the state; they failed to give serious consideration to alternative proposals for development; and they consumed years without advancing the project.

We believe AGIA is a positive step toward revitalizing the gas pipeline development process in a way that will move the project forward. The bill will allow consideration of competing proposals and ideas for developing the pipeline. The state benefits from such competition. The bill offers positive inducements to those who already have discovered gas to commit to the pipeline, while defining tariff provisions that will encourage new exploration. And the bill offers inducements to a pipeline developer to advance the project in a manner that the state defines as in its best interest. Perhaps most importantly, the bill establishes a process where each party that proposes to develop the line must make meaningful commitments to development milestones for the legislature and the public to see what it will and will not do and by what dates.

AGIA is a good first step. AGIA is an open, transparent and competitive process designed to advance the project on a deliberate schedule and in a manner that achieves the overarching goals of the State which are to 1) encourage new exploration on the North Slope, 2) provide for expansion of the pipeline as new reserves are brought into production, 3) achieve the lowest cost commercially reasonable tariff, 4) create jobs for Alaskans, and 5) provide natural gas to Alaskans for in-state use.

AGIA recognizes the magnitude of front-end development risks and offers to share that risk, in a significant way, by offering dollar-for-dollar matching of initial development expenditures, by offering worker training for Alaskans, and by committing to expedite state permitting requirements. These, plus separate inducements offered to resource owners, are significant commitments which signal to the marketplace that the project is moving on a serious and credible path to completion. In the absence of such progress, markets will have no alternative than to seek other means to meet market demand. The most significant alternative would be to allow imported LNG even greater market access, uncontested by development of Alaska's natural gas resources.

While LNG is certainly a necessary part of the natural gas resource mix, it makes little policy sense to unnecessarily increase our reliance on foreign energy from many unstable and unpredictable regions around the world. This project, in MidAmerican's view, is undeniably necessary and the time is now to push it forward. The key to moving the project forward is to determine the appropriate balance of risks and rewards for all stakeholders.

There is an alternate approach. The North Slope producers have for years articulated their "must haves" before advancing the project. You have heard these prerequisites before including: 1) tax and royalty certainty on gas and on oil, 2) regulatory certainty in both the U.S. and Canada, 3) cost reductions through technological advancements, and 4) federal enabling legislation.

This approach is effectively saying that the project will get started if and when all of the pre-conditions have been met and all concessions have been extracted. This approach has proven to be ineffective in advancing the project.

MidAmerican's approach is different. We believe the project can be advanced concurrent with resolution of issues that today remain outstanding. I want to emphasize MidAmerican's view that alignment of stakeholder interests is essential. Parties will understandably act in their self-interest and in their own business interest. That is why stakeholder interest alignment is critical to a successful project. That alignment must clearly set forth the roles and responsibilities of each party, as well as the commercial structure which will balance the risks and rewards, such that investment expectations will be known up front. Our approach does not exclude interested parties or discount new ideas which may be offered to help manage project risks. We know that even if the pipeline is developed by an independent developer, the North Slope producers will play the crucial role as shippers on the line and sellers of gas to other shippers. MidAmerican, as an independent pipeline, is impartial and in a unique position to help facilitate solutions when stakeholders' interests diverge. We are confident that an appropriate capital structure and rate design, coupled with our low cost of capital and project experience, can result in a project structure with appropriate allocations of risk and reward for all stakeholders, including the state of Alaska and the producers.

Indeed, MidAmerican believes that an independent pipeline provides the best alignment of interests. National energy policy promotes, in fact requires, competition and the unbundling of market segments. For example, the market structure in the United States typically requires that exploration and production, interstate transportation, marketing and distribution be performed by separate companies. Competition, not market concentration, will lead to efficient markets. MidAmerican has no upstream, downstream or global commercial interest that would create any conflicts of interest or raise any type of market power concern with respect to this project. Accordingly, MidAmerican's interests align extremely well with the state of Alaska and include:

1) Accelerating development of this critically important project;
2) Achieving the lowest cost commercially reasonable tariff;
3) Offering a commercial structure that encourages new exploration and production to both expand and extend the life of the pipeline. Thirty-five Tcf implies only a 22-year project life, and new discoveries are critical to fill the pipeline over its useful life;
4) Providing open-access, non-discriminatory transportation services to ensure both receipts and deliveries are provided for in-state use; and
5) Ensuring Alaskan jobs and workforce development. The state's commitment to workforce training and development is extremely important. Skilled labor shortage is one of the contributing factors in construction cost increases throughout the industry. A skilled Alaskan workforce will not only ensure jobs for Alaskans, but will help address an industry-wide demand for these workers.

The process set forth in AGIA will allow these ideas, and all parties' ideas and proposals, to be advanced and tested in an open and transparent manner. We support that process and while we can understand debate over what constitutes the best pipeline development proposal, it is harder to understand why parties would object to a process that calls for an open and transparent comparison of proposals. We urge the legislature to approve this legislation this session, so that a pipeline developer can be selected in a time frame that will allow a productive 2008 field season for engineering and environmental programs to be conducted.

That concludes my prepared testimony. Thank you for the opportunity to appear before you today. I would be happy to address any questions.

JUST THE **FACTS**

Kern River Gas Transmission Company

Overview

The Kern River pipeline system transports natural gas for delivery into Utah, Nevada and California. Extending from the gas-producing fields in Wyoming to Bakersfield, Calif. Kern River delivers more than 1.7 billion cubic feet of natural gas per day to customers along the pipeline system.

Kern River is a subsidiary of MidAmerican Energy Holdings Company.

Design Capacity

Kern River has a design capacity of 1.7 billion cubic feet per day – enough to serve more than 10 million typical residential natural gas customers per day.

Pipeline Length and Size

The Kern River pipeline system totals 1,680 miles, of which more than 1,300 miles are 36-inch diameter steel pipe. By state, 154 miles are located in Wyoming, 712 miles in Utah, 276 miles in Nevada and 538 miles in California.

Compressor Stations

The Kern River system has 11 compressor stations – four in Wyoming, four in Utah, two in Nevada and one in California. Total system compression is approximately 286,000 horsepower.

2006 Revenues

$325.2 million

History

- February 1992 – Original pipeline system placed in service
- July 2001 – California Action Project placed in service
- May 2002 – 2002 Expansion Project placed in service
- August 2002 – High Desert lateral and meter station placed in service
- December 2002 – Bighorn lateral and meter station placed in service
- May 2003 – 2003 Expansion Project placed in service

Officers

Kirk T. Morgan, President
Micheal G. Dunn, Vice President, Operations, IT and Engineering
John T. Dushinske, Vice President, Marketing and Regulatory Affairs
Richard N. Stapler, Jr., Vice President and General Counsel

Offices

Headquarters
- Salt Lake City

District Offices
- Evanston, Wyo.
- Fillmore, Utah
- Las Vegas

Kern River
GAS TRANSMISSION COMPANY
A MIDAMERICAN ENERGY HOLDINGS COMPANY

February 2007

about | us

Fact Sheet

Operating Revenues:	$10.3 billion
Total Assets:	$36.4 billion
Customers (total gas and electric):	6.9 million
Electric:	6.2 million
Natural Gas:	696,000
Total Generation Capacity:	Approx. 20,500* megawatts
Total Electricity Distributed (2006):	Approx. 121 billion kilowatt-hours
Total Natural Gas Supplied (2006):	Approx. 1.81 billion dekatherms
Electricity Transmission and Distribution Lines:	Approx. 158,400 miles
Natural Gas Transmission and Distribution Pipelines:	Approx. 40,000 miles
Natural Gas Transmission Pipeline Design Capacity:	Approx. 6.7 billion cubic feet per day in service
Total Employees:	Approx. 17,800

* Owned, contracted and in operation, construction and advanced development

Senior Management:

David L. Sokol:	Chairman and Chief Executive Officer
Gregory E. Abel:	President and Chief Operating Officer
Patrick J. Goodman:	Senior Vice President and Chief Financial Officer
Douglas L. Anderson:	Senior Vice President, General Counsel and Corporate Secretary
Keith D. Hartje:	Senior Vice President, Communications, General Services and Safety Audit and Compliance
Maureen E. Sammon:	Senior Vice President, Human Resources, Information Technology and Insurance

Primary Subsidiaries:

MidAmerican Energy:	MidAmerican Energy Company InterCoast Capital Company Midwest Capital Group
PacifiCorp:	PacifiCorp Energy Pacific Power Rocky Mountain Power
CE Electric UK:	Northern Electric Distribution Integrated Utility Services Yorkshire Electricity Distribution CalEnergy Gas (U.K.) Ltd.
CalEnergy Generation:	CE Generation LLC (50 percent interest) CE International Investments, Inc. CE Electric (NY) Inc. CalEnergy Pacific Holding Corp.
Kern River Gas Transmission:	Design capacity: More than 1.7 Bcf/d
Northern Natural Gas:	Design capacity: 4.9 Bcf/d
HomeServices of America, Inc.:	Carol Jones REALTORS CBSHOME Real Estate

Champion Realty
Edina Realty Home Services
Esslinger-Wooten-Maxwell REALTORS
First Realty/GMAC
Harry Norman, REALTORS
HOME Real Estate
Huff Realty
Iowa Realty
Jenny Pruitt and Associates REALTORS
Long Realty
Prudential California Realty
Prudential Carolinas Realty
RealtySouth
Rector-Hayden REALTORS
Reece & Nichols
Roberts Brothers, Inc.
Semonin REALTORS
Woods Bros. Realty

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P.O. Box 657
Des Moines, IA 50303-0657

Web site:

http://www.midamerican.com

ALASKA STATE LEGISLATURE

Sen. Charlie Huggins, Chair
Sen. Bert Stedman, Vice Chair
Sen. Lyda Green
Sen. Gary Stevens
Sen. Lesil McGuire
Sen. Bill Wielechowski
Sen. Thomas Wagoner

State Capitol, Room 119
Juneau AK 99801-1182
907-465-3878
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Senate Resources Committee

Butrovich Room 205

Friday, March 30, 2007

AGENDA

- **SB 104 – Natural Gas Pipeline Project**
  "An Act relating to the Alaska Gasline Inducement Act; establishing the Alaska Gasline Inducement Act matching contribution fund; providing for an Alaska Gasline Inducement Act coordinator; making conforming amendments; and providing for an effective date."

1:30 – 5:30

Evaluation and Discussion w/Governor's Cas Team of Public, Industry, Government & Consultants Input Since Introduction of AGIA

Tom Irwin, Commissioner, DNR
Marty Rutherford, Dep. Commissioner, DNR
Pat Galvin, Commissioner, DOR
Marcia Davis, Dep. Commissioner, DOR
Kevin Banks, Director, Division of Oil & Gas, DNR
Kurt Gibson, Dep. Director, Division of Oil & Gas, DNR

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
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Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM March 30, 2007

SUBJECT: CSSP 104(RES) (Work Order No. 25-GS1060\C)

TO: Senator Charlie Huggins
Chair of Senate Resources Committee

FROM: Donald M. Bullock Jr.
Legislative Counsel

Enclosed is a draft version of CSSB 104(RES). Please read this version carefully to ensure that it is consistent with your intent.

This version makes the tax and royalty inducements to shippers a matter of contract. Although the state's leases are contracts with the leaseholders, suspending or contracting away the power to tax is prohibited by art. IX, sec. 1 of the state constitution. In my opinion, the tax inducement is not an exemption granted by general law for the purposes of art. IX, sec. 4 of the state constitution that provides exceptions to art. IX, sec. 1.

Although the draft language you provided me proposed the use of the appeal and protest provisions in the state's procurement code for an appeal or protest of the licensing process in the bill, those provisions use terms and references that are incompatible. In this draft of the bill, the commissioners are directed to adopt regulations that provide appeal and protest procedures that are "substantially similar" to those under the procurement code.

In this draft, the commissioner of labor and ...force development will have the responsibility for developing the job training program in article 4. The language you provided, "the state will develop," lacks the specification of which agent of the state will actually develop the program. "The state will develop" language does not establish the program, but designating a commissioner to take action will provide for the development of the program.

DMB:lmb
07-084.lmb

Enclosure

25-GS1060\C
Bullock
3/30/07

CS FOR SENATE BILL NO. 104(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered:
Referred:

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

"An Act relating to the Alaska Gasline Inducement Act; establishing the Alaska Gasline Inducement Act matching contribution 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:

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

Chapter 90. Alaska Gasline Inducement Act.

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

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

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

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

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

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

Article 2. Alaska Gasline Inducement Act License.

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

(b) Nothing in this section precludes a person's pursuing a gas pipeline independently from this chapter.

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

(1) state matching contributions in an amount not to exceed $500,000,000, paid in total to the licensee over a five-year period; the payment period may be extended by the commissioners under an amendment or modification of the project plan under AS 43.90.220; the payment period commences on the date of the issuance of the license; payments under this paragraph shall be made according to the following:

(A) on or before the close of the first binding open season, the state shall match the licensee's qualified expenditures at the level specified in the license; however, the state's contribution may not be more than 50 percent of the qualified expenditures incurred before the close of the first binding open season;

(B) after the close of the first binding open season, the state shall match the licensee's qualified expenditures at a level specified in the license; however, the state's matching contribution may not be greater than 80 percent of the qualified expenditures incurred after the close of the first binding open season;

(C) qualified expenditures are costs that are incurred after the

license is issued under this chapter by the licensee or the licensee's designated affiliate, and are directly and reasonably related to obtaining a certificate of public convenience and necessity from the Federal Energy Regulatory Commission or the Regulatory Commission of Alaska, as appropriate, for development of the project; in this subparagraph, "qualified expenditures" does not include overhead costs, litigation costs, assets, or work product predating the issuance of the license, 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 43.90.400.

Sec. 43.90.120. Abandonment of project. (a) If the commissioners and the licensee agree that the project is uneconomic and should be abandoned, inducement provided for in AS 43.90.110 terminates, and, except for requirements imposed on the licensee under (d) of this section and AS 43.90.230, the state and the licensee no longer have any obligations under this chapter with respect to the license.

(b) If the commissioners or the licensee independently determines that the project is uneconomic and should be abandoned, but the other party does not agree, the disagreement shall be settled by arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrators may be entered in any court having jurisdiction thereof. In the event of arbitration, each party shall select an arbitrator, and the two arbitrators shall appoint a third arbitrator from the American Arbitration Association's National Roster who shall serve as the chair of the three-member arbitration panel. If the arbitration panel determines that the project is

(1) uneconomic and should be abandoned, the state and the licensee no longer have any obligations under this chapter with respect to the license, except for requirements imposed on the licensee under (d) of this section and AS 43.90.230;

(2) not uneconomic and should not be abandoned, the project may not be abandoned, and the obligations of the licensee and the state continue as provided under this chapter and the license.

(c) If the state makes a payment to the licensee under AS 43.90.540, the license is considered abandoned, and the state and the licensee no longer have any

obligations under this chapter with respect to the license, except that the licensee must comply with the

(1) requirements imposed on the licensee under AS 43.90.230 regarding state money received by the licensee before the license was considered abandoned; and

(2) requirements of AS 43.90.540.

(d) If the licensee and the state agree or if a licensee prevails in an arbitration in establishing that the project is uneconomic and should be abandoned, the licensee shall assign to the state or the state's designee all project data, engineering designs, contracts, and permits related to the project that are acquired by the licensee during the term of the license upon reimbursement by the state to the licensee of the licensee's net costs.

Sec. 43.90.130. Request for applications for the license. (a) The commissioners shall commence a public process to request applications for a license under this chapter within three months after the effective date of this chapter.

(b) The commissioners may use independent contractors to assist in developing the provisions for the application for a license 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, but the commissioners shall adopt regulations that provide protest and appeal procedures relating to the solicitation of applications and award of a license that are substantially similar to the procedures in AS 36.30.550 - 36.30.699.

Sec. 43.90.140. Application requirements. An application for a license must be consistent with the terms of the request for applications under AS 43.90.130 and must

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

(2) provide a detailed description of a proposed natural gas pipeline project for transporting natural gas from the North Slope of this state to market, including

(A) the route proposed for the natural gas pipeline;

(B) receipt and delivery points and the size and design capacity of the proposed natural gas pipeline at the proposed receipt and delivery points, except that this information is not required for in-state delivery points;

(C) an analysis demonstrating the project's economic and technical viability as required in the request for applications;

(D) an economically and technically viable work plan, timeline, and associated budget for developing the proposed project, including how the applicant will perform field work, environmental studies, design, and engineering, and how the applicant will comply with all applicable state, federal, and international regulatory requirements that affect the proposed project; the work plan must address the following:

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

(ii) if the proposed project involves marine transportation of liquefied natural gas, a description of the pipeline route, system, and capacity to bring North Slope gas to tidewater, including a description of transportation services to be provided and a description of proposed rate-making methodologies; an estimate of rates and charges for all services by third parties; a detailed description of all access and tariff terms the applicant would propose for liquefaction services or, if third parties would perform liquefaction services, identify the third parties and the terms they would offer; a complete description of the proposed ownership, control, and cost of liquefied natural gas tankers, the management of shipping services, liquefied natural gas export, destination, re-gasification facilities, and pipeline facilities needed for transport to market destinations, and the entity or entities that would be required to obtain necessary export

permits or a certificate of public convenience and necessity from the Federal Energy Regulatory Commission for the transportation of liquefied natural gas in interstate commerce if United States markets are proposed; and all rights-of-way or authorizations required from a foreign country;

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

(A) conclude, by a date certain that is not later than 36 months after the date the license is issued, a binding open season that is consistent with the requirements of Subpart B of 18 C.F.R. Part 157 (Open Seasons for Alaska Natural Gas Transportation Projects) and 18 C.F.R. 157.30 - 157.39;

(B) apply for Federal Energy Regulatory Commission approval to use the pre-filing procedures set out in 18 C.F.R. 157.21 by a date certain, and use those procedures before filing an application for a certificate of public convenience and necessity; and

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

(4) commit that if the proposed project is within the jurisdiction of the Regulatory Commission of Alaska, the applicant will

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

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

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

(6) commit to expand the proposed project in reasonable engineering

increments and on commercially reasonable terms that encourage exploration and development of gas resources in this state; in this paragraph,

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

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

(7) commit that the applicant

(A) will propose and support recovery of mainline capacity expansion costs from all mainline system users through rolled-in rates if the recovery of all expansion costs through rolled-in rates would increase existing shippers' rates by not more than 15 percent of the initial maximum recourse rates from the North Slope to the proposed project's downstream terminus; if rolled-in expansion costs would increase existing shippers' rates from the North Slope to the project's downstream terminus by more than 15 percent, the applicant will propose and support the partial roll-in of mainline expansion costs from all mainline system users to the extent that existing shippers' rates would not be increased by more than 15 percent of the initial maximum recourse rates from the North Slope to the proposed project's downstream terminus; in this subparagraph, "initial maximum recourse rates" means the highest cost-based rates for any specific transportation service set by the Federal Energy Regulatory Commission, the Regulatory Commission of Alaska, or the National Energy Board of Canada, as appropriate, at the time of the initial regulatory approval of the proposed project;

(B) may propose any combination of incremental or rolled-in

rates for recovery of costs of mainline capacity expansion that exceeds the 15 percent level described in (A) of this paragraph;

(C) agrees not to enter into negotiated rate agreements that would preclude the applicant from collecting from any shipper, including shippers with negotiated rate agreements, the rolled-in rates that are required to be proposed and supported by the applicant under (A) of this paragraph; in this subparagraph, "negotiated rate agreements" means transportation service agreements that are subject to rates that vary from the otherwise applicable cost-based rates, or recourse rates, set out in a gas pipeline's tariff approved by the Federal Energy Regulatory Commission, the Regulatory Commission of Alaska, or the National Energy Board of Canada, as appropriate;

(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 that 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 and, 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 to be specified in the license, that will define the level of the state's matching contribution under AS 43.90.110(1) and (2);

(10) commit that the applicant will 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 by which the applicant plans to manage overruns in costs of the proposed project, if any, and the measures that the applicant proposes to mitigate the effects of any overruns;

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

(13) commit to offer firm transportation service to delivery points in this state as part of the tariff regardless of whether any shippers bid successfully in a binding open season for firm transportation service to delivery points in this state, and commit to offer distance-sensitive rates to delivery points in this state consistent with 18 C.F.R. 157.3( )(8);

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

(15) commit to hire qualified residents from throughout this state for management, engineering, construction, operations, maintenance, and other positions on the proposed project and to contract with businesses located in this state to the extent permitted by law;

(16) commit to negotiate, before construction, a project labor agreement, to ensure expedited construction and labor stability for the project by qualified residents of the state;

(17) commit that the state matching contribution received by a licensee may not be included in the applicant's rate base, and shall be used as a credit against licensee's cost of service; and

(18) otherwise demonstrate that the applicant is ready and able to perform the activities specified in the application, including the detailed work plan, timeline, and associated budget.

Sec. 43.90.150. Initial application review; additional information requests; complete applications. (a) The commissioners shall review each application submitted under AS 43.90.130 to determine whether it is consistent with the terms of the request for applications and meets the requirements of AS 43.90.140. The commissioners shall reject any application that does not meet those terms and requirements.

(b) To evaluate an application not rejected under (a) of this section, the commissioners may request from an applicant additional information relating to the application.

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

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

Sec. 43.90.160. Proprietary information and trade secrets. (a) At the request of the applicant, information submitted under this chapter that the applicant identifies and demonstrates is proprietary or is a trade secret is confidential and not subject to public disclosure under AS 40.25, unless the applicant is granted a license under his chapter. After a license is awarded, all information submitted by the licensee shall be made public.

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

(c) An applicant that challenges the award of a license or the process for making the award shall be considered to have consented to the disclosure of all the information submitted under this chapter by the applicant making the challenge, including information held confidential under (a) of this section.

(d) In this section, "proprietary" means that the information is treated by the applicant as confidential and the public disclosure of that information would adversely affect the competitive position of the applicant or materially diminish the commercial value of the information to the applicant.

Sec. 43.90.170. Application evaluation and ranking. (a) The commissioners shall evaluate all applications determined to be complete under AS 43.90.150 and rank each application according to the net present value of the anticipated cash flow to the state from the applicant's project proposal using the factors in (b) of this section and weighted by the project's likelihood of success based on the commissioners'

assessment of the factors listed in (c) of this section.

(b) When evaluating the net present value of anticipated cash flow to the state from the applicant's project proposal, the commissioners shall consider

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

(2) the wellhead value of the gas determined by the destination market value of the gas and estimated transportation costs;

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

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

(5) the amount of the matching contribution by the state under AS 43.90.110(1)(B) proposed by the applicant under AS 43.90.140(9); and

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

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

(1) the reasonableness, specificity, and feasibility of the applicant's work plan, timeline, and budget required to be submitted under AS 43.90.140, including the applicant's plan to manage cost overruns, insulate shippers from the effect of cost overruns, and encourage shippers to participate in the first binding open season;

(2) the financial resources of the applicant;

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

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

(5) the applicant's record of

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

(B) integrity and good business ethics; and

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

(d) In this section, "net present value" means the discounted value of a future stream of cash flow.

Sec. 43.90.180. Notice, review, and comment. (a) The commissioners shall publish notice and provide a 60-day period for public review and comment on all applications determined complete under AS 43.90.150.

(b) Applications received under this chapter are not public records and are not subject to public disclosure under AS 40.25 until the commissioners publish notice under this section. However, information that the commissioners have determined is confidential under AS 43.90.160 may not be made public even after the notice is published under (a) of this section, except as otherwise provided by AS 43.90.160. If information is held confidential under this subsection, the applicant shall provide a summary that is satisfactory to the commissioners, and the commissioners shall make the summary of the information available to the public.

Sec. 43.90.190. Notice to the legislature of intent to issue license; denial of license. (a) If, after evaluation of complete applications under AS 43.90.170 and consideration of public comments received under AS 43.90.180, the commissioners determine that an application would sufficiently maximize the benefits to the people of this state and merits issuance of a license under this chapter, the commissioners shall

(1) issue a determination, with written findings addressing the basis for the determination; the determination becomes a final agency action in accordance with AS 43.90.200;

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

(3) forward the notice under (2) of this subsection, along with the findings, supporting documentation, and determination under (1) of this subsection, to the legislature for action as provided in AS 43.90.200.

(b) If, after evaluation of complete applications under AS 43.90.170, the commissioners determine that no application sufficiently maximizes the benefits to the people of this state and merits issuance of a license under this chapter, the

commissioners shall issue a written finding that addresses the basis for that determination.

(c) The commissioners' determination under (b) of this section is a final agency action for purposes of appeal to the court under the Alaska Rules of Appellate Procedure.

Sec. 43.90.200. Legislative approval; issuance of license. (a) After receiving a determination from the commissioners under AS 43.90.190, the House standing committee and the Senate standing committee having jurisdiction over natural resources shall introduce a joint resolution in their respective chambers that provides for the approval of the license proposed to be issued by the commissioners.

(b) If a resolution approving the issuance of the license is approved by both houses of the legislature, the commissioners may issue the license as soon as practicable after the passage of the resolution. The issuance of the license approved by the legislature is a final administrative action on the date the license is issued for purposes of appeal to the superior court.

(c) If a resolution approving the issuance of the license does not pass both houses of the legislature, the commissioners may request new applications for a license under AS 43.90.130.

Sec. 43.90.210. Certification by regulatory authority and project sanction. (a) A licensee that is awarded a certificate of public convenience and necessity for the project by the Federal Energy Regulatory Commission if the project is engaged in interstate commerce, or the Regulatory Commission of Alaska if the project is not engaged in interstate commerce, shall accept the certificate when all rights of appeal relating to the certificate have expired.

(b) If the licensee has credit support sufficient to finance construction of the project through ownership of rights to produce and market gas resources, firm transportation commitments, or government financing, the licensee shall sanction the project within one year after the effective date of the certificate of public convenience and necessity issued by the Federal Energy Regulatory Commission or the Regulatory Commission of Alaska, as applicable.

(c) If the licensee does not have credit support sufficient to finance

construction of the project through ownership of rights to produce and market gas resources, firm transportation commitments, or government financing, the licensee shall sanction the project within five years after the effective date of the certificate of public convenience and necessity issued by the Federal Energy Regulatory Commission or the Regulatory Commission of Alaska, as applicable.

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

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

(2) assign to the state's designee all project data, engineering designs, contracts, and permits acquired by the licensee as of the date of the abandonment or transfer.

(e) The transfer of any certificate or material as a result of failure to comply with (a) or (b) of this section is at no cost to the state or the state's designee. A transfer under (c) of this section is at the licensee's net cost.

(f) For purposes of this section, the effective date of the certificate of public convenience and necessity issued by the Federal Energy Regulatory Commission or the Regulatory Commission of Alaska is the date when all rights of appeal relating to the certificate have expired.

Sec. 43.90.220. Amendment of or modification to the project plan. Subject to the approval of the commissioners, a licensee may amend or modify its project plan if the amendments or modifications are necessary as a result of changed circumstances outside the licensee's control and not reasonably foreseeable before the license was issued. An amendment or modification approved under this section must be consistent with the requirements of AS 43.90.140 and may not diminish the value to the state of the project or the project's likelihood of success.

Sec. 43.90.230. Records, reports, conditions, and audit requirements. (a) A licensee shall maintain complete and accurate records of all expenditures and commitments of state money received under this chapter, including receipts and records showing the payment or cost of purchased items and services, the names and

addresses of the sellers and service providers, and the dates of service or delivery.

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

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

(d) After a license has been issued and until commencement of commercial operations of a natural gas pipeline, the licensee shall allow the commissioners to have a representative present at all meetings of the licensee's governing body and equity holders that relate to the project, to receive all relevant notices and information sent to the governing body and equity holders, to receive the same access to information about the licensee as the governing body members and equity owners receive, and to receive additional relevant reports or information from the licensee that the commissioners reasonably request.

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

Sec. 43.90.240. License violations; damages. (a) A licensee is in violation of the license if the commissioners determine that the licensee has

(1) committed state money received under this chapter for purposes other than those set out in AS 43.90.110(1);

(2) substantially departed from the specifications set out in the application without state approval of a project plan amendment or modification under AS 43.90.220;

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

(4) otherwise violated a material term of the license.

(b) The commissioners shall provide written notice to the licensee identifying a license violation. The commissioners and the licensee have 90 days after the date the

notice is issued to resolve the violation informally.

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

(d) If the commissioners and the licensee are unable to resolve the violation within the time specified in (b) of this section, the commissioners shall, after providing the licensee with notice and opportunity to be heard, make a written determination regarding the violation. The written determination made under this subsection is the final agency action for purposes of appeal to the court under the Alaska Rules of Appellate Procedure.

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

(1) discontinuation of state matching contributions under this chapter;

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

(3) license revocation;

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

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

Article 3. Resource Inducement; Alaska Gasline Inducement Act Coordinator.

Sec. 43.90.300. Qualification for resource inducement. Notwithstanding any contrary provision of law, a lessee or other person that demonstrates to the commissioners' satisfaction that the person has committed to acquire firm transportation capacity in the first binding open season of the project is qualified to receive the resource inducement set out in AS 43.90.310 and 43.90.320 for the gas shipped in firm transportation capacity acquired in the first binding open season of the project. The inducements set out in AS 43.90.310 and 43.90.320 are contractual.

Sec. 43.90.310. Royalty inducement. (a) Before the beginning of the first

binding open season to be conducted by the licensee, the commissioner of natural resources shall adopt regulations to establish a method to determine the monthly value of the state's royalty share of gas production and establish terms under which the state will exercise its right to switch between taking its royalty in value or in kind for gas committed for firm transportation in the first binding open season of the project. The regulations must

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

(2) contain provisions to establish a fair market value for each component of the state's royalty gas that are based on pricing data from reliable and widely available industry trade publications and use appropriate adjustments to reflect

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

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

(C) reasonable and actual costs for gas processing; and

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

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

(A) cause the lessee or other qualified person to bear disproportionate transportation costs with respect to the state's royalty gas;

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

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

(1) to calculate its gas royalty obligation under the regulations adopted

under (a) of this section for natural gas transported on a firm contract negotiated during the project's first binding open season or under the methodology set out in the existing leases from which the gas is produced, and

(A) upon the request of the lessee, the commissioner of natural resources shall contractually amend the existing lease to reflect the election under this paragraph and incorporate into the lease, the terms of the relevant regulations as fixed contract terms; and

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

(2) to enter a contract with the state that amend the existing lease terms by extending the required period of notice that the state must provide before exercising the state's right to switch between taking its royalty in value or in kind for gas committed for firm transportation in the first binding open season of the project.

(c) To claim the inducement under (b) of this section, a lessee or other qualified person shall agree, on an application form provided by the Department of Natural Resources, that the lessee or person, and the lessee's or person's affiliates, successors, assigns, and agents, will not protest or appeal a filing by the licensee to roll in expansion costs of the mainline up to a level that is required in AS 43.90.140(7); the agreement not to protest may not preclude the lessee or other qualified person, or the lessee's or other person's affiliates, successors, assigns, and agents from protesting a filing to roll in mainline expansion costs that licensee is not required to propose and support under AS 43.90.140(7).

(d) The commissioner of natural resources shall provide for review of the regulations adopted under (a) of this section at least every two years after the commencement of commercial operations of the project to determine whether the regulations continue to meet the requirements of (a)(1) of this section under current conditions, and shall amend the regulations when the requirements are not being met.

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

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

(b) The commissioner of revenue shall issue the exemption under this section in a certificate signed by the person and the commissioner, and the certificate constitutes a contract between the person and the state; the certificated exemption may be applied within 10 years immediately following commencement of commercial operations of the project only to production taxes that are levied on North Slope gas shipped through firm transportation capacity the person acquired during the first binding open season.

(c) The exemption certificate issued under (b) of this section shall contain a contractual commitment that the person, and the person's affiliates, successors, assigns, and agents, will not protest or appeal a filing by the licensee to roll in mainline expansion costs up to the level that the licensee is required to propose and support under AS 43.90.140(7); the contractual commitment required under this subsection may not preclude the person, or the person's affiliates, successors, assigns, and agents, from protesting a filing to roll in mainline expansion costs that the licensee is not required to propose and support under AS 43.90.140(7).

Article 4. Alaska Gasline Inducement Act Coordinator; Expedited Agency Review; Alaska Job Development Program.

Sec. 43.90.400. Alaska Gasline Inducement Act coordinator. (a) The governor shall appoint, subject to legislative confirmation, an Alaska Gasline

Inducement Act coordinator. The Alaska Gasline Inducement Act coordinator terminates one year after commencement of commercial operations of the project.

(b) The Alaska Gasline Inducement Act coordinator shall

(1) coordinate expeditious performance of all activities by state agencies with respect to the project;

(2) ensure compliance by state agencies with the provisions of this chapter; and

(3) coordinate with the federal coordinator for natural gas transportation projects in this state.

Sec. 43.90.410. Expedited review and action by state agencies. (a) All reviews conducted and actions taken by a state agency relating to a project shall be expedited in a manner consistent with the completion of the necessary approvals in accordance with this chapter.

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

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

Sec. 43.90.420. State pipeline employment development. The commissioner of labor and workforce development shall develop a job training program that will provide training for Alaskans in gas pipeline project management, construction, operations, maintenance, and other gas pipeline-related positions.

Article 5. Miscellaneous Provisions.

Sec. 43.90.500. Alaska Gasline Inducement Act matching contribution fund; disbursements; audits. (a) There is established in the general fund an Alaska

Gasline Inducement Act matching contribution fund. The fund consists of money appropriated to it by the legislature for disbursement to pay the state's matching contributions under AS 43.90.110. Appropriations to the fund do not lapse under AS 37.25.010, but remain in the fund for future disbursements.

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

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

(d) Within 10 days after the convening of each regular session of the legislature, the commissioners shall submit to the legislature a report that lists all the disbursements from the fund in the preceding year with a written justification of each disbursement and the projected amount of money that will be needed for matching contributions in each of the next three fiscal years.

Sec. 43.90.510. Regulations. The commissioners may jointly adopt regulations for the purpose of implementing the provisions of this chapter. The commissioner of revenue may change regulations adopted under existing authority in this title as necessary to implement the provisions of this chapter. The commissioner of natural resources may change regulations adopted under existing authority in AS 38 as necessary to implement the provisions of this chapter.

Sec. 43.90.520. Statute of limitations. A person may not bring a judicial action challenging the constitutionality of this chapter or a license unless the action is commenced in a court of proper jurisdiction in this state within 90 days after the date that a license was issued.

Sec. 43.90.530. Interest. When a payment due to the state under this chapter becomes delinquent, the payment bears interest in a calendar quarter at the annual rate of five percentage points above the annual rate charged member banks for advances by the 12th Federal Reserve District as of the first day of that calendar quarter, or at the

annual rate of 11 percent, whichever is greater, compounded quarterly as of the last day of that quarter.

Sec. 43.90.540. Licensed project assurances. Except as otherwise provided in this chapter, the state grants a licensee assurances that the licensee has exclusive enjoyment of the inducement provided under this chapter before the commencement of commercial operation of the project. If, before the commencement of commercial operation of the project, the state extends to another person preferential royalty, tax, or monetary treatment for the purpose of facilitating the construction of a competing natural gas pipeline project in this state, and if the licensee is in compliance with the requirements of the license and with the requirements of state and federal statutes and regulations relevant to the project, the licensee is entitled to payment from the state of an amount equal to three times the total of the reasonable costs that the licensee has incurred in developing the licensee's project as of the date that the state first extended preferential treatment to another person. Upon payment by the state of the amount owed under this section, the licensee shall, at no cost to the state, assign to the state or the state's designee all project data, engineering designs, contracts, and permits related to the project that are acquired by the licensee during the term of the license. In this section, "competing natural gas pipeline project" means a project designed to accommodate throughput of more than 500 Mcf a day of North Slope gas.

Sec. 43.90.550. Assignments. (a) A licensee may transfer all or part of the license, including the rights and obligations arising under the license, if

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

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

(b) Notwithstanding the commissioners' approval of a transfer of all or part of a license under (a) of this section, the transferor of the license remains subject to the requirements of AS 43.90.230 regarding all state money received by the licensee before the effective date of the transfer.

(c) A person may transfer that person's rights to the royalty inducement under

AS 43.90.310 and the gas production tax exemption under AS 43.90.320 only in connection with a sale or merger that results in transfer of all the person's assets in the North Slope of this state, including the firm transportation capacity contracts in the project.

Sec. 43.90.560. Conflicting laws. Nothing in this chapter shall be construed to repeal or abrogate the administrative, regulatory, or statutory procedures and functions of state and federal law governing the development and oversight of a project.

Sec. 43.90.570. Severability. Under AS 01.10.030, if any provision of this chapter, or the application of it to any person or circumstance, is held invalid, the remainder of this chapter and the application of it to other persons or circumstances are not affected.

Article 6. General Provisions.

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

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

(2) "Alaska Gasline Inducement Act coordinator" means the person appointed under AS 43.90.400;

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

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

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

(6) "equity holder" means the

(A) stockholders of a corporation;

(B) members of a limited liability company;

(C) partners of a partnership;

(D) joint venturers of a joint venture;

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

(F) holders of any other entity or person;

(7) "gas processing" means post-production treatment of gas to extract natural gas liquids;

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

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

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

(11) "license" means a license issued under this chapter;

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

(13) "North Slope" means the area of Alaska north of 68 degrees North latitude;

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

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

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

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

(18) "unit agreement" means an agreement executed by the working

interest owners and royalty owners creating the unit.

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

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

(45) contracts for an arbitration panel to determine abandonment of a project under AS 43.90.120, and contracts for the development of application provisions for licensure and for the evaluation of those applications under AS 43.90.

*** Sec. 3.** AS 39.25.110 is amended by adding a new paragraph to read:

(41) the Alaska Gasline Inducement Act coordinator appointed under AS 43.90.400.

*** Sec. 4.** 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;

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

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

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

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

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

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

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

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

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

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

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

(11) the written notification regarding a proposed regulation provided

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

(12) records that are

(A) proprietary or a trade secret in accordance with AS 43.90.160;

(B) applications that are received under AS 43.90 until action has been taken under AS 43.90.180.

* Sec. 5. This Act takes effect immediately under AS 01.10.070(c).

ALASKA STATE LEGISLATURE

Sen. Charlie Huggins, Chair
Sen. Bert Stedman, Vice Chair
Sen. Lyda Green
Sen. Gary Stevens
Sen. Lesil McGuire
Sen. Bill Wielechowski
Sen. Thomas Wagoner

State Capitol, Room 119
Juneau AK 99801-1182
907-465-3878
Fax: 907-465-3265
800-862-3878

Senate Resources Committee

Butrovich Room 205

Saturday, March 31, 2007

AGENDA

12:00 - 6:00

SB 104 Natural Gas Pipeline Project

"An Act relating to the Alaska Gasline Inducement Act; establishing the Alaska Gasline Inducement Act matching contribution fund; providing for an Alaska Gasline Inducement Act coordinator; making conforming amendments; and providing for an effective date."

Testimony: Listen Only

ALASKA DEPARTMENT OF LABOR
& WORKFORCE DEVELOPMENT

Alaska Gasline Inducement Act Project Labor Agreement

March 30, 2007

Jobs are Alaska's Future

ALASKA DEPARTMENT OF LABOR
& WORKFORCE DEVELOPMENT

What is a PLA?

A comprehensive collective bargaining agreement that sets the terms and conditions of employment on a project, for that project only.

ALASKA DEPARTMENT OF LABOR
& WORKFORCE DEVELOPMENT

Project Labor Agreement

Licensee/General Contractor Negotiates Directly with an Appropriate Entity

The PLA is a collective bargaining agreement between the licensee, or its agent, and an appropriate entity setting out the terms and conditions of employment on the project, typically including wages and benefits, and setting out other work conditions including no-strike, no lockout provisions, dispute resolution procedures, and use of hiring facilities in Alaska.

Contractors

All contractors, union or nonunion, interested in bidding on project work, must follow the terms and conditions set out in the PLA.

ALASKA DEPARTMENT OF LABOR
& WORKFORCE DEVELOPMENT

PLA History

- First used in the 1930's
- Currently used widely in the private and public sectors.

ALASKA DEPARTMENT OF LABOR
& WORKFORCE DEVELOPMENT

PLA Precedents

- Legal
  - U.S. Supreme Court (Boston Harbor) 1993
  - AK Supreme Court (Laborers Local 942 v. Lampkin) 1998 – prevailed
- PLA-based Public and Private Projects
  - Grand Coulee and Hoover Dams
  - TAPS
  - San Francisco BART
  - Puget Sound Transit
  - Sutter and Sunrise Power Plants in California
  - Seattle Airport
  - Seattle Sound Transit

ALASKA DEPARTMENT OF LABOR
& WORKFORCE DEVELOPMENT

Why Have a PLA?

- Stable workforce––no strikes or lockouts
- Meets project scheduling challenges.
- Eliminates need to negotiate numerous separate contracts.
- Assures consistent terms and conditions for all contractors
- Vehicle for:
  - Alaska hire, including rural Alaskans, women, and other groups.
  - Apprenticeship Opportunities.

Jobs are Alaska's Future

Union Bill

Recently/Frequently asked Questions about Project Labor Agreements (PLA)

1. *Why use a PLA?*

The purpose of a PLA is to establish and maintain harmonious relations between all parties performing work on the Project. To that end, PLAs establish and put into practice effective and binding methods for the settlement of all misunderstandings, disputes, or grievances that may arise during the constriction phase of the Project. In this way the Project owner, Project manager and contractors on the Project are assured complete efficiency and continuity of operations, without slowdowns or interruptions of any kind.

PLAs promote optimum productivity by ensuring the availability of an adequate supply of competent, skilled, and qualified crafts people. PLAs ensure labor stability by eliminating the possibility of strikes, work stoppages, lockouts, slowdowns, or other delays. Public entities endorse the use of PLAs on projects such as the gas pipeline, because PLAs also promote the continued development and expansion of a trained, competent work force within their communities. Most importantly, PLAs are one of the few, if only, lawful ways the Governor and Legislature can create hiring preferences for Alaskans. In sum, PLAs are utilized wherever Project owners like the State of Alaska recognize the importance of ensuring that construction work for public projects proceeds continuously, without interruption and as efficiently and economically as possible, and that public projects like the gas pipeline are built by contractors employing skilled employees who are residents of our state.

2. *Who would be covered under the PLA?*

In general, PLAs cover only construction work and only work on the Project site, including any *on site* fabrication of tools, materials equipment maintenance and equipment repair. The Project site would most likely include the following: construction of compressor/conditioning plants from the point(s) where the gas comes out of the ground and into the project system, and any such compressor/conditioning plants and associated infrastructure along the project route, all associated pipeline and support structure along the route, camp construction or site work at camp locations, to the terminus of the Project.

3. *Who would negotiate the PLA?*

The parties would be the Project Owner's construction manager on one side and the Alaska Building Trades Council(s) which represent the employees to be employed on the Project, on the other side. Employees to perform work above the 63rd parallel would be represented by the Fairbanks Building Trades Council. If the successful proposal included pipeline construction south of the 63rd parallel, then the employee representatives at the bargaining table would be the

Fairbanks Building Trades Council and the South Central Alaska Building Trades Council. Prospective bidders would not participate in the negotiations because their interests are generally divergent from those of the Project Owner and because the PLA will establish *employment policy* for the entire project consistent with the objectives of the Project owner. For example, the Project Owner may, as a matter of public policy, wish to insure that the Project provides training to qualified young Alaskans first; this is not necessarily an interest a prospective bidder would share.

4. How does my son or nephew, daughter or niece, get a job thru the union, under the PLA?

Anyone interested in obtaining work on the Project would be free to register at their local union Hiring Hall, whether they are union members or not. Unions may not lawfully discriminate in the referral of applicants for work based upon union membership. In recent years unions have implemented vigorous recruitment programs which seek out qualified non-member applicants. The referral of applicants by each individual union hall must also comply with the published rules governing its referral system and/or the appropriate craft apprenticeship program. Such referral rules establish referral priorities based upon training, minimum qualifications, experience in the industry and area residence in accordance with Title 29, Chapter 7, Subchapter II, of the National Labor Relations Act (NLRA). The NLRA is unique in that it makes union referral under a bona fide collective bargaining agreement (including a PLA) one of the few if only legally enforceable methods for establishing a resident hire preference.

4a. What list would they be on and would they ever get a job?

The referral language is typically a little different for each craft, and has very simple, easy to understand requirements. Applicants are permitted to sign different "Lists" or Books:" A, B, or C Lists in some cases or Books 1, 2, 3, or 4 in others. No matter the nomenclature, the A List or Book 1 is usually for residents with clearly defined minimum qualifications. The other Lists or Books are usually for non-residents and/or less qualified applicants. Referral of applicants begins with those registered on Book 1 or A, first and so on.

The referral of apprentices is conducted in accordance with a completely different referral procedure based on the language of federally approved, registered apprenticeship standards. There are several methods for entry into a registered, federally approved apprenticeship program. Most programs require a high school diploma or equivalent, and a passing score on an entrance examination and interview. Federally approved, registered apprenticeship programs (Union affiliated programs in Alaska satisfy these standards) must offer training opportunities without regard to race, age, gender, etc. Most union affiliated programs in Alaska have implemented native and minority outreach programs as well. The short answer to this question is that all motivated Alaskan residents

with the necessary skills, should be able to find work on the Project through the various union hiring halls. This is particularly true here because of the large number of employees that will be needed to construct the Project.

4b. Will all employees on the Project have to join the union?

Without exception to my knowledge, PLA's have what is called a 'Union Security Clause.' What this clause means is that all employees covered by PLA will be required, as a condition of employment on this Project only, to apply for and become members of the appropriate Union or establish a fee payer relationship with the Union, within so many days following the beginning of their employment.

Applicants obtaining employment on the Project thus have two alternatives. They may become union members, in which case they will be obligated to pay union dues. They may also elect to become fee payers or non-members, in which case they will only have to pay a representation or agency fee which covers the Union's costs associated with such things as contract negotiations, contract administration, grievance processing, etc. No portion of the money paid to the Union by an agency fee payer or "non-member" may be used to support or endorse the political beliefs or actions of the union. In fact, before a Union may use funds paid to the Union for purposes unrelated to contract negotiations, administration and related activities, even by its members, the individual must consent in writing.

5. Can non-union contractors bid on the Project? If so, what happens if they win the bid?

Bidding on the Project is free, open and competitive; any qualified contractor may bid on the job, although all successful bidders will be required to comply with the terms of the PLA. The PLA, however, will only apply to work performed on the Project and will have no impact on other work the contractor may have elsewhere. In other words, the contractor may continue to perform other work without being signatory to a union agreement.

6. I am a small sub contractor and I am successful in obtaining work on the gas line. What happens to my current employees?

This component of the PLA, like many others, is resolved through negotiations between the parties. Often there is an exception included in the PLA (to the otherwise exclusive union hiring hall system), that permits a contractor to continue to use his key or core employees on the Project. It is also not uncommon for PLAs to include provisions which permit contractors to request applicants from the Union hiring hall by name, skill, specialty, experience in the industry or past service with the contractor/employer. Terms vary widely on this

subject; and as noted, they are subject to the give and take of good faith bargaining.

6a. Will these "core" or "key" employees be required to join the union?

These employees are no more or less obligated to become union members than any other employees performing craft work on the Project. See Paragraph 4, above.

6b. What would these employees be paid, the Contractor's current rate or the wage rate established under the PLA?

Anyone performing bargaining unit or craft work on the Project, core employees as well as employees hired through a union hiring hall, will be subject to the terms of the PLA, including the wage rates and benefits established by the PLA.

6c. What if a contractor already has fringe benefits set up for his current employees who go to work on the PLA? Does the contractor have to pay twice?

This can become a complicated – but not impossible, issue to address. Most union plans (which, for example, offer a defined pension benefit) are superior to those provided by non-union employers (which generally only offer a defined contribution). Thus, many employees will want their employer to contribute to the union plan because they appreciate the difference and/or they have decided to continue to seek future work through the union after the Project is completed. Given the likely duration of the Project, it is also possible than many employees will vest in the union's defined benefit pension plan (five years) before the Project is completed. Employees will certainly be eligible for the union's medical plans soon after beginning work on the Project, as well as have access to any other benefits offered by the union plans, as described in the fringe benefit schedule of the PLA.

However, this matter is also subject to the parties' negotiations and exceptions to the general rule requiring benefit contributions to the unions' plans have been negotiated. The most common exception is created for non-union employers who offer comparable or better fringe benefits through a bone fide benefit plan that has been in existence for no less than the twelve consecutive months preceding the employees' employment on the Project. In such cases, the PLA may allow an employer to make contributions to the employer's own plans on behalf of the employer's core employees. Thus, any concerns about the possible double payment of benefits can be resolved.

The answers to these questions are my opinion only based upon my research; this paper does not constitute legal advice and is not intended to be relied upon as such. - Vince Beltrami

PROJECT LABOR AGREEMENTS

PLA

- What is a Project Labor Agreement and why project owners and employers should consider using one?

PLA Defined

- A PLA is a contractually binding agreement, negotiated between a construction project owner, developer, and the Building Trades Labor Unions.
- It guarantees uniform wages, benefits, and working conditions across the multiple crafts employed on a project
- It guarantees labor peace and stability on the job through mandatory grievance procedures and no strike/no lockout provisions
- It guarantees local hire and an investment in local communities, and their future work forces

PLA Defined cont'd

- PLAs provides a career path for high school graduates
- They are validated legally as a responsible approach to building publicly funded construction projects
- They facilitate sound project planning by supplying project owners with predictable labor costs
- Promote timely and successful project completion by ensuring an adequate supply of skilled craft personnel for all trades for the full term of the project

PLA Defined cont'd

- But most of all…
- PLAs gives the customer a value added guarantee of a quality constructed project that should be free of defects for years to come due to utilizing the highest skilled craftsman available and…
- PLAs have an overwhelming reputation for getting jobs finished on time and under budget!

History of PLAs

- They have been used in the construction industry since the 1930s in all 50 states
- Examples: Disney World, The Trans Alaska Pipeline, the Cape Kennedy Space Center, O'Hare Airport, Boston Harbor clean-up, LA's Light Rapid Transit System and more.
- Other examples closer to home: the Ground-based Missile Defense System at Fort Greely and Shemya, the Healy Clean Coal Project, the Alaska Seafoods International Plant, King Salmon Vo-tech center, a half-dozen projects in Juneau, and various schools and other projects around the state

Economic Argument for PLAs

- Promotes stream lining and efficiencies by systematizing labor terms for all contractors
- Saves time and money by not having to renegotiate terms for each subcontractor
- Prevents costly jurisdictional or other labor disputes
- Highly skilled available labor pool from the union hiring halls
- Easier compliance with competitive bidding and Title 36 requirements
- Quality apprentices further reduce labor costs
- Safer workers costs less

Objections?

- There are national groups who lobby against PLAs
- They argue "merit shop" philosophy, and "lowest responsible bidder." These arguments, however, skirt the issue of how to define "responsible" nor do they address records regarding apprenticeship programs or local hire
- Interestingly, they never use Alaska PLA examples in their attacks because they have worked well in our state.
- Claims of non-competitiveness hold no water, as anyone (union or non-union) can bid on projects covered by a PLA
- They regularly cite the rare PLA projects that have gone over budget, but never tell anyone that the overruns had nothing to do with the PLA

Title 36? What does it mean?

- All state construction projects over $2000 are subject to paying the Prevailing Wage in accordance with the Davis-Bacon Act
- Union and non-union alike must pay this rate
- Union Apprenticeship programs ensure lower cost apprentices available. Non-union contractors often have to pay full journeyman rate to non-skilled workers because they have no apprenticeship training program, or ones that neither train or provide the benefits to the level of those represented by the unions.
- Union Apprenticeship programs mean easier tracking of legal compliance

Quality Craftsmanship… Where does it come from?

It comes from real apprenticeship... an investment in our community

- Union-based apprenticeship programs have set the standard and continually raise the bar
- Our state-registered programs require thousands of hours of closely supervised, on the job training plus an additional 1000 hours or more of related classroom and shop instruction
- The Alaska Building Trades are constantly working to get Alaska grads into their programs

BOTTOM LINE

- **A PLA IS A GOOD BUSINESS DECISION !**
  - **The Alaska Gas Pipeline is the biggest construction project EVER in North America**
  - **A PLA builds predictability and labor stability into a project with many *other* uncertainties,**
  - **Guaranteed local hire preference, and an association with the best proven training establishment for the type of construction this project requires**
  - **And a proven track record of PLA successes in Alaska from TAPs through Missile Defense**

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
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MEMORANDUM March 31, 2007

SUBJECT: CSSB 104(RES), Draft Version "M"
(Work Order No. 25-GS1060\M)

TO: Senator Charlie Huggins
Chair of Senate Resources Committee
Attn: Sharon Long

FROM: Donald M. Bullock Jr.
Legislative Counsel

Enclosed is a new draft version of CSSB 104(RES). Please review this draft carefully to ensure that it is consistent with your intent.

Please check page 4, line 9, page 14, line 10, and page 22, line 19 to see if they should match page 16, line 18.

Please look at Sec. 43.90.140(2)(D)(ii) on page 5 of the draft bill. Your request was to amend the first part of that sub-subparagraph from

> if the proposed project involves marine transportation of liquefied natural gas, a description of the pipeline route, system, and capacity to bring North Slope gas to tidewater, including a description of transportation services . . . .

to

> if the proposed project involves marine transportation of liquefied natural gas, that brings North Slope gas to tidewater, a description of transportation services . . . .

I was afraid that your suggested language might imply an anticipation that North Slope gas would be brought to tidewater by marine transportation. So, the change in the draft reads as follows:

> if the proposed project involves marine transportation of natural gas, a description of the marine transportation services . . . .

If I misunderstood the intent of the change you wanted, please let me know so that I may correct it in the next version.

Your suggested change deleted the word "qualified" before "person" on page 17, lines 23 and 25 of the "E" version. Note that "qualified person" is also used in the same statutory section, but in a different subsection, on page 18, lines 18 and 24 of the "E" version. I did not delete "qualified" before "person" on page 18 because I did not know whether there was a substantive difference between the use of "qualified person" on page 17 and on page 18. My understanding from earlier discussions was that "qualified person" meant a person "qualified" to receive the resource inducement authorized under AS 43.90.300.

Finally, on page 27, line 12 we inserted new language to make clear that the applications that are received are not public records until the commissioners issue the public notice under AS 43.90.170.

I appreciate the effort you made to bring your changes to me so quickly and the way you used a mark-up of the bill itself to note the changes. Thank you.

DMB:lmb
07-090.lmb

Enclosure

SRES Hearing 4-1-07

25-GS1060\M
Bullock
3/31/07

CS FOR SENATE BILL NO. 104(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered:
Referred:

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

"An Act relating to the Alaska Gasline Inducement Act; establishing the Alaska Gasline Inducement Act matching contribution 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:

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

Chapter 90. Alaska Gasline Inducement Act.

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

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

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

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

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

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

Article 2. Alaska Gasline Inducement Act License.

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

(b) Nothing in this section precludes a person's pursuing a gas pipeline independently from this chapter.

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

(1) state matching contributions in an amount not to exceed $500,000,000, paid in total to the licensee over a five-year period; the payment period may be extended by the commissioners under an amendment or modification of the project plan under AS 43.90.220; the payment period commences on the date of the issuance of the license; payments under this paragraph shall be made according to the following:

(A) on or before the close of the first binding open season, the state shall match the licensee's qualified expenditures at the level specified in the license; however, the state's matching contribution may not be more than 50 percent of the qualified expenditures incurred before the close of the first binding open season;

(B) after the close of the first binding open season, the state shall match the licensee's qualified expenditures at a level specified in the license; however, the state's matching contribution may not be greater than 80 percent of the qualified expenditures incurred after the close of the first binding open season;

(C) qualified expenditures are costs that are incurred after the

license is issued under this chapter by the licensee or the licensee's designated affiliate, and are directly and reasonably related to obtaining a certificate of public convenience and necessity from the Federal Energy Regulatory Commission or the Regulatory Commission of Alaska, as appropriate, for development of the project; in this subparagraph, "qualified expenditures" does not include overhead costs, litigation costs, assets, or work product predating the issuance of the license, 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 43.90.400.

Sec. 43.90.120. Abandonment of project. (a) If the commissioners and the licensee agree that the project is uneconomic and should be abandoned, inducement provided for in AS 43.90.110 terminates, and, except for requirements imposed on the licensee under (d) of this section and AS 43.90.230, the state and the licensee no longer have any obligations under this chapter with respect to the license.

(b) If the commissioners or the licensee independently determines that the project is uneconomic and should be abandoned, but the other party does not agree, the disagreement shall be settled by arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrators may be entered in any court having jurisdiction thereof. In the event of arbitration, each party shall select an arbitrator, and the two arbitrators shall appoint a third arbitrator from the American Arbitration Association's National Roster who shall serve as the chair of the three-member arbitration panel. If the arbitration panel determines that the project is

(1) uneconomic ~~and should be abandoned~~, the state and the licensee no longer have any obligations under this chapter with respect to the license, except for requirements imposed on the licensee under (d) of this section and AS 43.90.230;

(2) not uneconomic ~~and should not be abandoned~~, the project may not be abandoned, and the obligations of the licensee and the state continue as provided under this chapter and the license.

(c) If the state makes a payment to the licensee under AS 43.90.540, the license is considered abandoned, and the state and the licensee no longer have any

state has an economic interest

obligations under this chapter with respect to the license, except that the licensee must comply with the

(1) requirements imposed on the licensee under AS 43.90.230 regarding state money received by the licensee before the license was considered abandoned; and

(2) requirements of AS 43.90.540.

(d) If the licensee and the state agree or if a licensee prevails in an arbitration in establishing that the project is uneconomic and should be abandoned, the licensee shall assign to the state or the state's designee all project data, engineering designs, contracts, and permits related to the project that are acquired by the licensee during the term of the license upon reimbursement by the state to the licensee of the licensee's net costs.

Sec. 43.90.130. Request for applications for the license. (a) The commissioners shall commence a public process to request applications for a license under this chapter within three months after the effective date of this chapter.

(b) The commissioners may use independent contractors to assist in developing the provisions for the application for a license 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, but the commissioners shall adopt regulations that provide protest and appeal procedures relating to the solicitation of applications and award of a license that are substantially similar to the procedures in AS 36.30.550 - 36.30.699.

Sec. 43.90.140. Application requirements. An application for a license must be consistent with the terms of the request for applications under AS 43.90.130 and must

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

(2) provide a detailed description of a proposed natural gas pipeline project for transporting natural gas from the North Slope of this state to market, including

(A) the route proposed for the natural gas pipeline;

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

(C) an analysis demonstrating the project's economic and technical viability as required in the request for applications;

(D) an economically and technically viable work plan, timeline, and associated budget for developing the proposed project, including how the applicant will perform field work, environmental studies, design, and engineering, and how the applicant will comply with all applicable state, federal, and international regulatory requirements that affect the proposed project; the work plan must address the following:

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

(ii) if the proposed project involves marine transportation of liquefied natural gas, a description of the marine transportation services to be provided and a description of proposed rate-making methodologies; an estimate of rates and charges for all services by third parties; a detailed description of all access and tariff terms the applicant would propose for liquefaction services or, if third parties would perform liquefaction services, identify the third parties and the terms they would offer; a complete description of the proposed ownership, control, and cost of liquefied natural gas tankers, the management of shipping services, liquefied natural gas export, destination, re-gasification facilities, and pipeline facilities needed for transport to market destinations, and the entity or entities that would be required to obtain necessary export permits or a certificate of public

convenience and necessity from the Federal Energy Regulatory Commission for the transportation of liquefied natural gas in interstate commerce if United States markets are proposed; and all rights-of-way or authorizations required from a foreign country;

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

(A) conclude, by a date certain that is not later than 36 months after the date the license is issued, a binding open season that is consistent with the requirements of Subpart B of 18 C.F.R. Part 157 (Open Seasons for Alaska Natural Gas Transportation Projects) and 18 C.F.R. 157.30 - 157.39;

(B) apply for Federal Energy Regulatory Commission approval to use the pre-filing procedures set out in 18 C.F.R. 157.21 by a date certain, and use those procedures before filing an application for a certificate of public convenience and necessity; and

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

(4) commit that if the proposed project is within the jurisdiction of the Regulatory Commission of Alaska, the applicant will

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

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

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

(6) commit to expand the proposed project in reasonable engineering increments and on commercially reasonable terms that encourage exploration and

development of gas resources in this state; in this paragraph,

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

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

(7) commit that the applicant

(A) will propose and support recovery of mainline capacity expansion costs from all mainline system users through rolled-in rates if the recovery of all expansion costs through rolled-in rates would increase existing shippers' rates by not more than 15 percent of the initial maximum recourse rates from the North Slope to the proposed project's downstream terminus; if rolled-in expansion costs would increase existing shippers' rates from the North Slope to the project's downstream terminus by more than 15 percent, the applicant will propose and support the partial roll-in of mainline expansion costs from all mainline system users to the extent that existing shippers' rates would not be increased by more than 15 percent of the initial maximum recourse rates from the North Slope to the proposed project's downstream terminus; in this subparagraph, "initial maximum recourse rates" means the highest cost-based rates for any specific transportation service set by the Federal Energy Regulatory Commission, the Regulatory Commission of Alaska, or the National Energy Board of Canada, as appropriate, at the time of the initial regulatory approval of the proposed project;

(B) may propose any combination of incremental or rolled-in rates for recovery of costs of mainline capacity expansion that exceeds the 15

percent level described in (A) of this paragraph;

(C) agrees not to enter into negotiated rate agreements that would preclude the applicant from collecting from any shipper, including shippers with negotiated rate agreements, the rolled-in rates that are required to be proposed and supported by the applicant under (A) of this paragraph; in this subparagraph, "negotiated rate agreements" means transportation service agreements that are subject to rates that vary from the otherwise applicable cost-based rates, or recourse rates, set out in a gas pipeline's tariff approved by the Federal Energy Regulatory Commission, the Regulatory Commission of Alaska, or the National Energy Board of Canada, as appropriate;

(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 that 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 and, 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 matching contribution under AS 43.90.110(1)(A) and (B) to be specified in the license;

(10) commit that the applicant will 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 by which the applicant plans to manage

overruns in costs of the proposed project, if any, and the measures that the applicant proposes to mitigate the effects of any overruns;

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

(13) commit to offer firm transportation service to delivery points in this state as part of the tariff regardless of whether any shippers bid successfully in a binding open season for firm transportation service to delivery points in this state, and commit to offer distance-sensitive rates to delivery points in this state consistent with 18 C.F.R. 157.34(c)(8);

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

(15) commit to hire qualified residents from throughout this state for management, engineering, construction, operations, maintenance, and other positions on the proposed project and to contract with businesses located in this state to the extent permitted by law;

(16) commit to negotiate, before construction, a project labor agreement, to ensure expedited construction and labor stability for the project by qualified residents of the state;

(17) commit that the state matching contribution received by a licensee may not be included in the applicant's rate base, and shall be used as a credit against licensee's cost of service; and

(18) otherwise demonstrate that the applicant is ready and able to perform the activities specified in the application, including the detailed work plan, timeline, and associated budget.

Sec. 43.90.150. Initial application review; additional information requests; complete applications. (a) The commissioners shall review each application submitted under AS 43.90.130 to determine whether it is consistent with the terms of the request for applications and meets the requirements of AS 43.90.140. The commissioners shall reject any application that does not meet those terms and requirements.

(b) To evaluate an application not rejected under (a) of this section, the

commissioners may request from an applicant additional information relating to the application.

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

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

Sec. 43.90.160. Proprietary information and trade secrets. (a) At the request of the applicant, information submitted under this chapter that the applicant identifies and demonstrates is proprietary or is a trade secret is confidential and not subject to public disclosure under AS 40.25, unless the applicant is granted a license under his chapter. After a license is awarded, all information submitted by the licensee shall be made public.

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

(c) An applicant that challenges the award of a license or the process for making the award shall be considered to have consented to the disclosure of all the information submitted under this chapter by the applicant making the challenge, including information held confidential under (a) of this section.

(d) In this section, "proprietary" means that the information is treated by the applicant as confidential and the public disclosure of that information would adversely affect the competitive position of the applicant or materially diminish the commercial value of the information to the applicant.

Sec. 43.90.170. Notice, review, and comment. (a) The commissioners shall publish notice and provide a 60-day period for public review and comment on all applications determined complete under AS 43.90.150.

(b) Applications received under this chapter are not public records and are not subject to public disclosure under AS 40.25 until the commissioners publish notice under this section. However, information that the commissioners have determined is

confidential under AS 43.90.160 may not be made public even after the notice is published under (a) of this section, except as otherwise provided by AS 43.90.160. If information is held confidential under this subsection, the applicant shall provide a summary that is satisfactory to the commissioners, and the commissioners shall make the summary of the information available to the public.

Sec. 43.90.180. Application evaluation and ranking. (a) The commissioners shall evaluate all applications determined to be complete under AS 43.90.150, consider public comments received under AS 43.90.170(a), and rank each application according to the net present value of the anticipated cash flow to the state from the applicant's project proposal using the factors in (b) of this section and weighted by the project's likelihood of success based on the commissioners' assessment of the factors listed in (c) of this section.

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

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

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

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

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

(5) other factors found by the commissioners to be relevant to the evaluation of the net present valuc of the anticipated cash flow to the state.

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

(1) the reasonableness, specificity, and feasibility of the applicant's work plan, timeline, and budget required to be submitted under AS 43.90.140, including the applicant's plan to manage cost overruns, insulate shippers from the effect of cost overruns, and encourage shippers to participate in the first binding open

season;

(2) the financial resources of the applicant;

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

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

(5) the applicant's record of

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

(B) integrity and good business ethics; and

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

(d) In this section, "net present value" means the discounted value of a future stream of cash flow.

Sec. 43.90.190. Notice to the legislature of intent to issue license; denial of license. (a) If, after consideration of public comments received under AS 43.90.170 and evaluation of complete applications under AS 43.90.180, the commissioners determine that an application would sufficiently maximize the benefits to the people of this state and merits issuance of a license under this chapter, the commissioners shall

(1) issue a determination, with written findings addressing the basis for the determination; the determination becomes a final agency action in accordance with AS 43.90.200;

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

(3) forward the notice under (2) of this subsection, along with the findings, supporting documentation, and determination under (1) of this subsection, to the legislature for action as provided in AS 43.90.200.

(b) If, after evaluation of complete applications under AS 43.90.180, the commissioners determine that no application sufficiently maximizes the benefits to the people of this state and merits issuance of a license under this chapter, the commissioners shall issue a written finding that addresses the basis for that

determination.

(c) The commissioners' determination under (b) of this section is a final agency action for purposes of appeal to the court under the Alaska Rules of Appellate Procedure.

Sec. 43.90.200. Legislative approval; issuance of license. (a) After receiving a determination from the commissioners under AS 43.90.190, the legislature shall introduce a resolution in their respective chambers that provides for the approval of the license proposed to be issued by the commissioners.

(b) If a resolution approving the issuance of the license is approved by both houses of the legislature within 60 calendar days immediately following the date notice is received from the commissioners under AS 43.90.190(a), the commissioners may issue the license as soon as practicable after the passage of the resolution. The issuance of the license approved by the legislature is a final administrative action on the date the license is issued for purposes of appeal to the superior court.

(c) If a resolution approving the issuance of the license does not pass both houses of the legislature within the time specified in (b) of this section, the commissioners may request new applications for a license under AS 43.90.130.

Sec. 43.90.210. Certification by regulatory authority and project sanction. (a) A licensee that is awarded a certificate of public convenience and necessity for the project by the Federal Energy Regulatory Commission if the project is engaged in interstate commerce, or the Regulatory Commission of Alaska if the project is not engaged in interstate commerce, shall accept the certificate when all rights of administrative appeal relating to the certificate have expired.

(b) If the licensee has credit support sufficient to finance construction of the project through ownership of rights to produce and market gas resources, firm transportation commitments, or government financing, the licensee shall sanction the project within one year after the effective date of the certificate of public convenience and necessity issued by the Federal Energy Regulatory Commission or the Regulatory Commission of Alaska, as applicable.

(c) If the licensee does not have credit support sufficient to finance construction of the project through ownership of rights to produce and market gas

resources, firm transportation commitments, or government financing, the licensee shall sanction the project within five years after the effective date of the certificate of public convenience and necessity issued by the Federal Energy Regulatory Commission or the Regulatory Commission of Alaska, as applicable.

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

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

(2) assign to the state's designee all project data, engineering designs, contracts, and permits acquired by the licensee as of the date of the abandonment or transfer.

(e) The transfer of any certificate or material as a result of failure to comply with (a) or (b) of this section is at no cost to the state or the state's designee. A transfer under (c) of this section is at the licensee's net cost.

(f) For purposes of this section, the effective date of the certificate of public convenience and necessity issued by the Federal Energy Regulatory Commission or the Regulatory Commission of Alaska is the date when all rights of administrative appeal relating to the certificate have expired.

Sec. 43.90.220. Amendment of or modification to the project plan. Subject to the approval of the commissioners, a licensee may amend or modify its project plan if the amendments or modifications are necessary as a result of changed circumstances outside the licensee's control and not reasonably foreseeable before the license was issued. An amendment or modification approved under this section must be consistent with the requirements of AS 43.90.140 and may not diminish the value to the state of the project or the project's likelihood of success.

Sec. 43.90.230. Records, reports, conditions, and audit requirements. (a) A licensee shall maintain complete and accurate records of all expenditures and commitments of state money received under this chapter, including receipts and records showing the payment or cost of purchased items and services, the names and addresses of the sellers and service providers, and the dates of service or delivery.

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

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

(d) After a license has been issued and until commencement of commercial operations of a natural gas pipeline, the licensee shall allow the commissioners to have a representative present at all meetings of the licensee's governing body and equity holders that relate to the project, to receive all relevant notices and information sent to the governing body and equity holders, to receive the same access to information about the licensee as the governing body members and equity owners receive, and to receive additional relevant reports or information from the licensee that the commissioners reasonably request.

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

Sec. 43.90.240. License violations; damages. (a) A licensee is in violation of the license if the commissioners determine that the licensee has

(1) committed state money received under this chapter for purposes other than those set out in AS 43.90.110(1);

(2) substantially departed from the specifications set out in the application without state approval of a project plan amendment or modification under AS 43.90.220;

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

(4) otherwise violated a material term o. the license.

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

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

(d) If the commissioners and the licensee are unable to resolve the violation within the time specified in (b) of this section, the commissioners shall, after providing the licensee with notice and opportunity to be heard, make a written determination regarding the violation. The written determination made under this subsection is the final agency action for purposes of appeal to the court under the Alaska Rules of Appellate Procedure.

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

(1) discontinuation of state matching contributions under this chapter;

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

(3) license revocation;

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

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

Article 3. Resource Inducement; Alaska Gasline Inducement Act Coordinator.

Sec. 43.90.300. Qualification for resource inducement. Notwithstanding any contrary provision of law, a lessee or other person that demonstrates to the commissioners' satisfaction that the person has committed to acquire firm transportation capacity in the first binding open season of the project is qualified to receive the resource inducement set out in AS 43.90.310 and 43.90.320 for the gas shipped in firm transportation capacity acquired in the first binding open season of the project. The inducements set out in AS 43.90.310 and 43.90.320 are contractual.

Sec. 43.90.310. Royalty inducement. (a) Before the beginning of the first binding open season to be conducted by the licensee, the commissioner of natural

resources shall adopt regulations to establish a method to determine the monthly value of the state's royalty share of gas production and establish terms under which the state will exercise its right to switch between taking its royalty in value or in kind for gas committed for firm transportation in the first binding open season of the project. The regulations must

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

(2) contain provisions to establish a fair market value for each component of the state's royalty gas that are based on pricing data from reliable and widely available industry trade publications and use appropriate adjustments to reflect

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

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

(C) reasonable and actual costs for gas processing; and

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

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

(A) cause the lessee or other person to bear disproportionate transportation costs with respect to the state's royalty gas;

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

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

(1) to calculate its gas royalty obligation under the regulations adopted under (a) of this section for natural gas transported on a firm contract negotiated

during the project's first binding open season or under the methodology set out in the existing leases from which the gas is produced, and

(A) upon the request of the lessee, the commissioner of natural resources shall contractually amend the existing lease to reflect the election under this paragraph and incorporate into the lease, the terms of the relevant regulations as fixed contract terms; and

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

(2) to enter a contract with the state that amends the existing lease terms by extending the required period of notice that the state must provide before exercising the state's right to switch between taking its royalty in value or in kind for gas committed for firm transportation in the first binding open season of the project.

(c) To claim the inducement under (b) of this section, a lessee or other qualified person shall agree, on an application form provided by the Department of Natural Resources, that the lessee or person, and the lessee's or person's affiliates, successors, assigns, and agents, will not protest or appeal a filing by the licensee to roll in expansion costs of the mainline up to a level that is required in AS 43.90.140(7) if the Federal Energy Regulatory Commission does not have a rebuttable presumption in effect that rolled-in rate treatment applies to the cost of the expansion of the project. The agreement not to protest may not preclude the lessee or other qualified person, or the lessee's or other person's affiliates, successors, assigns, and agents from protesting a filing to roll in mainline expansion costs that licensee is not required to propose and support under AS 43.90.140(7).

(d) The commissioner of natural resources shall provide for review of the regulations adopted under (a) of this section at least every two years after the commencement of commercial operations of the project to determine whether the regulations continue to meet the requirements of (a)(1) of this section under current

conditions, and shall amend the regulations when the requirements are not being met.

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

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

(b) The commissioner of revenue shall issue the exemption under this section in a certificate signed by the person and the commissioner, and the certificate constitutes a contract between the person and the state; the certificated exemption may be applied within 10 years immediately following commencement of commercial operations of the project only to production taxes that are levied on North Slope gas shipped through firm transportation capacity the person acquired during the first binding open season.

(c) The exemption certificate issued under (b) of this section shall contain a contractual commitment that the person, and the person's affiliates, successors, assigns, and agents, will not protest or appeal a filing by the licensee to roll in mainline expansion costs up to the level that the licensee is required to propose and support under AS 43.90.140(7) if the Federal Energy Regulatory Commission does not have a rebuttable presumption in effect that rolled-in rate treatment applies to the cost of the expansion of the project. The contractual commitment required under this subsection may not preclude the person, or the person's affiliates, successors, assigns, and agents, from protesting a filing to roll in mainline expansion costs that the licensee is not required to propose and support under AS 43.90.140(7).

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Article 4. Alaska Gasline Inducement Act Coordinator; Expedited Agency Review;

Alaska Job Development Program.

Sec. 43.90.400. Alaska Gasline Inducement Act coordinator. (a) The governor shall appoint, subject to legislative confirmation, an Alaska Gasline Inducement Act coordinator. The Alaska Gasline Inducement Act coordinator terminates one year after commencement of commercial operations of the project.

(b) The Alaska Gasline Inducement Act coordinator shall

(1) coordinate expeditious performance of all activities by state agencies with respect to the project;

(2) ensure compliance by state agencies with the provisions of this chapter; and

(3) coordinate with the federal coordinator for natural gas transportation projects in this state.

Sec. 43.90.410. Expedited review and action by state agencies. (a) All reviews conducted and actions taken by a state agency relating to a project shall be expedited in a manner consistent with the completion of the necessary approvals in accordance with this chapter.

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

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

Sec. 43.90.420. State pipeline employment development. The commissioner of labor and workforce development shall develop a job training program that will provide training for Alaskans in gas pipeline project management, construction, operations, maintenance, and other gas pipeline-related positions.

Article 5. Miscellaneous Provisions.

Sec. 43.90.500. Alaska Gasline Inducement Act matching contribution fund; disbursements; audits. (a) There is established in the general fund an Alaska Gasline Inducement Act matching contribution fund. The fund consists of money appropriated to it by the legislature for disbursement to pay the state's matching contributions under AS 43.90.110. Appropriations to the fund do not lapse under AS 37.25.010, but remain in the fund for future disbursements.

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

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

(d) Within 10 days after the convening of each regular session of the legislature, the commissioners shall submit to the legislature a report that lists all the disbursements from the fund in the preceding year with a written justification of each disbursement and the projected amount of money that will be needed for matching contributions in each of the next three fiscal years.

Sec. 43.90.510. Regulations. The commissioners may jointly adopt regulations for the purpose of implementing the provisions of this chapter. The commissioner of revenue may change regulations adopted under existing authority in this title as necessary to implement the provisions of this chapter. The commissioner of natural resources may change regulations adopted under existing authority in AS 38 as necessary to implement the provisions of this chapter.

Sec. 43.90.520. Statute of limitations. A person may not bring a judicial action challenging the constitutionality of this chapter or a license unless the action is commenced in a court of proper jurisdiction in this state within 90 days after the date that a license was issued.

Sec. 43.90.530. Interest. When a payment due to the state under this chapter

becomes delinquent, the payment bears interest in a calendar quarter at the annual rate of five percentage points above the annual rate charged member banks for advances by the 12th Federal Reserve District as of the first day of that calendar quarter, or at the annual rate of 11 percent, whichever is greater, compounded quarterly as of the last day of that quarter.

Sec. 43.90.540. Licensed project assurances. Except as otherwise provided in this chapter, the state grants a licensee assurances that the licensee has exclusive enjoyment of the inducement provided under this chapter before the commencement of commercial operation of the project. If, before the commencement of commercial operation of the project, the state extends to another person preferential royalty, tax, or monetary treatment for the purpose of facilitating the construction of a competing natural gas pipeline project in this state, and if the licensee is in compliance with the requirements of the license and with the requirements of state and federal statutes and regulations relevant to the project, the licensee is entitled to payment from the state of an amount equal to three times the total of the reasonable costs that the licensee has incurred in developing the licensee's project as of the date that the state first extended preferential treatment to another person. Upon payment by the state of the amount owed under this section, the licensee shall, at no cost to the state, assign to the state or the state's designee all project data, engineering designs, contracts, and permits related to the project that are acquired by the licensee during the term of the license. In this section, "competing natural gas pipeline project" means a project designed to accommodate throughput of more than 500,000,000 cubic feet a day of North Slope gas.

Sec. 43.90.550. Assignments. (a) A licensee may transfer all or part of the license, including the rights and obligations arising under the license, if

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

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

(b) Notwithstanding the commissioners' approval of a transfer of all or part of

a license under (a) of this section, the transferor of the license remains subject to the requirements of AS 43.90.230 regarding all state money received by the licensee before the effective date of the transfer.

(c) A person may transfer that person's rights to the royalty inducement under AS 43.90.310 and the gas production tax exemption under AS 43.90.320 only in connection with a sale or merger that results in transfer of all the person's assets in the North Slope of this state, including the firm transportation capacity contracts in the project.

Sec. 43.90.560. Conflicting laws. Nothing in this chapter shall be construed to repeal or abrogate the administrative, regulatory, or statutory procedures and functions of state and federal law governing the development and oversight of a project.

Sec. 43.90.570. Severability. Under AS 01.10.030, if any provision of this chapter, or the application of it to any person or circumstance, is held invalid, the remainder of this chapter and the application of it to other persons or circumstances are not affected.

Article 6. General Provisions.

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

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

(2) "Alaska Gasline Inducement Act coordinator" means the person appointed under AS 43.90.400;

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

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

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

(6) "equity holder" means the

(A) stockholders of a corporation;

(B) members of a limited liability company;

(C) partners of a partnership;

(D) joint venturers of a joint venture;

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

(F) holders of any other entity or person;

(7) "gas processing" means post-production treatment of gas to extract natural gas liquids;

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

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

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

(11) "license" means a license issued under this chapter;

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

(13) "North Slope" means the area of Alaska north of 68 degrees North latitude;

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

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

(16) "sanction" means financial commitments to go forward with the project as evidenced by entering into financial commitments of at least

$1,000,000,000 with third parties;

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

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

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

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

(45) contracts for an arbitration panel to determine abandonment of a project under AS 43.90.120, and contracts for the development of application provisions for licensure and for the evaluation of those applications under AS 43.90.

* **Sec. 3.** AS 39.25.110 is amended by adding a new paragraph to read:

(41) the Alaska Gasline Inducement Act coordinator appointed under AS 43.90.400.

* **Sec. 4.** 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;

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

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

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

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

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

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

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

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

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

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

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

(11) the written notification regarding a proposed regulation provided under AS 24.20.105 to the Department of Law and the affected state agency and communications between the Legislative Affairs Agency, the Department of Law, and the affected state agency under AS 24.20.105;

(12) records that are

(A) proprietary or a trade secret in accordance with AS 43.90.160;

(B) applications that are received under AS 43.90 until notice is published under AS 43.90.170.

*** Sec. 5.** This Act takes effect immediately under AS 01.10.070(c).

ALASKA STATE LEGISLATURE

Sen. Charlie Huggins, Chair
Sen. Bert Stedman, Vice Chair
Sen. Lyda Green
Sen. Gary Stevens
Sen. Lesil McGuire
Sen. Bill Wielechowski
Sen. Thomas Wagoner

State Capitol, Room 119
Juneau AK 99801-1182
907-465-3878
Fax: 907-465-3265
800-862-3878

Senate Resources Committee

Butrovich Room 205

Sunday, April 1, 2007

AGENDA

1:00 – 5:00

SB 104 Natural Gas Pipeline Project

"An Act relating to the Alaska Gasline Inducement Act; establishing the Alaska Gasline Inducement Act matching contribution fund; providing for an Alaska Gasline Inducement Act coordinator; making conforming amendments; and providing for an effective date."

Testimony: Listen Only

ALASKA STATE LEGISLATURE

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Senate Resources Committee

MEMORANDUM

Date: 4/1/07

To: Legal Services/Don Bullock

From: Sharon Long, SRES Committee Aide

Re: Reqest FINAL CS for SB104 vs M

CS version M passed SRES this afternoon.
Please prepare a final to be delivered to the Senate Secretary tomorrow in time for the morning floor session. VS "M" passed with agreed upon technical adjustments which you have noted, including: language changes regarding "project data" on page 14 lines 10 & 11, and on page 22 lines 19 & 20. The "data" language should read as it does on page 16 line 19. Also, add word "matching" for parallel construction on page 2, line 23.

Thank you very much for all your excellent counsel and apologies for any sleep deprivation caused by this committee.

ALASKA STATE LEGISLATURE

State Capitol, Room 119
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Senate Resources Committee

Monday April 2, 2007
3:30 p.m.- 5:00 p.m.

AGENDA

- **HB 25 RECREATIONAL LAND USE LIABILITY/ADV. POSS**

Landowners' immunity for allowing use of land without charge for a recreational activity; relating to landowners' liability where landowner conduct involves gross negligence or reckless or intentional misconduct; relating to claims of adverse possession and prescriptive easements, or similar claims.

Presentation by

Representative Paul Seaton

Public Testimony: Time Limit May Be Set

- **BPH/S** SB 104

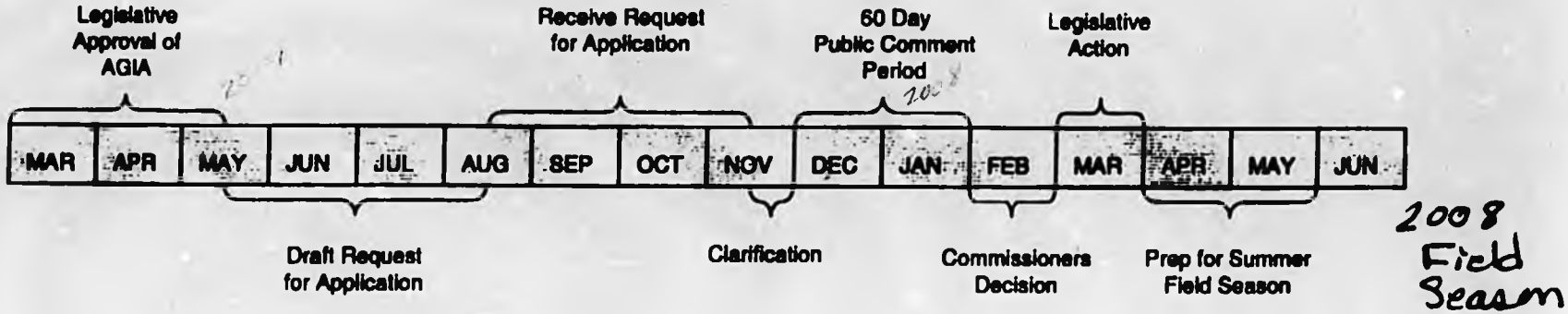
Summary of Federal Agency Permits and Approvals

- Federal Energy Regulatory Commission
  - Certificate of Public Convenience and Necessity
  - NEPA
- US Bureau of Land Management
  - Grant of Right of Way
  - Archaeological Resources
- US Fish & Wildlife Service
  - Incidental Take Permit
  - ESA
  - Land Use
- US Environmental Protection Agency
  - SPCC Plan
  - Storm Water Plans
  - RCRA Storage & Disposal
  - NPDES Permits
- US Army Corps of Engineers
  - Section 404 Permit
  - Section 10 Permit
- US Department of Homeland Security
  - US Coast Guard Navigable Waters Construction
- Department of Defense
  - Land Use
- Federal Communications Commission
  - Communications Towers
- Federal Aviation Administration
  - Airport Use & Operations
- Others

Summary of State of Alaska Permits and Approvals

- Department of Natural Resources (DNR)
  - Material Sales Contract
  - Land Use Permits
  - Water Use Permits
  - Right of Way Lease (AS 38.35)
  - Rights of Way (AS 38.05)
- DNR Office of History & Archaeology
  - State Historic Preservation Office
  - Cultural and Archaeological Clearances
  - Field Survey Permits
  - Section 106 NHPA
- DNR Office of Habitat Management & Permitting
  - Title 41 Fish Habitat Permits
  - Fish Passage Installation
- DNR Office of Project Management & Permitting
  - Alaska Coastal Management Program – Coastal Zone Consistency Review
- Department of Environmental Conservation
  - Oil Discharge / Spill Prevention
  - Air Quality
  - Title V Air Permit
  - Water and Sewage
  - Solid Waste Disposal
  - Food Service
- Department of Transportation & Public Facilities
  - Utility Permits
  - Driveway Permits
- Alaska Oil & Gas Conservation Commission
  - UIC Class II Injection Disposal Well
- Department of Revenue
  - AGIA
- Department of Commerce, Community & Economic Development
  - Regulatory Commission Approval
- Department of Fish and Game

Alaska Gasline Inducement Act Process



SBP
03/04/07