

ALASKA LEGISLATURE

2742

HOUSE and SENATE FINANCE COMMITTEE FILES, 2003-2004

2.1.8 Source of Sale Oil. The State will deliver, as Sale Oil, Royalty Oil produced from the Leases and delivered to the State as Royalty Oil in-kind. The availability to the State of Royalty Oil in-kind in any Month may vary depending on a variety of factors, including the rate of production from the Leases. The State disclaims and Buyer waives, any guarantee, representation, or warranty, either express or implied, that Sale Oil delivered and sold by the State in any Month is from a certain Lease, Unit, or other area.

2.1.9 State's Warranty of Title. The State warrants that it has good and marketable title to the Royalty Oil delivered and sold as Sale Oil.

2.2 Quality.

2.2.1 Quality of Sale Oil. The Royalty Oil the State delivers to Buyer as Sale Oil shall be of the same quality as the Royalty Oil delivered to the State at the Point of Delivery. The quality of the Royalty Oil delivered to the State may vary from time to time. The State disclaims, and Buyer waives, any guarantee, representation, or warranty, either expressed or implied, of merchantability, fitness for use, or suitability for any particular use or purpose, or otherwise, and of any specific, average, or overall quality or characteristic of Sale Oil. Buyer specifically waives any claim that any liquid hydrocarbons, including such substances as crude oil, condensate, natural gas liquids, or return oil from the crude oil topping plant, delivered with the Sale Oil, are not Sale Oil for purposes of this Agreement.

2.3 Price of the Sale Oil. The price per barrel of Sale Oil delivered from each Unit by the State to the Buyer each Month shall be equal to

ANS Spot Price - \$1.55 - Tariff Allowance + Quality Bank Adjustment - Line Loss.

"ANS Spot Price" means the monthly average of the daily high and low assessments for the Month for ANS oil traded at the United States West Coast as reported by Platts' Oilgram Price Report, Telerate online data reporting service, and Reuters online data reporting service. The ANS Spot Price calculation will not include days on which prices are not reported, such as weekends or holidays. If one or two of these publications ceases to report daily assessments for ANS oil traded at the United States West Coast, the Parties agree to calculate the ANS Spot Price using the data from the remaining reporting service or services. If either Buyer or Seller makes a good faith determination that the ANS Spot Price no longer accurately represents the price for ANS oil traded at the United States West Coast, Buyer and Seller will attempt in good faith to arrive at a mutually agreeable alternative source to establish, or substitute for, the ANS Spot Price. If the Buyer and Seller arrive at a mutually agreeable alternative source, that source shall be used to determine the ANS Spot Price beginning the Month following the Month in which the alternative source was determined. If Buyer and the State are unable to agree on an alternative source, either may provide written notice of dispute to the other Party, and the dispute shall be administered in accordance with Section 13.1.

"Tariff Allowance" means the sum of (1) the average, weighted by ownership, of the Minimum Interstate TAPS Tariff (Pump Station No. 1 to Valdez Marine Terminal) for each owner in effect on the Day the Sale Oil is tendered by the State to Buyer; and (2) any tariffs paid by Buyer for shipment of Sale Oil upstream of Pump Station No. 1. "Minimum Interstate TAPS Tariff" means the effective TAPS tariff on file with the Federal Energy Regulatory Commission ("FERC") for each carrier on a given Day, excluding incentive tariffs. If a tariff which has been used in the calculation of a Tariff Allowance is changed or subject to a refund order by the FERC, the Tariff Allowance will be recalculated using the changed FERC-ordered tariff, the

Sale Oil Price will be adjusted accordingly, and the resulting refund to the State (or credit to Buyer) will be made in accordance with Article III. If a FERC-ordered tariff is suspended or enjoined from implementation, the Tariff Allowance shall not be recalculated until the suspension or injunction is lifted and the FERC order is implemented and goes into effect.

The "Quality Bank Adjustment" is a per-barrel amount, positive or negative, that accounts for the difference in quality between the oil produced from the units on the North Slope and the co-mingled ANS TAPS stream downstream of the PSVR connection. The Quality Bank Adjustment for a Unit's stream will be calculated each Month as the difference between the stream value for the PSVR Reference Stream and the stream value for each Unit. The stream value and PSVR Reference Stream are reported by the TAPS quality bank administrator. If the stream value or the PSVR Reference Stream is recalculated by the Quality Bank administrator, the Quality Bank Adjustment shall be recalculated and the Price shall be adjusted as follows: (1) a recalculation of a Quality Bank Adjustment that is not the direct result of an order issued by the FERC shall apply to Sale Oil that has been delivered to Buyer from and after the effective date of the adjustment, but any retroactive application of the adjustment shall be limited to Sale Oil that has been delivered to Buyer in the six calendar Months immediately prior to the Month of invoice of the recalculation, and the Price shall be adjusted in accordance with Article III; and (2) a recalculation of a Quality Bank Adjustment that is the direct result of an order issued by the FERC, including but not limited to any and all orders issued in Docket No. OR89-2-016 et al., shall apply to all Sale Oil deliveries that occur within the time frames affected by the FERC order(s), and any resulting liability for retroactive adjustments shall be payable by the State or Buyer in equal monthly installments over the same number of Months as the number of Months of Sale Oil deliveries to which the recalculation of the Quality Bank Adjustment applied. The

payments (or credit) of retroactive adjustments shall begin in the Month following the Month in which the Quality Bank administrator issues an invoice that implements a retroactive adjustment required by the FERC and shall be subject to the billing and payment (or credit) provisions of Article III. If monthly payments are owed at termination, the amount owed (i.e., the monthly payment times the number of months remaining for payments to be made) shall be paid as an adjustment under Article III as follows: (a) the first \$1 million of the amount owed shall be paid in full; and (b) the remainder of the amount owed, if any, shall be discounted to its net present value and the discounted amount shall be paid in full. The discount rate used in this calculation shall be the Bank of America prime rate plus 2 percentage points and the term for discount shall be the number of months of payments remaining at termination. An adjustment under subsection (2) of this paragraph will not be implemented until the relevant FERC order is final and not subject to further appeal.

"Line Loss" is a per barrel amount equal to $(.0009) \times (\text{ANS Spot Price} - \$1.55 - \text{Tariff Allowance} + \text{Quality Bank Adjustment})$.

Appendix 2 is an illustrative example of the calculation of the Price of Sale Oil. If there is a conflict between Appendix 2 and Section 2.3, Section 2.3 shall control. The \$1.55 component used in calculation of the Price shall be adjusted one time for Sale Oil deliveries on and after April 1, 2009, according to the terms of Appendix 5.

2.4 Delivery of Sale Oil.

2.4.1 Day of First Delivery. The State will make first delivery of the Sale Oil to Buyer at the Point of Delivery on the first Day of the Month following the Month of Closing ("Day of First Delivery"). "Closing" means the transfer from Williams to Buyer of legal title to

all of Williams' Alaska Properties. All nominations made by Williams prior to Closing that provide for the deliveries of Royalty Oil by the State on and after the Day of First Delivery shall be deemed to be nominations by Buyer under this Agreement and shall be subject to all terms of this Agreement, including Price.

2.4.2 Later Deliveries. After the first delivery, the State shall tender the Sale Oil to Buyer at the Point of Delivery immediately upon the receipt of the Royalty Oil from the Lessees at the Point of Delivery.

2.5 Passage of Title and Risk of Loss. Title to, and risk of loss of, the Sale Oil shall pass from the State to Buyer for all purposes when the State tenders delivery of the Sale Oil to Buyer at the Point of Delivery. Buyer shall bear all risk and responsibility for the Sale Oil after passage of title.

2.6 Indemnification After Passage of Title. Buyer shall indemnify and hold the State harmless from and against any and all claims, costs, damages (including reasonably foreseeable consequential damages), expenses, or causes of action arising from or related to any transaction or event in any way related to the Sale Oil after title has passed to Buyer. If Buyer suffers damages or losses caused by third parties and related to the Sale Oil, the State agrees to cooperate with the Buyer to permit Buyer to attempt to recover such damages or losses. The State will, on request, assign the State's claims to Buyer and cooperate in Buyer's pursuit of State assigned claims.

2.7 Transportation Arrangements. Buyer shall make all arrangements for transportation of the Sale Oil from the Point of Delivery, to, through and away from the TAPS, and all pipelines upstream from Pump Station No. 1, and shall be responsible for meeting any linefill and storage tank bottom requirements related to transportation of the Sale Oil after

passage of title, except that the State shall be responsible for meeting any linefill requirements for pipelines upstream of Pump Station No. 1. If Buyer provides the necessary data, the State shall meet its linefill requirements by passing title to Sale Oil to Buyer at the Point of Delivery but not invoicing Buyer for the portion of Sale Oil required for linefill until that portion of Sale Oil has been delivered to Buyer at Pump Station No. 1. For purposes of invoicing, Buyer and State agree that the linefill upstream of Pump Station 1 that has not been invoiced will be deemed to be the last barrels injected at the Point of Delivery. On the State's request, Buyer shall provide the State with evidence of the arrangements for transportation of the Sale Oil from the Point of Delivery, through and away from TAPS, and all pipelines upstream from Pump Station No. 1, and evidence of arrangements for resale, exchange, or other disposal of the Sale Oil. Buyer's failure to provide information, evidence, or assurances requested by the State shall, at the State's election and after Notice to Buyer, constitute a material default under this Agreement.

ARTICLE III INVOICING AND PAYMENT

3.1 Invoices. On or before the twentieth calendar Day of each Month after the first Month of delivery of Sale Oil, the State shall send to Buyer via facsimile a statement of account with an invoice for the total amount due for the estimated quantity of Sale Oil delivered to Buyer during the immediately preceding Month and the estimated Price applicable to those deliveries. The State will base its estimates on the best information reasonably available to the State. The State shall adjust invoices as provided in Section 3.3.

3.2 Payment of Invoices. Buyer shall pay the total amount of each invoice, in full, on or before the later of (1) the third Business Day after the date of the statement of account in which the invoice is included; or (2) the twentieth calendar Day of the Month. Any amount that

Buyer does not pay in full on or before the payment due date calculated in accordance with this section shall accrue interest as provided in Section 3.5, and become subject to the late payment provisions of Section 3.7, and any other remedies available to the State under this Agreement and at law.

3.3 Adjustments. Buyer acknowledges that any time after an invoice is sent, the State may receive more accurate information concerning the ANS Spot Price, actual quantity of Sale Oil delivered to Buyer, the proper calculation of Tariff Allowance, and Quality Bank Adjustments that affect the Price of the Sale Oil. Buyer agrees that any time such information becomes available to the State, the State shall make adjustments and invoice or credit Buyer the amount of the adjustment in accordance with the process and retroactivity limits described in Section 2.3. The State shall invoice or credit Buyer in a statement of account for the adjustments as promptly as reasonably possible. All adjustments shall be paid within 30 Days of the end of the term.

3.4 Payment of Adjustments. The Buyer shall pay the total amount of each adjustment invoice in full, on or before the later of (1) the third Business Day after the date of the statement of account that includes the adjustment invoice; or (2) the twentieth calendar Day of the Month. If an adjustment is due to Buyer for an overpayment, the State shall credit to Buyer the amount of the overpayment on the following Month's invoice or, if no following Month invoice is provided, the State shall refund to Buyer the amount of the overpayment by the twentieth calendar Day of the following Month. Any amount the Buyer does not pay in full when due shall bear interest at the rate provided in Section 3.5 and become subject to the late payment provisions of Section 3.7, and any other remedies available to the State under this Agreement and at law.

3.5 Interest. All amounts under this Agreement that Buyer does not pay in full when due, or that the State does not credit Buyer or pay in full when due, shall bear interest from the date payment is due, calculated in accordance with Section 3.4, at the rate provided by Alaska Statute 38.05.135(d) or as that statutory provision may later be amended.

3.6 Adjustments After Termination. Buyer and State agree that the State shall continue to make adjustments after termination of this Agreement, and agree that the provisions of Articles III, VI, VII, and IX shall survive termination of this Agreement for any reason. ' following termination of this Agreement an adjustment is determined to be due to Buyer for overpayment in an amount that exceeds the amount of all sums remaining due from Buyer to the State, the State shall credit the overpayment against any sums due from Buyer to the State, and shall refund to Buyer the remaining amount of the adjustment. Any adjustments made after termination must be paid within thirty Days after the date of the invoice.

3.7 Late Payment Penalty. In addition to all other remedies available to the State, if Buyer fails to make timely payment in full of any amount due, including adjustments, Buyer shall pay the State as a late payment penalty an amount equal to five percent of the total amount not timely paid, in addition to the amount not timely paid. The Commissioner shall waive imposition of the late payment penalty if the Buyer provides evidence that the failure to make timely payment was not willful and was not due to one mistake in a chronic pattern of mistakes. Appendix 3 contains an illustrative example of interest and late payment penalties.

3.8 Disputed Payments. If a dispute arises concerning the amount of an invoice, Buyer agrees to pay in full all amounts not in dispute, and to explain in writing with particularity the basis for and calculation of any disputed amounts withheld.

3.9 Confidential Information. The State and Buyer agree that the State may invoice Buyer for, and Buyer agrees to pay, amounts that are based upon confidential information held or received by the State. If confidential information is used as the basis for an invoice, upon receipt of a written request from Buyer, the State shall furnish to Buyer a certified statement of the Commissioner to the effect that, based upon the best information available to the State, the invoiced amounts are correct. At the request and expense of Buyer, the Commissioner's certified statement will be based on an audit by an independent third party.

3.10 Manner of Payment. Except as provided in Section 3.8, Buyer shall pay all invoices in full within the times specified and without any deduction, set off, or withholding. Buyer shall pay all invoices by either Automated Clearinghouse or by Federal Reserve Wire Transfer (immediate funds available) procedure to the following State account and address:

State Street Bank & Trust Company
Boston, Massachusetts
ABA #011000028
For Credit to the State of Alaska
General Investment Fund – AY01
Account No. 00657189 (Federal Reserve Wire Transfer)
Account No. 00653220-10000 (Automated Clearinghouse)

Buyer may pay an invoice in such other manner or to such other address the State has specified in an invoice or by written notice. All other payments due shall be paid in the same manner and according to the same time schedule provided in this Article. If payment falls due on a Saturday, Sunday, or federal bank holiday, payment shall be made on the next Business Day.

ARTICLE IV **IN-STATE PROCESSING**

4.1 In-State Processing. Buyer shall use all commercially reasonable efforts to insure that Sale Oil will be processed at its Alaska refinery or be exchanged for other crude oil that will

be processed at its Alaska refinery. "Process" means the manufacture of refined petroleum products.

ARTICLE V
BUYER'S SPECIAL COMMITMENTS

5.1 Buyer agrees to comply with and perform the list of "Special Commitments" contained in Appendix 4 to this agreement.

ARTICLE VI
BUYER'S AND GUARANTOR'S REPRESENTATIONS AND OBLIGATIONS

6.1 Good Standing and Due Authorization of Buyer. Buyer warrants that it is, and shall remain at all times during the term of this Agreement: (1) qualified to do business in Alaska; and (2) in good standing with the State. Buyer warrants that it has all company power and authority necessary, and has performed all company action required, to enter into and fulfill its obligations under this Agreement.

6.2 Good Standing and Due Authorization of Guarantor. Guarantor warrants that it is, and shall remain at all times during the term of this Agreement: (1) qualified to do business in Alaska; and (2) in good standing with the State. Buyer warrants that it has all company power and authority necessary, and has performed all company action required, to enter into and fulfill its obligations under this Agreement.

6.3 Financial Information. As soon as practicable after the execution of this Agreement, and annually as soon as practicable after March 31 but no later than June 30, Guarantor shall cause a financial analyst (the "Financial Analyst") to submit an opinion to the Commissioner in the form of a letter (the "Opinion Letter") about Guarantor's current and expected future credit rating by Standard and Poor's and Moody's. The Financial Analyst shall be qualified to render an opinion as to the creditworthiness of the Guarantor and shall be in the

business of understanding complex financial matters and financial statements to the extent required to render such opinion. Buyer shall have the right to designate the Financial Analyst, subject to approval by the State. The Financial Analyst shall be a contractor to Guarantor, and Guarantor shall be responsible for entering into any necessary contractual arrangements with the Financial Analyst and paying the fees and expenses of the Financial Analyst.

The contract between Guarantor and the Financial Analyst and each Opinion Letter must recite that the Financial Analyst (1) has been provided a copy of this Agreement, (2) understands the significance of the Opinion Letter in the administration of this Agreement, (3) understands that the State will rely on the Opinion Letter, and (4) understands that the Opinion Letter is for the benefit of the State. The contract between Guarantor and the Financial Analyst shall be subject to approval by the State, and the State shall be given a copy of the contract and all amendments to it.

The Opinion Letter shall (i) identify all documents reviewed in forming the opinion, (ii) identify people interviewed in forming the opinion and discuss the nature of the interview, (iii) state the current long term (and short term, if available) credit ratings of Guarantor by Standard and Poor's and Moody's and (iv) express an opinion whether those ratings are reasonably likely to fall to or below BBB+ (Standard and Poor's) and Baa1 (Moody's) at any time during the following twelve Months. Guarantor shall cause the Financial Analyst to review evidence of the most current ratings by Standard and Poor's and Moody's of Guarantor's long and short term debt, all bank presentations provided to Guarantor's lenders, all reports on Guarantor prepared by Standard and Poor's or Moody's, any assessment (if available to the Guarantor) of Guarantor's financial condition conducted on behalf of the Port Commission of the Port of Corpus Christi Authority, concerning the Port of Corpus Christi Authority of Nueces County,

Texas Solid Waste Disposal Revenue Bonds, all documents filed by Guarantor with the Securities and Exchange Commission, if any, any other documents reasonably necessary to deliver the Opinion Letter, and a complete set of year-to-year comparative, independently audited financial statements, including footnotes, prepared in accordance with generally accepted accounting principles.

Guarantor's contract with the Financial Analyst may require the Financial Analyst to protect the confidentiality of the information supplied to it under Section 6.3. The State may review the information supplied to the Financial Analyst under Section 6.3 by executing a confidentiality agreement with Guarantor but will not take any action that will make the information part of the State's public records.

6.4 Financial Condition. Guarantor warrants (1) that all financial information submitted to the Financial Analyst or reviewed by the State under Section 6.3 is complete and accurate at the time of preparation, and fairly represents Guarantor's financial condition at the time of submission; and (2) that there has been no material change in Guarantor's financial condition, business operations, or properties since the financial information was prepared. Guarantor warrants that the financial statements were prepared in accordance with generally accepted accounting principles. Guarantor and Buyer shall immediately inform the State of any material change in Guarantor's ownership or ownership of Buyer, ownership of parent companies, or financial condition, business operations, agreements, or property that is likely to affect their ability to perform their obligations under this Agreement.

6.5 Absolute Obligations. Buyer's and Guarantor's obligations to pay amounts due, provide assurances of performance in accordance with Article VII, accept, and dispose of and pay for Sale Oil, are absolute. These obligations shall not be excused or discharged by the

operation of any disability of Buyer or Guarantor, event of Force Majeure, impracticability of performance, change in conditions, or other reason or cause.

6.6 Guaranty. Buyer was formed to purchase the refinery at North Pole, Alaska now owned by Williams Alaska Petroleum, Inc. Buyer is an indirect, wholly-owned subsidiary of Guarantor. Buyer does not have any operating history, does not have public financial statements, and does not have debt rated by Moody's or Standard and Poor's. The State is not willing to make this Agreement based solely on the credit worthiness of Buyer. Guarantor therefore agrees that it guarantees performance of all of Buyer's obligations under this Agreement as if Guarantor were the Buyer and legally indistinguishable from Buyer. The State may require Guarantor at any time to satisfy any unsatisfied obligation of Buyer.

ARTICLE VII **ASSURANCE OF PERFORMANCE**

7.1 Credit Review. If Guarantor fails to timely submit its financial statements and other documents and information required under Article VI such that the Financial Analyst is unable to timely submit the Opinion Letter; or if, in the opinion of the Financial Analyst, Guarantor's credit ratings have fallen to or below, or are reasonably likely in the twelve Months following the Opinion Letter, to fall to or below (a) "BBB+" (Standard and Poor's "Long term issuer"), or (b) "Baal" (Moody's Investor Services "Issuer Ratings/Long Term Obligation Ratings"); or Guarantor is not rated by Standard and Poor's and Moody's, Guarantor shall immediately deliver to the State a one year irrevocable stand-by letter of credit (the "Letter") meeting the requirements of Sections 7.2 through 7.5.

Guarantor shall annually renew and continuously maintain the Letter in effect until such time as, in the opinion of the Financial Analyst, Guarantor's credit rating is no longer reasonably likely to fall to or remain below (a) "BBB+" (Standard and Poor's "Long term issuer"); or (b)

“Baal” (Moody’s Investor Services “Issuer Ratings/Long Term Obligation Ratings”) at any time during the twelve Months following the Opinion Letter.

7.2 Letter of Credit. In the event that Guarantor is required to deliver a letter of credit to the State in accordance with Section 7.1, the Letter shall be in a form satisfactory to the Commissioner and shall be in effect no later than five Business Days after the effective date of Notice from the State to the Guarantor (“Letter Effective Date”). The State’s Notice shall include a description of the circumstances that trigger the Letter requirement in accordance with Section 7.1. The Letter shall be issued for the benefit of the State by a state or national banking institution of the United States that is insured by the Federal Deposit Insurance Corporation and has an aggregate capital and surplus amount of not less than One Hundred Million Dollars (\$100,000,000) (“Issuer”), or other banking institution approved by the Commissioner, such approval not to be unreasonably withheld. The principal face amount of the Letter shall be an amount reasonably estimated by the Commissioner to be equal to the Price of all Sale Oil to be delivered by the State to Buyer during the 90 Days immediately following the Letter Effective Date. The Letter shall not require the State to submit any documentation in support of drafts drawn against it other than a certified statement by the Commissioner and the State’s Attorney General that Guarantor is liable to the State for an amount of money equal to the amount of the draft, that the amount of money is due and payable in full, and it has not been timely paid.

7.3 Performance Assurance After Termination. If in accordance with the terms of Section 7.1, a Letter is in effect immediately prior to Termination of the Agreement, the Commissioner may require that, after Termination, the Letter be maintained in an amount estimated by the Commissioner to be equal to the value of all adjustments which may be made under Article III. As an alternative to maintaining a Letter after Termination, the Guarantor may

establish and maintain an interest-bearing escrow account in the same amount and including the same payment terms as the Letter requirements of Section 7.2, on commercial terms acceptable to the Commissioner.

7.4 Other Performance Assurance. The Commissioner may allow Guarantor to provide security other than the Letter if the Commissioner determines other security is adequate to protect the State's interest.

7.5 Correction of Defects in Letter. Guarantor shall have five Business Days to correct any defect in the Letter beginning on the Business Day Guarantor first learns of the defect whether through Notice from the State or otherwise. A defect is any failure to comply with the terms and conditions of Article VII.

ARTICLE VIII **MEASUREMENTS**

8.1 Measurements. The quantity and quality of Sale Oil the State delivers under this Agreement shall be determined by measurement at the Point of Delivery. Procedures used for metering and measuring the Sale Oil shall be in accordance with the procedures in effect at the Point of Delivery.

ARTICLE IX **EFFECTIVE DATE AND TERM**

9.1 Effective Date. This Agreement shall be effective when it is signed by all parties ("Effective Date").

9.2 Initial Term. The Initial Term of this Agreement shall begin on the Day of First Delivery and terminate at the end of the last Day of the 12th Month after the Day of First Delivery, including the Month in which the Day of First Delivery occurs.

9.3 Extension of Term. Under Alaska Statute 38.06.055, this Agreement is limited to a term of no longer than one year unless a longer term is approved by the Alaska legislature. The Commissioner shall have legislation to approve the extension of the term of this Agreement for an additional nine years following the last Day of the Initial Term prepared for introduction to the 23rd Legislature in 2004. The Commissioner and Buyer agree to use their best efforts to support the passage of the legislation.

9.4 Termination Prior to Legislative Approval. Buyer, Guarantor, or the State may terminate this Agreement, with no further obligation or liability to each other, if Enactment has not occurred on or before March 17, 2004. Notice of termination shall be in writing, and shall be effective if delivered to the other Party in accordance with Section 16.1 before Enactment. "Enactment" means the Governor's signing of a bill passed by the 23rd Legislature that approves the extension of the term of this Agreement for an additional nine years following the last Day of the Initial Term.

9.5 Closing on Williams' Alaska Properties. Buyer, Guarantor, or the State may terminate this Agreement, with no further obligation or liability to each other, if Closing has not been completed before April 1, 2004. Notice of termination shall be in writing, and shall be effective if delivered to the other Party in accordance with Section 16.1 before Closing.

9.6 Continuation of Obligations. Except as provided in Sections 9.4 and 9.5, termination of this Agreement shall not relieve either Party from any expense, liability, or other obligation or any remedy that has accrued or attached prior to the date of termination. For Sale Oil actually delivered under this Agreement, termination of this Agreement shall not relieve Buyer of its obligation to pay all production Month invoices, initial adjustments, subsequent

adjustments, and interest, and, where applicable, penalties, costs, attorney fees, and any other charges related to the Sale Oil actually delivered.

ARTICLE X
DEFAULT OR TERMINATION

10.1 Default.

10.1.1 Events of Default. The Commissioner may suspend or terminate the State's obligations to tender, deliver and sell Sale Oil to Buyer, and may exercise any one or more of the rights and remedies provided in this Agreement, or at law, if any one or more of the following events of default occur:

(i) Buyer or Guarantor fails to pay in full any sum of money owed under this Agreement within five Business Days after the State gives Buyer Notice that payment is past due;

(ii) Within five Business Days after Notice from the State, Buyer or Guarantor fails to provide written assurances satisfactory to the State of Buyer's or Guarantor's intention to perform its obligations under this Agreement and evidence or assurances of transportation arrangements under Section 2.7;

(iii) There is a material change in Buyer's or Guarantor's financial condition, business operations, agreements, or property or ownership that is likely to affect Buyer's or Guarantor's ability to perform its obligations under this Agreement, and within five Business Days after Notice from the State, Buyer or Guarantor is unable or unwilling to provide a Letter meeting the requirements of Sections 7.1 and 7.2;

(iv) Buyer or Guarantor fails to perform any of its obligations under this Agreement, and cannot cure the non-performance or the non-performance continues for more than 30 Days after the State has given Notice to Buyer or Guarantor of its non-performance;

(v) Any representation or warranty made by Buyer or Guarantor in this

Agreement is found to have been materially false or incorrect when made; or

(vi) Guarantor fails, or is unable for any reason (including reasons beyond Guarantor's control), to maintain the Letter required under Article VII, regardless of Guarantor's willingness or ability to perform any other obligations under this Agreement.

10.1.2 Default by Inability to Pay. Buyer or Guarantor shall immediately provide the State with Notice if Buyer or Guarantor is unable to pay any of its debts when due, makes an arrangement for the benefit of creditors, files a bankruptcy petition, or is otherwise insolvent. Upon Notice from Buyer or Guarantor, or if the State independently determines that Buyer or Guarantor is unable to pay any of its debts when due or is otherwise insolvent, the State's obligations to deliver and sell Sale Oil to Buyer shall automatically and immediately terminate without any requirement of Notice to Buyer or Guarantor or other action by the State. Within 30 Days after termination under this Article 10.1.2, the State shall have the right, upon consent of Buyer or Guarantor, to reinstate all of the State's, Buyer's and Guarantor's obligations under this Agreement retroactive to the date of termination.

10.2 State's Remedies. If Buyer or Guarantor defaults under this Agreement, in addition to all other remedies available to the State under this Agreement or at law, the following remedies shall be available to the State:

10.2.1 Buyer's and Guarantor's Obligations Become Due. All monetary obligations Buyer or Guarantor has accrued under this Agreement, even if not yet due and payable, shall immediately be due and payable in full.

10.2.2 State May Dispose of Sale Oil. The State may dispose of some or all of the Sale Oil to third parties. If the State exercises this remedy, regardless whether this Agreement is terminated, Buyer and Guarantor shall be and shall remain liable to the State for the amount of the difference between the Price for the Sale Oil under Article II and the actual price the State receives from disposition of the Sale Oil to third parties.

10.2.3 Indemnification for Loss. Buyer and Guarantor shall hold the State harmless and indemnify it against all its liability, damages, expenses, attorney's fees and costs, and losses directly arising out of Buyer's or Guarantor's default, termination of the State's obligations, and disposal of the Sale Oil to third parties. Additionally, if Buyer or Guarantor defaults in the payment of any monetary amounts due to the State for Sale Oil tendered or delivered under this Agreement, Buyer or Guarantor shall pay the State 100 percent of reasonable actual costs and attorney fees incurred by the State in pursuing payment of the monetary amounts due, regardless of whether litigation is commenced and regardless of whether legal services are provided by the Attorney General's office or private counsel.

10.2.4 Other Rights and Remedies. The State shall have the right cumulatively to exercise all rights and remedies provided in this Agreement and by law, and obtain all other relief available under law or at equity, including mandatory injunction and specific performance.

10.3 Limitation of Buyer's and Guarantor's Remedies. If Buyer or Guarantor breaches or defaults in any of its obligations under this Agreement, Buyer or Guarantor shall not obtain a temporary restraining order or preliminary injunction preventing the State from disposing of the Sale Oil in accordance with Section 10.2.2.

10.4 Article Survives Termination. This Article survives termination of the Agreement.

ARTICLE XI

DISPOSITION OF OIL UPON DEFAULT OR TERMINATION

11.1 Disposition of Oil Upon Default or Termination. Buyer and Guarantor acknowledge that the State may be required to provide six Months notice to the Lessees before the State may decrease its in-kind nomination of Royalty Oil in any Month. The Commissioner may request a waiver of any notice provision, condition, or requirement of a Lease, Unit Agreement, Royalty Settlement Agreement or other agreement. If this Agreement terminates for default or any other reason after Buyer has nominated or is deemed to have nominated Sale Oil,

Buyer shall continue to accept and pay for Sale Oil through the first Day of the Month following expiration of a minimum of 100 Days after the date of termination, if the Commissioner so requires. Under no circumstances will Buyer be deemed to have nominated Sale Oil if Closing does not occur. If, however, the additional notice provisions of Article 2.1.6 are invoked, Buyer shall continue to accept and pay for Sale Oil until the expiration of six Months and ten Days after the Date of default or notice of termination.

11.2 Security for Disposal of Sale Oil. To secure the Buyer's obligations to purchase and dispose of Sale Oil, upon the Commissioner's request, if Buyer refuses to accept or receive Sale Oil under this Agreement, Buyer shall assign or otherwise transfer to the State, or its designee, Buyer's right to transport the Sale Oil through and away from the TAPS, and all pipelines upstream from Pump Station No. 1, whether such rights are under nominations, leases, contracts, tariffs, charter parties, or other agreements. The State shall not incur liability or obligations unless the State actually exercises its rights under this Section.

ARTICLE XII NONWAIVER

12.1 Nonwaiver. The failure of a Party to insist upon strict or a certain performance, or acceptance by a Party of a certain performance or course of performance under this Agreement shall not: (1) constitute a waiver or estoppel of the right to require certain performance or claim breach by similar performance in the future; (2) affect the right of another Party to enforce any provision; or (3) affect the validity of any part of this Agreement.

ARTICLE XIII DISPUTE RESOLUTION

13.1 Dispute Resolution. Any disagreement or dispute about the meaning or application of a word, term, condition, right, or obligation in this Agreement shall be decided

according to the dispute resolution procedure set forth in this Article. The procedure set forth in this Article shall be initiated by a Party by providing written Notice of the disagreement or dispute to the other Parties. No later than sixty Days after a Party provides written Notice, the Parties shall each present any arguments and evidence supporting its view of the disputed term, condition, right, or obligation in writing to the Commissioner for consideration. The State, Buyer and Guarantor shall not have the right to civil litigation-type discovery or a civil litigation-type trial with the right to call or cross-examine witnesses unless granted by the Commissioner, after request. Within thirty Days after the Parties submit their arguments and evidence, the Commissioner shall issue a finding interpreting the meaning or application of the disputed word, term, condition, right, or obligation and shall set forth the basis for the conclusions. The Parties agree to accept findings of the Commissioner under this Article that are supported by substantial evidence in light of the whole record.

ARTICLE XIV SEVERABILITY

14.1 Severability. If a court decrees any provision of this Agreement to be invalid, all other provisions of this Agreement shall remain valid. If, however, invalidation of a provision impairs a material right or remedy under this Agreement, the Parties will negotiate in good faith to maintain the original intent and benefits of this Agreement. If the Parties cannot restore the original intent and benefits of this Agreement, then either Party may terminate this Agreement by giving Notice.

ARTICLE XV FORCE MAJEURE

15.1 Effect of Force Majeure. Except for Buyer's and Guarantor's obligations to pay amounts due, provide assurance of performance in accordance with Article VI, and to accept,

dispose of, and pay for Sale Oil, no Party shall be liable for failure to perform if performance is substantially prevented by Force Majeure after commercially reasonable efforts to perform.

15.2 Force Majeure. The term "Force Majeure" means an event or condition not within the reasonable control of the Party claiming "Force Majeure." Force Majeure Events include, but are not limited to, the following events:

i. act of God, fire, lightning, landslide, earthquake, storm, hurricane, hurricane warning, flood, high water, washout, explosion, well blowout, failure of plant, pipe or equipment, or;

ii. strike, lockout, or other industrial disturbance, act of the public enemy, war, military operation, blockade, insurrection, riot, epidemic, arrest or restraint by government of people, terrorist act, civil disturbance, or national emergency;

iii. act, order, or requisition of any governmental agency or acting governmental authority or any governmental proration, regulation, or priority.

15.3 Notice and Remedy of Force Majeure. If a Party believes that Force Majeure has occurred, the Party shall immediately notify the other Parties of its claim of Force Majeure. Except for Buyer's and Guarantor's absolute obligations to pay amounts due, provide assurances of performance in accordance with Article VII, and accept, dispose of and pay for Sale Oil, the disabled Party's obligations to perform that are affected by the Force Majeure shall be suspended from the Notice Effective Date until the disability caused by the Force Majeure should have been remedied with reasonable diligence. If Buyer or Guarantor is prevented by Force Majeure from performing any material obligation for 180 successive Days or more, the Commissioner may terminate this Agreement on sixty Days Notice.

ARTICLE XVI
NOTICE

16.1 Method. All notices, consents, requests, demands instructions, approvals, and other communications permitted or required ("Notice") shall be made in writing and delivered by any two of the following methods: (a) personally delivered, (b) delivered and confirmed by facsimile transmission, (c) delivered by Federal Express, DHL, or other reputable overnight courier delivery service, (d) e-mail, or (e) deposited in the United States mail, first class, postage prepaid, certified or registered, return receipt requested, addressed as follows:

State of Alaska
Commissioner of Natural Resources
400 Willoughby Avenue
Juneau, Alaska 99801
Facsimile Number: (907) 465-3886
e-mail: commissioner@dnr.state.ak.us

and

Director, Division of Oil and Gas
550 West 7th Street, Suite 800
Anchorage, Alaska 99501-3510
Facsimile Number: (907) 269-8938
e-mail: director_dog@dnr.state.ak.us

the Buyer:

Flint Hills Resources Alaska, LLC
4111 E. 37th St. N.
Wichita, KS 67220
Facsimile Number: (316) 828-8245
Attention: President
e-mail: allen.lasater@fhr.com

the Guarantor:

Flint Hills Resources, LLC
4111 E. 37th St. N.
Wichita, KS 67220
Facsimile Number: (316) 828-8245
Attention: President
e-mail: david.robertson@fhr.com

or to any other place within the United States of America designated in writing by the State, Buyer or Guarantor.

16.2 Notice Effective Date. Notice given by personal delivery, overnight courier, or mail shall be effective on the date of actual receipt at the appropriate address. Notice given by facsimile or e-mail shall be effective on the date of actual receipt if received during recipient's normal business hours, or at the beginning of the next business Day after receipt if received after recipient's normal business hours. The Notice Effective Date is the effective date of the first of the two Notices received.

16.3 Change of Address. A Party may notify the other Parties of changes in its address by giving Notice.

ARTICLE XVII RULES AND REGULATIONS

17.1 Rules and Regulations. This Agreement is subject to all applicable laws of the State of Alaska, and orders, rules and regulations of the United States, the State of Alaska, and any duly constituted agency of the State of Alaska.

ARTICLE XVIII SOVEREIGN POWER OF THE STATE

18.1 Sovereign Power of the State. This Agreement shall not be interpreted to limit in any way the State's ability to exercise any sovereign or regulatory powers, whether conferred by constitution, statute or regulation. The State's exercise of any sovereign or regulatory power shall not be deemed to enlarge any of Buyer's or Guarantor's rights, or limit any of Buyer's or Guarantor's obligations or liabilities under this Agreement.

ARTICLE XIX
APPLICABLE LAW

19.1 Governing Law. This Agreement, and all matters arising from or related to this Agreement, shall be governed, construed and determined by the laws of the State of Alaska.

19.2 Jurisdiction. After exhaustion of the dispute resolution provisions in Article XIII, any legal action or proceeding arising out of or related to this Agreement shall be brought in a State court, and Buyer and Guarantor irrevocably submit to the jurisdiction of the State court in any action or proceeding.

ARTICLE XX
WARRANTIES

20.1 Warranties. The purchase and sale of Royalty Oil under this Agreement are subject only to the warranties the State has expressly set forth in this Agreement. The State disclaims and Buyer and Guarantor waive all other warranties, express or implied in law.

ARTICLE XXI
AMENDMENT

21.1 Amendment. This Agreement may be supplemented, amended, or modified only by written instrument duly executed by the Parties, and, where required, only on approval under Alaska Statute 38.06.055.

ARTICLE XXII
SUCCESSORS AND ASSIGNS

22.1 Assignments and Other Transfers. Buyer may freely assign its rights and obligations to an Affiliate formed under the laws of a state in the United States of America. An "Affiliate" shall mean an entity that is directly or indirectly controlled by Guarantor or Guarantor's permitted assigns, or is directly or indirectly controlled by an entity that directly or

indirectly controls Guarantor or Guarantor's permitted assigns, where control means the right to vote more than fifty percent of the voting interest in the entity.

Buyer and Guarantor may, without consent of the State, collectively assign their rights and obligations under this Agreement to a Person that acquires all or substantially all of the Alaska refining assets of Buyer and Guarantor (the "Assignee"), provided that at least 45 Days before the effective date of the assignment the Assignee provides to the State (a) all of the financial information and warranties Guarantor is required to provide under Article VI and (b) a copy of the form of the assignment, including Assignee's obligation to assume and discharge all of Buyer's and Guarantor's obligations under this Agreement. If, based on the financial information supplied under Article VI, Assignee is required to supply a Letter under Article VII, the Letter in the form and amount required by Article VII must be provided to the State at least 30 Days before the effective date of the assignment. No assignment can be made to an Assignee with long term credit ratings of less than BBB- (Standard and Poor's) or Baa3 (Moody's). From and after the effective date of the Assignment, Buyer and Guarantor shall be relieved of their rights and obligations under this Agreement. No assignment shall be effective until after 45 Days Notice to the State.

Buyer and Guarantor may not otherwise assign their rights or obligations under this Agreement without first obtaining the written consent of the Commissioner, which may not be unreasonably withheld.

22.2 Binding on Successors. This Agreement shall be binding upon and inure to the benefit of the legal representatives, successors, and assigns of the Parties.

ARTICLE XXIII
RECORDS

23.1 Inspection of Records. Buyer and Guarantor and the State shall each accord to the other and the other's authorized agents, attorneys, and auditors access during reasonable business hours to any and all property, records, books, documents, or indices related to Buyer's, Guarantor's or the State's performance under this Agreement, and which are under possession or control of the Party from which access is sought, so the other Party may inspect, photograph, and make copies of the property, records, books, documents, or indices except: (1) the State shall not be required to disclose any information, data, or records that it is required by state or federal law or regulation, or by agreement with the Person supplying the record, to be held confidential; (2) the State's access to and treatment of Guarantor's financial records shall be limited by Section 6.3; and (3) no party shall be required to produce documents that are protected by the attorney-client privilege. If information the State obtains from Buyer or Guarantor may be held confidential under state or federal law or regulation, Buyer may request in writing that the State hold the information confidential, and the State shall keep the information confidential to the extent and for the term provided by law.

ARTICLE XXIV
EMPLOYMENT OF ALASKA RESIDENTS

24.1 Employment of Alaska Residents. Buyer shall comply with all valid federal, state, and local laws in hiring Alaska residents and companies, and shall not discriminate against Alaska residents and companies. Within the constraints of law, Buyer voluntarily agrees to employ Alaska residents and Alaska companies to the extent they are available, willing, and at least as qualified as other candidates for work performed in Alaska in connection with this Agreement. "Alaska resident" means an individual who is physically present in Alaska with the

intent to remain in the state indefinitely. An individual may demonstrate an intent to remain in the state by maintaining a residence in the state, possessing a resident fishing, trapping or hunting license, or receiving a permanent fund dividend. "Alaska companies" means companies incorporated in Alaska or whose principal place of business is in Alaska. If a court invalidates any portion of this provision, Buyer agrees to employ Alaska residents and Alaska companies to the extent permitted by law.

ARTICLE XXV COUNTERPARTS

25.1 Counterparts. This Agreement may be executed in multiple counterparts. It is not necessary for the Parties to sign the same counterpart. Each duly executed counterpart shall be deemed to be an original and all executed counterparts taken together shall be considered to be one and the same instrument.

ARTICLE XXVI MISCELLANEOUS

26.1 Agreement Not to Be Construed Against Any Party as Drafter. The Parties recognize that this Agreement is the product of the joint efforts of the Parties and agree that it shall not be construed against any Party as drafter.

26.2 Entire Agreement. This Agreement constitutes the entire agreement and understanding between the Parties about the subject matter of this transaction and all prior agreements, understandings, and representations, whether oral or written, about this subject matter are merged into and superseded by this written Agreement.

26.3 Headings. The headings throughout this Agreement are for reference purposes only and shall not be construed or considered in interpreting the terms and provisions of this Agreement.

26.4 Authority to Sign. Each Person signing this Agreement warrants that he or she has authority to sign the Agreement.

26.5 Further Assurances. The Parties agree to do such further acts or execute such further documents as may reasonably be required to implement this Agreement.

26.6 Currency. All dollar amounts are U.S. dollars.

SIGNATURES:

the State:

THE STATE OF ALASKA

Commissioner
Department of Natural Resources

Date:

FLINT HILLS RESOURCES ALASKA, LLC

Printed Name:

Title:

Date:

FLINT HILLS RESOURCES, LLC

Printed Name:

Title:

Date:

**APPENDIX 1
NOMINATION PROCEDURE EXAMPLE
For Sale Oil Delivered in July 2004**

| | PBU IPA & Satellites | Greater Pt McIntyre Area | Total |
|--|-------------------------|-----------------------------|--------------|
| March 15, 2004 | | | |
| State receives preliminary barrel per day (bpd) production forecasts from the unit operator 105 days prior to the start of the production month | 456,000 | 63,200 | 519,200 |
| Not later than March 19, 2004 | | | |
| RIK purchaser notifies state of monthly bpd nomination (a) | | | 56,362 |
| Not later than March 31, 2004 | | | |
| State computes RIK percent of Royally Oil based on Buyer's Sale Oil nomination | | | |
| Estimated royalty rates | 12.50% | 13.34% | |
| Total state estimated royalty bpd (bpd * royalty rate) | 57,000 | 8,431 | 65,431 |
| State's RIK nomination percentage (Purchaser RIK bpd/estimated royalty bpd) | | | 86.14% |
| March 31, 2004 | | | |
| State notifies unit operator of state's RIK nomination percentage | 86.14% | 86.14% | 86.14% |
| May 24, 2004 | | | |
| Unit operator notifies state and working interest owners of updated production forecast Production forecast (bpd) for May production month | 441,752 | 62,600 | 504,352 |
| State calculates RIK bpd | | | |
| Royalty rates based on updated estimates (b) | 12.50% | 13.391158% | |
| State's RIK nomination percentage | 86.14% | 86.14% | |
| RIK bpd (bpd production forecast * Royalty rate * nomination %) | 47,566 | 7,221 | 54,787 |
| May 31, 2004 | | | |
| State notifies RIK purchaser of bpd volume available for July production month | 47,566 | 7,221 | 54,787 |
| August 2, 2004 | | | |
| State invoices RIK purchaser for July production | | | |
| Alyeska meter volume for July 1-31, 2003 | 14,392,425 | 2,045,163 | 16,437,588 |
| State's RIK nomination percentage | 86.14% | 86.14% | 86.14% |
| Royalty rate | 12.50% | 13.391158% | |
| Total RIK bbls | 1,549,704.36 | 235,912.49 | 1,785,616.85 |
| bpd volume (Total RIK/31) (varies from forecast) | 49,990.46 | 7,610.08 | 57,600.54 |

Table notes:

- (a) The state determines from which units to nominate RIK volumes (section 2.1.5 of the Agreement)
(b) The estimated royalty percentage for Greater Pt McIntyre is a composite royalty rate from several fields and will vary with production

**APPENDIX 2:
EXAMPLE OF CALCULATION OF PRICE OF SALE GIL**

The Price of the Sale Oil delivered by the State to the Buyer each Month for each Unit from which the Sale Oil is nominated is:

$$\text{Price} = \text{ANS Spot Price} - \$1.55 - \text{Tariff Allowance} + \text{Quality Bank Allowance} - \text{Line Loss}$$

ANS Spot Price

Table 2-1 illustrates the calculation of the ANS Spot Price for July 2004.

Table 2-1: Calculation of ANS Spot Price

| Effective Date | Platt's Oilgram Price Report | | | Telerate On-line Data Reporting Service | | | Reuters On-line Data Reporting Service | | |
|----------------|------------------------------|----------------|----------------------------|---|----------------|----------------------------|--|----------------|----------------------------|
| | ANS Daily Low | ANS Daily High | ANS Daily Midpoint Average | ANS Daily Low | ANS Daily High | ANS Daily Midpoint Average | ANS Daily Low | ANS Daily High | ANS Daily Midpoint Average |
| 07/01/04 | \$24.01 | \$24.05 | \$24.03000 | \$24.03 | \$24.08 | \$24.05500 | \$23.81 | \$23.98 | \$23.89500 |
| 07/02/04 | \$23.62 | \$23.66 | \$23.64000 | \$23.67 | \$23.72 | \$23.69500 | \$23.50 | \$23.67 | \$23.58500 |
| 07/06/04 | \$24.55 | \$24.58 | \$24.56500 | \$24.49 | \$24.54 | \$24.51500 | \$24.19 | \$24.36 | \$24.27500 |
| 07/07/04 | \$23.70 | \$23.74 | \$23.72000 | \$23.72 | \$23.77 | \$23.74500 | \$23.61 | \$23.78 | \$23.69500 |
| 07/08/04 | \$24.27 | \$24.31 | \$24.29000 | \$24.23 | \$24.28 | \$24.25500 | \$23.61 | \$24.37 | \$23.99000 |
| 07/09/04 | \$25.04 | \$25.08 | \$25.06000 | \$24.98 | \$25.03 | \$25.00500 | \$24.20 | \$25.07 | \$24.63500 |
| 07/12/04 | \$25.77 | \$25.81 | \$25.79000 | \$25.72 | \$25.77 | \$25.74500 | \$25.61 | \$25.78 | \$25.69500 |
| 07/13/04 | \$25.42 | \$25.46 | \$25.44000 | \$25.35 | \$25.40 | \$25.37500 | \$25.30 | \$25.47 | \$25.38500 |
| 07/14/04 | \$26.63 | \$26.67 | \$26.65000 | \$26.50 | \$26.60 | \$26.55000 | \$26.47 | \$26.64 | \$26.55500 |
| 07/15/04 | \$27.33 | \$27.36 | \$27.34500 | \$27.17 | \$27.27 | \$27.22000 | \$27.17 | \$27.34 | \$27.25500 |
| 07/16/04 | \$26.71 | \$26.75 | \$26.73000 | \$26.94 | \$27.04 | \$26.99000 | \$26.53 | \$26.70 | \$26.61500 |
| 07/19/04 | \$27.16 | \$27.20 | \$27.18000 | \$27.34 | \$27.44 | \$27.39000 | \$27.03 | \$27.20 | \$27.11500 |
| 07/20/04 | \$26.83 | \$26.87 | \$26.85000 | \$27.03 | \$27.13 | \$27.08000 | \$26.80 | \$26.97 | \$26.88500 |
| 07/21/04 | \$27.11 | \$27.15 | \$27.13000 | \$27.48 | \$27.58 | \$27.53000 | \$27.25 | \$27.42 | \$27.33500 |
| 07/22/04 | \$27.49 | \$27.53 | \$27.51000 | \$27.58 | \$27.68 | \$27.63000 | \$27.33 | \$27.78 | \$27.55500 |
| 07/23/04 | \$27.31 | \$27.35 | \$27.33000 | \$27.30 | \$27.40 | \$27.35000 | \$27.01 | \$27.26 | \$27.13500 |
| 07/26/04 | \$28.14 | \$28.18 | \$28.16000 | \$27.66 | \$27.91 | \$27.78500 | \$27.56 | \$28.01 | \$27.78500 |
| 07/27/04 | \$27.25 | \$27.29 | \$27.27000 | \$27.60 | \$27.85 | \$27.72500 | \$27.20 | \$27.37 | \$27.28500 |
| 07/28/04 | \$26.53 | \$26.56 | \$26.54500 | \$26.83 | \$27.08 | \$26.95500 | \$26.42 | \$26.59 | \$26.50500 |
| 07/29/04 | \$27.09 | \$27.12 | \$27.10500 | \$27.65 | \$27.75 | \$27.70000 | \$27.66 | \$27.83 | \$27.74500 |
| 07/30/04 | \$27.59 | \$27.63 | \$27.61000 | \$28.21 | \$28.31 | \$28.26000 | \$28.17 | \$28.34 | \$28.25500 |
| | Platt's Monthly Avg. = | \$26.18810 | | Telerate Monthly Avg. = | \$26.31214 | | Reuters Monthly Avg. = | \$26.15143 | |

$$\text{ANS Spot Price}_{\text{July 2004}} = \frac{\text{Platt's Monthly Average} + \text{Telerate Monthly Average} + \text{Reuters Monthly Average}}{3} = \$26.21722$$

Tariff Allowance

The Tariff Allowance (TA) is the sum of (1) the average, weighted by ownership, of the Minimum Interstate TAPS Tariff for each owner in effect on the Day the Sale Oil is tendered by the State to the Buyer; and (2) any tariffs paid by Buyer for shipment of Sale Oil upstream of Pump Station No. 1. Table 2-2, 2-3, and 2-4 illustrate how the state will calculate the TA for each of the Units from which Sale Oil may be offered.

Table 2-2: Calculation of TAPS Portion of Tariff Allowance

| Ownership-Weighted Average Minimum Interstate TAPS Tariff – July 2004 | | | | |
|--|----------|------------------------------------|--|--|
| Pipeline Company | FERC No. | Percent Pipeline Company Ownership | Minimum Interstate TAPS Tariff (Pump Station No.1 to Valdez Marine Terminal) by Pipeline Company | TAPS Tariff times Company Ownership Percentage |
| Phillips Transportation Alaska, Inc. | | 28.2953% | \$3.32 | \$0.93940 |
| ExxonMobil Pipeline Company | | 20.3378% | \$3.34 | \$0.67928 |
| Williams Alaska Pipeline Company | | 3.0845% | \$3.28 | \$0.10117 |
| BP Pipelines (Alaska) Inc. | | 46.9263% | \$3.28 | \$1.53918 |
| Unocal Pipeline Company | | 1.3561% | \$2.83 | \$0.03838 |
| | | 100.0000% | | |
| Ownership-Weighted Average Minimum Interstate TAPS Tariff: | | | | \$3.29741 |

Table 2-3: Calculation of Portion of Tariff Allowance Upstream of Pump Station No. 1

| Minimum Tariff on Pipelines Upstream of Pump Station No. 1 – July 2004 | | | | |
|---|----------|------------------------------|---|-----------|
| Pipeline Company | FERC No. | RCA Tariff Advice Letter No. | Pipeline | Tariff |
| Kuparuk Transportation Company | | | Kuparuk River Unit to TAPS Pump Station No. 1 | \$0.20000 |
| Endicott Pipeline Company | | | Endicott Main Production Island to TAPS Pump Station No. 1 | \$0.36000 |
| Kuparuk Transportation Company | | | Milne Point Pipeline Connection to TAPS Pump Station No. 1 | \$0.14400 |
| Milne Point Pipeline Company | | | Milne Point Central Facilities to Kuparuk Transportation Company Tie-in | \$0.28000 |
| | | | Total MPU Upstream Tariff Allowance: | \$0.42400 |
| Kuparuk Transportation Company | | | Kuparuk River Unit to TAPS Pump Station No. 1 | \$0.20000 |
| Alpine Transportation Company | | | Colville, Alaska Alpine Field to Kuparuk River Unit | \$0.78000 |
| | | | Total CRU Upstream Tariff Allowance: | \$0.98000 |
| BP Transportation (Alaska) Inc. | | | Northstar Unit Seal Island to TAPS Pump Station No. 1 | \$2.02000 |

Table 2-4: Calculation of Tariff Allowance for Each Unit

Calculation of TA for Prudhoe Bay Unit

Ownership-Weighted Average Minimum Interstate TAPS Tariff: \$3.29741
Upstream Tariff \$0.00000
TA_{PBU} \$3.29741

Calculation of TA for Kuparuk River Unit

Ownership-Weighted Average Minimum Interstate TAPS Tariff: \$3.29741
Kuparuk Transportation Co. Tariff \$0.20000
TA_{KRU} \$3.49741

Calculation of TA for Duck Island Unit

Ownership-Weighted Average Minimum Interstate TAPS Tariff: \$3.29741
Endicott Pipeline Co. Tariff: \$0.36000
TA_{DIU} \$3.65741

Calculation of TA for Milne Point Unit

Ownership-Weighted Average Minimum Interstate TAPS Tariff: \$3.29741
Kuparuk Transportation Co. Tariff \$0.4400¹
Milne Point Pipeline Co. Tariff \$0.28000
TA_{MPU} \$3.72141

Calculation of TA for Colville River Unit

Ownership-Weighted Average Minimum Interstate TAPS Tariff: \$3.29741
Kuparuk Transportation Co. Tariff: \$0.20000
Alpine Transportation Company Tariff: \$0.78000
TA_{APU} \$4.27741

Calculation of TA for Northstar Unit

Ownership-Weighted Average Minimum Interstate TAPS Tariff: \$3.29741
BP Transportation (Alaska) Inc. Tariff: \$2.02000
TA_{NSU} \$5.31741

¹Kuparuk Pipeline/Milne Point Pipeline connection to TAPS Pump Station No. 1.

Quality Bank Adjustment (QBA)

The TAPS Quality Bank compensates shippers of a high-value crude oil stream when a lower-value crude oil stream is blended in the common stream.¹ To calculate the Price of the Sale Oil at the Point of Delivery an adjustment must be made for the impact that the sale oil will have on the value of the commingled crude oil stream when it enters the TAPS Valdez terminal.

¹ Mitchell & Mitchell, 8300 Douglas Avenue, #800, Dallas, TX 75225, administers the TAPS Quality Bank. Anyone who ships oil on TAPS must make prior arrangements with Mitchell & Mitchell to participate in the TAPS Quality Bank.

The QBA is a per-barrel value, either positive or negative, and will be calculated each Month by the State for Sale Oil from each Unit. The State will estimate a QBA for each applicable Unit for the initial billing. Typically, the State receives the data to calculate the actual QBA for the Month about two Months after the Month the Sale Oil is delivered. For this reason the QBA will be subject to a routine true-up in a subsequent adjustment.

Table 2-5: Hypothetical TAPS Quality Bank Data

| TAPS Quality Bank Stream Values and Total Stream Volume Shipped July 2004 | | | | |
|---|-----------------|--------------|-----------------------|-------------------------|
| Sample Location | Stream | Volume (BBL) | Stream Value (\$/BBL) | Total Stream Value (\$) |
| PBU IPA | PBU IPA | 19,000,000 | \$27.9380000000 | \$530,822,000.00 |
| LISBURNE | LISBURNE | 3,500,000 | \$27.5374000000 | \$96,380,340.00 |
| ENDICOTT | ENDICOTT | 1,250,000 | \$27.2580000000 | \$34,074,750.00 |
| KUPARUK | KUPARUK | 12,000,000 | \$27.4418300000 | \$329,301,960.00 |
| NORTHSTAR | NORTHSTAR | 2,000,000 | \$28.0000000000 | \$56,000,000.00 |
| PS #1 | PS #1 REFERENCE | 37,750,000 | \$27.7239483444 | \$1,046,579,050.00 |
| GVEA OFFTAKE | GVEA PASSING | 28,000,000 | \$27.6546500000 | \$774,330,200.00 |
| GVEA RETURN | GVEA RETURN | 3,500,000 | \$26.6753800000 | \$93,363,830.00 |
| GVEA | GVEA REFERENCE | 31,500,000 | \$27.5458422222 | \$867,694,030.00 |
| PSVR OFFTAKE | PSVR PASSING | 30,000,000 | \$27.5517600000 | \$826,552,800.00 |
| PSVR RETURN | PSVR RETURN | 1,000,000 | \$26.8450200000 | \$26,845,020.00 |
| PSVR | PSVR REFERENCE | 31,000,000 | \$27.5289619355 | \$853,397,820.00 |

| EPC Quality Bank Stream Values and Total Stream Volume Shipped July 2004 | | | | |
|--|--------------------|--------------|-----------------------|-------------------------|
| Sample Location | Stream | Volume (BBL) | Stream Value (\$/BBL) | Total Stream Value (\$) |
| BADAMI | BADAMI | 80,000 | \$27.4526400000 | \$2,196,211.20 |
| ENDICOTT REFERENCE | ENDICOTT REFERENCE | 1,250,000 | \$27.2598000000 | \$34,074,750.00 |
| ENDICOTT MAIN PROD | ENDICOTT MAIN PROD | 1,170,000 | \$27.2466143590 | \$31,878,538.80 |

| KTC Quality Bank Stream Values and Total Stream Volume Shipped July 2004 | | | | |
|--|--------------------|--------------|-----------------------|-------------------------|
| Sample Location | Stream | Volume (BBL) | Stream Value (\$/BBL) | Total Stream Value (\$) |
| ALPINE | ALPINE | 3,000,000 | \$27.8000000000 | \$83,400,000.00 |
| MILNE POINT | MILNE POINT | 1,500,000 | \$27.1352300000 | \$40,702,845.00 |
| KUPARUK REFERENCE | KUPARUK REFERENCE | 12,000,000 | \$27.4418300000 | \$329,301,960.00 |
| KUPARUK RIVER UNIT | KUPARUK RIVER UNIT | 7,500,000 | \$27.3598820000 | \$205,199,115.00 |

Table 2-5 shows the kind of information supplied by the TAPS quality bank administrator that will be used to calculate the quality bank differential for Sale Oil produced from each Unit. The TAPS quality bank administrator provides this information to the State, pipeline owners, and shippers. As a shipper on TAPS, the Buyer will also receive this information. In the column titled "Stream Value (\$/BBL)" are the different per-barrel values of each stream produced from the Units from which Sale Oil may be delivered. The PSVR Reference Stream value is labeled

“PSVR Reference” and is the stream value of the blended TAPS stream immediately downstream of the Petro Star Valdez Refinery return stream. The Quality Bank Adjustment is calculated as the difference between the stream value of each Unit and the PSVR Reference Stream.

For example, assume that the Month is July 2004 and the Sale Oil is produced from the Duck Island Unit. The QBA for Sale Oil from the Duck Island Unit (QBA_{DIU}) is calculated as the per-barrel difference between the Stream value for the Duck Island Unit, indicated as the “Endicott Main Prod” in Table 2.5, and the PSVR Reference Stream Value. In this example Sale Oil from the Duck Island Unit lowers the value of the stream of oil measured at Valdez. Therefore, \$0.2823475765 per barrel is the QBA incorporated in the calculation of Price for Sale Oil from the Duck Island Unit.

Quality Bank Adjustment for the Duck Island Unit = the stream value for Endicott Main Production minus
the stream value of PSVR Reference (from Table 2-5)

$$QBA_{DIU} = 27.2466143590 - 27.5289619355$$

$$QBA_{DIU} = -\$0.28235$$

Note: The Price of Sale Oil from the PBU IPA and Lisburne are invoiced separately.

Line Loss

Using the results of the example calculations above, Line Loss for Sale Oil delivered from the Duck Island Unit in July 2004 equals

$$\text{Line Loss}_{DIU} = (.0009) \times (\$26.21722 - \$1.55000 - \$3.65741 + -\$0.28235) = \$0.01865.$$

Calculating the Price of Sale Oil

The Price of Sale Oil delivered from the Duck Island Unit in July 2004 is

$$\text{Price}_{DIU} = \$26.21722 - \$1.55000 - \$3.65741 + -\$0.28235 - \$0.01865 = \$20.70881$$

Note that the each number in the equation is rounded to five decimal places. If a number's sixth decimal is 0, 1, 2, 3, or 4, the number shall be truncated to the fifth decimal. If a number's sixth decimal is 5, 6, 7, 8, or 9, the number shall be truncated to the fifth decimal and the fifth decimal shall be increased by 1.

**APPENDIX 3
EXAMPLE OF CALCULATION OF INTEREST AND LATE PAYMENT PENALTIES**

Sample Calculation of an Invoice for July 2004 Deliveries

Assumptions:

1. Month is August 2004.
2. Sale Oil delivered to the Buyer from the Duck Island Unit in July 2004 = 2,170,000 barrels (70,000 bpd).
3. July 2004 Price of the Sale Oil for the Duck Island Unit as initially estimated by the State = \$21.00000 per barrel.
4. Statement of account, with July 2004 invoice, sent to the Buyer on August 3, 2004.
5. July 2004 invoice payment due to the State = August 20, 2004.
6. Buyer pays State only \$10,000,000 on the due date, August 20, and pays the outstanding balance on August 25, 2004.
7. Annual interest rate provided by Alaska Statute 38.05.135(d) for August 2004 is 11 percent.

Method for calculating Buyer's invoice payment for July 2004 deliveries:

$$\begin{aligned} \text{Invoice Amount} &= \text{Quantity of Sale Oil} \times \text{Buyer's Price of Sale Oil} \\ &= 2,170,000 \times \$21.00000 = \$45,570,000.00 \end{aligned}$$

Because payment in full was not received by the State on or before August 20, 2004, interest will accrue on the unpaid balance from August 20, 2004 through the date the payment is received, and a late payment penalty will be assessed.

Below is a sample calculation of late payment penalty fee (assuming that it is not waived under Section 3.7) and interest. This sample calculation shows what will happen if the Buyer makes a partial payment on August 20 and the balance on August 25.

Late Payment Penalty Fee:

| | | |
|--|---|----------------------|
| Statement of Account amount | = | \$45,570,000.00 |
| Amount paid on August 20 | = | <u>10,000,000.00</u> |
| Outstanding balance (8/20/04) | = | \$35,570,000.00 |
| Late Payment Penalty Fee (\$35,570,000 x 5%) = | = | \$1,778,500.00 |

Interest:

| | | |
|--------------------------------------|---|--------------------|
| \$35,570,000 x (11%/366) x 5 Days | = | <u>\$53,452.19</u> |
| Amount Buyer owes on August 20, 2004 | = | \$37,401,952.19 |

Note: As more accurate data is received by the State, the State may adjust the Price and/or the actual quantity of Sale Oil and invoice the Buyer in the initial adjustment invoice submitted with the following Month's (August 2004) statement of account.

Sample Calculation of an Adjustment Invoice in September 2004

Assumptions:

1. Month is September 2004.
2. Sale Oil delivered in July 2004 has been revised to 2,169,0000 barrels.
3. July 2004's price for Sale Oil is unchanged at \$21.00000 per barrel.
4. Date of the statement of account that contains the adjustment invoice is September 2, 2004.
5. Date the adjustment invoice payment is due to the State = September 20, 2004.

Method for calculating the Buyer's adjustment invoice amount for July 2004:

$$\begin{aligned}\text{Invoice Amount} &= \text{Quantity of Sale Oil} \times \text{Buyer's Price of Sale Oil} \\ &= 2,169,000 \times \$21.00000 \\ &= \$45,549,000.00\end{aligned}$$

| | |
|---|--------------------------|
| Adjusted Invoice Amount for July 2004 | = \$45,549,000.00 |
| Amount previously paid by the Buyer for July 2004 | = <u>\$45,570,000.00</u> |
| Overpayment for July 2004 | = (\$21,000.00) |

Credit due the Buyer against statement of account amount dated September 2 due September 20, 2004.

Note: As more accurate data is received by the State, the State may adjust the Price and/or the actual quantity of Sale Oil and invoice the Buyer in the adjustment invoice submitted with the following Month's (October 2004) statement of account.

Sample Calculation of an Adjustment Invoice in October 2004

Assumptions:

1. Month is October 2004.
2. July 2004's price for Sale Oil is changed to \$21.05000 per barrel due to a change in the quality bank.
3. The statement of account that contains the adjustment invoice is October 1, 2004.
4. The adjusted invoice payment is due to the State = October 20, 2004.

Method for calculating the Buyer's adjustment invoice amount for July 2004:

$$\begin{aligned}\text{Production Month Invoice Amount} &= \text{Quantity of Sale Oil} \times \text{Buyer's Price of Sale Oil} \\ &= 2,169,000 \times \$21.05000 \\ &= \$45,657,450.00\end{aligned}$$

| | |
|---|--------------------------|
| Adjusted Invoice Amount for July 2004 | = \$45,657,450.00 |
| Amount previously paid by the Buyer for July 2004 | = <u>\$45,549,000.00</u> |
| Underpayment for July 2004 | = \$108,450.00 |

The underpayment is due the State on October 20, 2004

APPENDIX 4 SPECIAL COMMITMENTS

Buyer agrees to the following list of Special Commitments:

A. Clean Fuels Processing. After performing an engineering study, Buyer will install necessary equipment and complete such modifications to its North Pole Refinery or will participate in the modification of other refinery facilities in Alaska as required to produce gasoline and on-road, off-road, marine, and rail diesel fuels that meet or exceed all EPA low sulfur fuel requirements ("Clean Fuels"). Buyer will make commercially reasonable efforts to complete necessary installations and modifications on or before the effective dates of the Clean Fuels requirements of the EPA regulations.

Total project costs are expected to exceed \$100,000,000.00 and will likely include the construction of processing units, including hydrotreating, a hydrogen plant and sulfur removal equipment. These projects will result in a significant reduction in gasoline and diesel sulfur levels.

B. Anchorage Tank Farm Evaluation. Buyer agrees to discharge the commitments previously made by Williams in the "Memorandum of Agreement between Williams Alaska Petroleum, Inc. and The Government Hill Community Council" attached as Appendix 6 to this agreement. The key requirements are as follows:

- Removal of three (3) tanks from east of the Ocean Dock Road with a total capacity of over 5,500 barrels
- Refrain from installing additional tanks east of the Ocean Dock Road
- Evaluation of all remaining tanks east of the Ocean Dock Road to determine whether they comply with all State and Federal requirements viz. overfill protection, fire protection, tank seal monitoring, potential for change of product service, and possible removal of additional tanks, and prompt remediation of any violations of these requirements.
- Installation of new tanks west of the Ocean Dock Road will occur provided that existing tanks on the east side of Ocean Dock Road are retired and removed on a tank-for-tank basis.
- FHR agrees to continue cooperative efforts in connection with the ongoing Bulk Fuel Hazard Study currently underway through the Municipality of Anchorage.

C. Shipment by Rail. Williams currently ships refined products by rail under an Agreement with Alaska Railroad Corporation (an Agreement originally entered by MAPCO Alaska Petroleum Inc. in May of 1993). As part of Buyer's refinery acquisition from Williams, Buyer will assume the rights and obligations of Williams under the rail agreement and continue to ship refined products to Anchorage.

D. Air Traffic Marketing and Structural Improvement Study. Buyer and the State shall jointly explore commercially reasonable options for increasing passenger and cargo air traffic through the Fairbanks International Airport. Buyer shall work with the Fairbanks International Airport to concentrate on promoting the Fairbanks International Airport to cargo carriers operating between Asia and Europe and otherwise; shall evaluate, and possibly upgrade, the airport's fuel distribution facilities, including the feasibility of using or

upgrading the hydrant fueling system; and shall charge a jet fuel customer in Fairbanks the same or a lower price as Buyer charges that same customer in Anchorage.

E. Wholesale Rack Price Parity. Buyer agrees, for the term of the Agreement, to maintain the Buyer wholesale truck rack posted price for gasoline in Fairbanks at a price not to exceed the Buyer wholesale truck rack posted price for gasoline in Anchorage on an annual simple average basis (within a tolerance/variation of 1 cent per gallon (cpg)). Buyer makes no guarantee of the price parity for Buyer's wholesale truck rack posted prices for gasoline in Fairbanks and Anchorage on a daily basis. If the annual average variation of the aforementioned posted prices exceeds 1 cpg, Buyer shall have ninety (90) days to reduce the variation below 1 cpg, averaged over an all-inclusive timeframe, including the ninety (90) day period and the previous annual period. This provision shall not apply to any gasoline exchanges. An example of the calculations appears in Table 4-1.

Table 4-1 Wholesale Truck Rack Posted Price True-Up

| Wholesale Rack Price Parity | Scenario 1 | | | Scenario 2 | | |
|-----------------------------|-------------------------------|-------------------------------|---------------------------------|-------------------------------|-------------------------------|---------------------------------|
| | Buyer Fairbanks Posting (cpg) | Buyer Anchorage Posting (cpg) | Fairbanks minus Anchorage (cpg) | Buyer Fairbanks Posting (cpg) | Buyer Anchorage Posting (cpg) | Fairbanks minus Anchorage (cpg) |
| January | 104.00 | 102.44 | 1.56 | 106.00 | 102.44 | 3.56 |
| February | 103.00 | 100.76 | 2.25 | 103.00 | 100.76 | 2.25 |
| March | 100.00 | 103.01 | (3.01) | 105.00 | 103.01 | 1.99 |
| April | 108.00 | 110.02 | (2.02) | 112.00 | 110.02 | 1.98 |
| May | 112.00 | 110.07 | 1.93 | 112.00 | 110.07 | 1.93 |
| June | 111.00 | 109.40 | 1.60 | 111.00 | 109.40 | 1.60 |
| July | 106.00 | 108.38 | (2.38) | 108.00 | 108.38 | (0.38) |
| August | 107.00 | 109.77 | (2.77) | 109.00 | 109.77 | (0.77) |
| September | 112.00 | 114.02 | (2.02) | 115.00 | 114.02 | 0.98 |
| October | 115.00 | 114.02 | 0.98 | 115.00 | 114.02 | 0.98 |
| November | 115.00 | 113.38 | 1.62 | 113.00 | 113.38 | (0.38) |
| December | 112.00 | 113.70 | (1.70) | 113.00 | 113.70 | (0.70) |
| Annual Average | 108.75 | 109.08 | (0.33) | 110.17 | 109.08 | 1.09 |
| January | Not Applicable | | | 119.00 | 119.95 | (0.95) |
| February | Not Applicable | | | 125.00 | 126.19 | (1.19) |
| March | Not Applicable | | | 133.00 | 134.13 | (1.13) |
| 15 Month Average | | | | 113.27 | 112.61 | 0.65 |

**APPENDIX 5
PROCEDURE FOR ADJUSTING THE FORMULA
FOR CALCULATIONS OF PRICE**

- Step 1:** Calculate the volume-weighted average cost of marine transportation reported on the royalty returns of BP, ExxonMobil, and CPAI for the production Months January 2006 through December 2008. Adjustments through March 31, 2009 shall be used in the calculation. For example, the royalty returns for December 2008 productions are due in January 2009. The marine transportation cost reported in January can be adjusted through March 31, 2009, but not later. The amount calculated is defined as "RIV Marine Cost."
- Step 2:** Subtract from the RIV Marine Cost the amount \$0.30. The answer shall be substituted for the \$1.55 used in the calculation of the Price (as defined in Section 2.3) subject to the following limitations:
1. if the answer is less than \$1.45, substitute \$1.45 for the \$1.55 used in the calculation of the Price;
 2. if the answer is greater than \$1.65, substitute \$1.65 for the \$1.55 used in the calculation of the Price.
- Step 3:** For Sale Oil deliveries beginning April 1, 2009, the \$1.55 that had been used in the calculation of the Price shall be replaced with the number determined in Step 2, above. That number used in the calculation of the Price shall remain in effect through the end of the term of the Agreement.

**APPENDIX 6
MEMORANDUM OF AGREEMENT
BETWEEN
WILLIAMS ALASKA PETROLEUM, INC.
AND
THE GOVERNMENT HILL COMMUNITY COUNCIL**

MEMORANDUM OF AGREEMENT

between

Williams Alaska Petroleum, Inc.,

and

the Government Hill Community Council,

an unincorporated association

WHEREAS, Williams operates bulk fuel storage and distribution facilities including storage tanks, loading racks, and related industrial structures in the vicinity of Government Hill and the Port of Anchorage and wishes to build a double track rail loop (the Loop Track Project) on its property and on certain tidelands it will acquire from the Alaska Railroad; and;

WHEREAS, construction of the Loop Track project will reduce traffic congestion in the Port area, allow for more efficient transfer of fuel from rail cars to storage and transmission facilities and enable Williams to build additional storage tanks west of Ocean Dock Road should the need arise in the future, and

WHEREAS, the Government Hill Community Council (the Council) desires to allow Williams to proceed with the orderly development of its Loop Track project while also reducing risks associated with the continued presence of fuel storage facilities near Government Hill,

NOW THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. **Non Opposition to Loop Track project** The Council and its officers agree not to oppose the Loop Track project proposed by Williams and will not, officially or unofficially continue efforts to convince public and private entities to take a position or other action adverse to construction of the Loop Track project. The Council will also take reasonable efforts to inform the residents of Government Hill of this agreement and its official position on the Loop Track project.

2. **Letters stating the Official Position of the Council on the Loop Track project** Upon execution of this Agreement, the Council president shall sign several letters setting forth the official position of the Council on the Loop Track project. The letters shall be substantially

in the same form as those contained in Exhibit B and may be presented by Williams to any public or private entity in connection with the Loop Track project as Williams determines. The letters include:

1. A letter from the Council's executive committee recommending the Council withdraw its support for Resolution AR 2001-146 now before the Anchorage Assembly and that the Council request the Resolution be withdrawn from the Assembly agenda. The parties have been advised that upon approval of this Agreement, the sponsor of that Resolution will request that the Assembly table that resolution indefinitely.
2. A letter to the Anchorage Assembly supporting the Alaska Railroad's efforts to lease back the small portion of tidelands from the Municipality required to complete the Loop Track Project.
3. A letter supporting Williams' efforts to build the Loop Track project throughout the permitting and construction process. Specifically, the Council will advise the Division of Governmental Coordination that it has withdrawn its opposition to the Loop Track project. The Council will also send a letter to the Corps of Engineers stating it has withdrawn its opposition to Williams's Fill Permit application currently under review by the Corps and withdrawing the Council's request for a public hearing.
4. A letter to the municipality stating the Council's non-objection to the extraction and use of the railroad's gravel deposit on the Hollywood Vista for the Loop Track project consistent with this agreement.
5. A letter supporting Williams's efforts to build future tanks on the west side of Ocean Dock road consistent with this agreement.

3. Construction of New Tanks East of Ocean Dock Road Williams agrees not to construct any new fuel storage tanks on property it owns or leases which is located east of Ocean Dock Road.

4. Construction of New Tanks West of Ocean Dock Road The Council agrees that Williams may build new fuel storage tanks on property it owns or leases west of Ocean Dock Road provided that existing tanks on the east side of Ocean Dock Road are retired and removed on a tank-for-tank basis, after the conditions specified in Section 5 below are met.

5. Removal of Three Existing Tanks East of Ocean Dock Road If the Loop Track project is constructed, Williams agrees that the tanks shown on the site plan attached as Exhibit A will be removed at its own expense no later than the dates specified below:

| | | |
|-------------|------------|--------------------|
| Tank # 3296 | Built 1950 | December 31, 2002 |
| Tank # 3578 | Built 1950 | December 31, 2003 |
| Tank # 3577 | Built 1950 | December 31, 2004. |

After removing those three tanks, the parties agree that Williams will have banked a "credit" to build one tank on the west side of Ocean Dock Road, without the requirement to remove an additional tank as defined under the provision of Section 4 above.

6. Mineral Resource (gravel) extraction operations To build the Loop Track project, Williams may acquire gravel from a pit owned by the Alaska Railroad in the vicinity of the former Hollywood Vista apartments. The Municipality of Anchorage has provisionally taken the position that a conditional use permit granted by the Planning and Zoning Commission on 2/09/96 for gravel extraction in that area remains in effect until 12/31/01. If Williams acquires gravel from that area for its project, Williams will comply with applicable terms and conditions of that conditional use permit and will complete gravel extraction for the Loop Track project from the Railroad Property by no later than 12/31/01 unless extended by mutual consent of the parties. Subject to this agreement, the Council does not object to gravel extraction from the railroad site necessary for construction of the Loop Track project.

7. Port of Anchorage Bulk Fuel Hazard Study

1. The parties agree to continue cooperative efforts in connection with the ongoing Bulk Fuel Hazard Study currently underway through the Municipality of Anchorage. Williams agrees to ensure that the study includes an assessment of alternatives for reducing the

likelihood and/or consequence of risks associated with the presence of bulk fuel storage facilities in the Government Hill Area. Mitigative alternatives to be considered will include development of a buffer zone between fuel storage facilities and residential areas.

2. Upon completion of the Bulk Fuel Hazard Study, the parties will work cooperatively in obtaining public approval(s) of municipal and state legislation, including bond propositions to fund implementation of the Study.

8. **Compliance with all laws** Nothing in this agreement shall excuse Williams from its continuing obligation to comply with all local ordinances and regulations, together with all state and federal laws and administrative regulations that apply to the Loop Track project.

9. **Integration.**

A. This Memorandum and its attached exhibits contain the entire agreement of the parties. There are no other promises, terms, conditions, or representations binding on any party to this agreement which are not expressed herein.

2. The following are incorporated into this agreement by reference:

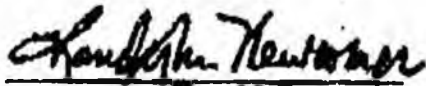
Exhibit A: Site Plan

Exhibit B: Letters stating Council's position on Loop Track project.


DATED THIS 2^d DAY OF JUNE, 2001 AT ANCHORAGE, ALASKA

Williams Alaska Petroleum Co. Inc.

The Government Hill Community
Council



is President



is Vice-President

Dear Mr. Newcomer,

This letter conveys the Government Hill Community Council's position of support for the construction of new bulk fuel storage tanks by Williams Alaska Petroleum, Inc., on lands west of Ocean Dock Road, subject to the terms of an agreement between the Council and Williams concerning the removal of tanks from the east side of Ocean Dock Road. This letter is directed to the attention of anyone it may concern.

Government Hill Community Council has for many years advocated for the creation of a safety buffer area to separate bulk fuel storage tanks from residences and other sensitive land uses in our area. In May, 2001, the Council and Williams negotiated an agreement to begin implementation of a buffer zone at Williams' fuel terminal along Ocean Dock Road. Under this agreement, Williams committed to removal of three tanks from the east side of Ocean Dock Road in 2002, 2003, and 2004, and to future removal of additional tanks from the east side of Ocean Dock Road whenever new tanks are built west of Ocean Dock Road, according to a formula that was arrived at mutually by the parties.

In consideration for Williams' agreement to removal of these tanks and staged creation of the safety buffer area, Government Hill Community Council supports construction of the new tanks west of Ocean Dock Road required to continue and expand Williams' operations. The council commits to continued support of new tank construction so long as such new tanks contribute to the establishment of the safety buffer as explained in the agreement.

Thank you for your continued communication with the council and your participation in our joint negotiations and agreement.

Sincerely,

Stu
Stuart C. Hall
President,
Government Hill Community Council

" B "

Dear Mr. Newcomer

Pursuant to the agreement between Williams Alaska Petroleum Inc. and the Government Hill Community Council, this letter states, for anyone it may concern, the council's official position of non-objection to extraction of gravel from Alaska Railroad Corp. land adjacent to the Hollywood Vista property on Government Hill for the purpose of construction of your Loop Rail Project, subject to the understandings contained herein.

The council is of the understanding that the Municipality of Anchorage has provisionally taken the position that a conditional use permit granted by the Planning and Zoning Commission on February 13, 1996, remains in effect until December 31, 2001, for gravel extraction from certain Alaska Railroad Corp. land near Government Hill. Subject to compliance with the provisions of that permit, the Council does not object to removal of gravel from that site for the Loop Rail Project prior to the last day of 2001.

This letter and the Council's position of non-objection is offered to Williams in consideration for Williams' agreement to remove three bulk fuel storage tanks from near the Government Hill neighborhood and for the further future removal of other tanks as new tanks are built west of Ocean Dock Road. This letter does not apply to other lands than those covered in the February 13, 1996, conditional use permit, nor to any project Williams or the Alaska Railroad may contemplate subsequent to the end of 2001.

Thank you for your continued communication with the council and participation in our negotiation process and agreement.

Sincerely,

Stuart Hall
Stuart Hall
President,
Government Hill Community Council



GOVERNMENT HILL COMMUNITY COUNCIL

Post Office Box 100018 · Anchorage, Alaska 99510-0018

Wednesday, 30 May 2001

Honorable Dick Traini, Chair
Anchorage Municipal Assembly
P.O. Box 196650
Anchorage, Alaska 99519-6650

RE: Lease-back, Tidelands, Port of Anchorage (ARRC/Williams
Petroleum, Inc.)

Dear Mr. Chairman and Members of the Assembly:

In light of recent negotiations between Williams Petroleum, Inc, members of the Assembly and representatives of the Government Hill Community Council, the Executive Committee of the Council convened this date agrees to support the efforts of the Alaska Railroad Corporation to lease back a small portion of tidelands in the Port of Anchorage from the Municipality of Anchorage to permit completion of a loop truck railroad project by Williams Petroleum, Inc.

Very truly yours,

STUART C. HALL, President



GOVERNMENT HILL COMMUNITY COUNCIL

Post Office Box 100015 · Anchorage, Alaska 99510-0015

Wednesday, 30 May 2001

District Engineer
U.S. Army Corps of Engineers, Alaska District
Post Office Box 898
Anchorage, Alaska 99506-0898

Att'n: David C. Casey, Regulatory Branch

RE: M-920060, Knik Arm 119/Williams Petroleum, Inc.

Dear Mr. Casey:

In light of recent negotiations between Williams Petroleum, Inc., members of the Anchorage Municipal Assembly and representatives of the Government Hill Community Council, the Executive Committee of the Council convened this date withdraws its opposition to the application of Williams Petroleum, Inc., for a fill permit and withdraws the Council's request for a public hearing on this application.

Very truly yours,

STUART C. HALL, President

SB

349

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 04/21/04

REPORTED OUT

APR 29 2004

SENATE FINANCE
COMMITTEE

SENATE BILL NO. 349

FURTHER:

DATE TURNED
IN TO OFFICE: 29 April 2004

Finance Committee considered

SB 349 MIDWIFERY BIRTH CENTER LICENSING

"An Act requiring licensure of midwifery birth centers; and providing for an effective date."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:

Same Title

New Title

House Bill:

Same Title

Technical Title Change

New Title w/ SCR # _____

NEW FISCAL NOTE(S):

| Department | Date | Fiscal | Indet. | Zero. | FN# |
|------------|------|--------|--------|-------|-----|
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

PREVIOUS FISCAL NOTE(S):

| Department | Date | Fiscal | Indet. | Zero | FN# |
|------------|---------|--------|--------|------|-----|
| HHS | 7/24/04 | 19.4 | | | #1 |
| | | | | | |
| | | | | | |
| | | | | | |
| | | | | | |

APPROPRIATION - no fiscal note

| SIGNATURES AND RECOMMENDATIONS: | DO PASS | DO NOT PASS | NO REC | AMEND |
|---------------------------------|---------|-------------|--------|-------|
| <i>[Signature]</i> | ✓ | | | |
| <i>[Signature]</i> | ✓ | | | |
| <i>[Signature]</i> | X | | | |
| <i>[Signature]</i> | ✓ | | | |
| COCHAIR: <i>[Signature]</i> | ✓ | | | |
| COCHAIR: <i>[Signature]</i> | ✓ | | | |

FISCAL NOTE

REPORTED OUT

APR 9 2004

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: SB 349 SENATE FINANCE
(S) Publish Date: 4/21/04 COMMITTEE

Revision Date/Time (Note if correction):

Title LICENSURE OF MIDWIFERY BIRTH CENTERS Dept. Affected: Health & Social Services
RDU Health Care Services
Component Certification and Licensing

Sponsor DAVIS

Requester SENATE (L&C) Component No. 245

Expenditures/Revenues (Thousands of Dollars)

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

| OPERATING EXPENDITURES | FY 2005 | FY 2006 | FY 2007 | FY 2008 | FY 2009 | FY 2010 |
|------------------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Personal Services | 16.2 | 18.9 | 21.6 | 24.3 | 27.0 | 29.7 |
| Travel | 2.1 | 2.5 | 2.8 | 3.2 | 3.5 | 3.9 |
| Contractual | | | | | | |
| Supplies | 0.3 | 0.4 | 0.4 | 0.5 | 0.5 | 0.6 |
| Equipment | 0.1 | 0.1 | 0.1 | 0.2 | 0.2 | 0.2 |
| Land & Structures | 0.7 | 0.8 | 0.9 | 1.1 | 1.2 | 1.3 |
| Grants & Claims | | | | | | |
| Miscellaneous | | | | | | |
| TOTAL OPERATING | 19.4 | 22.7 | 25.8 | 29.3 | 32.4 | 35.7 |

| | | | | | | |
|----------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | |
|----------------------|--|--|--|--|--|--|

| | | | | | | |
|------------------------|--|--|--|--|--|--|
| CHANGE IN REVENUES (0) | | | | | | |
|------------------------|--|--|--|--|--|--|

FUND SOURCE (Thousands of Dollars)

| | | | | | | |
|---------------------------------------|-------------|-------------|-------------|-------------|-------------|-------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | 19.4 | 22.7 | 25.8 | 29.3 | 32.4 | 35.7 |
| 1037 GF/Mental Health | | | | | | |
| Other(Specify Type-do not abbreviate) | | | | | | |
| Other(Specify Type-do not abbreviate) | | | | | | |
| TOTAL | 19.4 | 22.7 | 25.8 | 29.3 | 32.4 | 35.7 |

Estimate of any current year (FY2004) cost: _____

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

| | | | | | | |
|-----------|--|--|--|--|--|--|
| Full-time | | | | | | |
| Part-time | | | | | | |
| Temporary | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

The above estimated costs for SB349 are based on current registered midwifery birth centers. There are currently 6 midwifery birth centers and the increase in costs for following years are not inflationary, but are estimated on a rate of one new birth center every year, which has been the history. It is assumed that all currently registered midwifery birth centers would apply for full licensure if this bill becomes law. There will be no need for new positions to absorb this function into the licensure program, but staff time will be needed for travel, on-site surveys, and completion of paperwork.

Prepared by: Deb Erickson
Division: Public Health
Approved by: Joel S. Gilbertson, Commissioner
Agency: Department of Health and Social Services

Phone 907-465-8615
Date/Time 02/23/2004
Date 02/24/2004

COMMITTEE COPY

Alaska State Legislature

Interim: (May - Dec.)
716 W. 4th Ave
Anchorage, AK 99501
Phone: (907) 269-0144
Fax: (907) 269-0148



Session: (Jan. - May)
State Capitol, Suite 7
Juneau, AK 99801-1182
Phone: (907) 465-3822
Fax: (907) 465-3756
Toll free: (800) 770-3822

Senator_Bettye_Davis@legis.state.ak.us
<http://www.akdemocrats.org>

Senator Bettye Davis

Senate Bill 349: "An Act requiring licensure of midwifery birth centers; and providing for an effective date."

Sponsor Statement

Currently there are 6 birth centers in Alaska, 5 registered and 1 licensed. The owners of these birth centers, both certified direct entry and certified nurse midwives, concluded the need to have one licensed standard for all birthing centers. These licensed birth centers will have one set of regulations to follow, comply with annual inspections, and put safeguards in place to guarantee the birth center is a safe environment for families.

In March of this year, the birth center owners collaborated together to rewrite regulations for licensed birth centers, which have not been changed since 1983, and have submitted their recommendations to the rewriting regulation process. With this bill, the registered birth centers will be considered licensed until six months after the effective date of new adopted regulations. After this six-month period, the birth centers will be governed by the new regulations. The midwives of Alaska have agreed there should be one uniform standard birth center and encourage the members of the Legislature to support the passage of this important legislation.

LEGAL SERVICES

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Juneau, Alaska 99801-1182
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MEMORANDUM

February 20, 2004

SUBJECT: Licensure of Midwifery Centers (SB 349)

TO: Senator Bettye Davis
Attn: Myra

FROM: Jean M. Mischel
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1. Replaces the requirement that the commissioner of health and social services adopt regulations pertaining to the registration of midwifery birth centers with a new requirement to adopt regulations pertaining to licensure of midwifery birth centers.

Section 2. Amends the uncodified law to allow midwifery birth centers that were registered before the effective date of the bill to be considered to be licensed under the bill until six months after the effective date of the new licensure regulations.

Section 3. Amends the uncodified law to allow the Department of Health and Social Services to proceed to adopt regulations setting up licensure under the bill.

Section 4. Provides an immediate effective date for sec. 3 pertaining to regulations.

Section 5. Provides a July 1, 2004 effective date for the remainder of the bill.

JMM:med
04-217.med



J U N E A U
F A M I L Y B I R T H
C E N T E R

3225 Hospital Drive Suite 106, Juneau, AK 99801
(907) 586-1203 fax (907) 586-5765

Testimony on SB 349 "An act requiring licensure of midwifery birth centers; and providing for an effective date."

My name is Kaye Kanne. I am a Certified Direct-Entry Midwife and Executive Director of the Juneau Family Birth Center. I sat on the Board of Certified Direct-Entry Midwives from its inception in 1992 until I had completed two terms and resigned in 2000. I am also the volunteer lobbyist for the Midwives Association of Alaska.

I was the volunteer lobbyist for the Midwives Association of Alaska in 1992 when the original legislation creating "registered" birth centers was passed and I would like to educate this committee on how we came to have two different kinds of birth centers in Alaska. It was never their intention of the Midwives Association of Alaska or the legislature to create two kinds of birth centers, one registered and one licensed. The intention of this language in the original legislation, House Bill 382 (1992) was to insure that Certified Direct-Entry Midwives could practice independently in birth centers without the supervision of a physician or Certified Nurse Midwife. This was necessary because the regulations governing licensed birth centers at the time required the presence of a CNM or physician at every birth in a birth center. These regulations are still in effect and have not been updated since 1983. These regulations were written before the passage of legislation to license Certified Direct-Entry midwives. The use of the word *registered* instead of *licensed* was overlooked by all of us at the time.

Our intention was at the time, and still is, to have one kind of birth center in Alaska that all providers licensed to attend childbirth, can own or operate. One kind of facility where providers can work together, if desired, to provide comprehensive care. As it stands today, CDM's can not work in or own a licensed birth center. This creates a situation where, as an example, we have a birth center in Anchorage that has two birth rooms, one is licensed and one is registered, so that nurse midwives and Certified Direct-Entry Midwives can both work in the same birth center. This is the only licensed birth center in Alaska. There are 5 registered birth centers in Alaska, owned and operated by Certified direct-Entry Midwives.

Registered birth centers currently have no regulations governing them. Because Certified Direct-Entry Midwives are so closely regulated this does not effect the quality of care given by CDM's in registered birth centers, but it is an area of concern for those registered birth centers currently voluntarily committing to high standards for the facility its self.

It is the recommendation of the Midwives Association of Alaska that all birth centers conform to one standard that allows the independent practice of each profession in that birth center. Certified direct-Entry Midwives are currently attending 10% of the births in Alaska, and the majority of birth center and home births. I would add that Certified Direct-Entry Midwives are the experts in out of hospital birth and I hope that the legislature and this administration continue to look to us for guidance and information concerning these issues.

Thank you for your time and consideration of this bill.

THE
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THE BIRTH CENTER EXPERIENCE

Birth Centers Lead Cost Containment Efforts While Providing Quality Care

"Few innovations in health service promote lower cost, greater availability, and a high degree of satisfaction with a comparable degree of safety. The results of this study suggest that modern birth centers can identify women who are at low risk for obstetrical complications and care for them in a way that provides these benefits."

New England Journal of Medicine, 12/28/89

What is a birth center?

- The birth center is a homelike facility, existing within a healthcare system with a program of care designed in the wellness model of pregnancy and birth.
- Birth centers are guided by principles of prevention, sensitivity, safety, appropriate medical intervention, and cost effectiveness.
- Birth centers provide family-centered care for healthy women before, during and after normal pregnancy, labor and birth.

What is the birth center experience?

- The quality of care in birth centers reported in the "The National Birth Center Study" reflects the low overall intrapartum and neonatal mortality rate of 1.3/1000 births; 0.7/1000 if lethal anomalies are excluded. These rates are comparable to studies of low risk, in-hospital births.¹
- The cesarean section rate for women receiving care in birth centers averages 4.4%, approximately one half that in studies of low risk, in-hospital births.¹
- Birth centers nationally have consistently displayed charges for care for normal birth that average up to 50% less than regular hospital stays and 30% less than short stays - including practitioner fees.^{2, 3}
- More than half of birth centers include routine laboratory exams, childbirth education, home visits, extra office visits, and initial newborn examinations in their charges.
- Most major health insurers reimburse contract with birth centers for reimbursement. Because charges reflect cost and since the birth center is a single service unit, there is no opportunity for cost shifting or operating the birth center as a "loss leader" to other services.
- 98.8 percent of women using the birth center would recommend it to friends and/or return to the center for a subsequent birth.¹

Provided by Sen. Davis

What are the potential benefits to families?

- The birth center approaches pregnancy and birth as a normal family event until proven otherwise. The program encourages family involvement and provides a safe environment for families to experience the social, emotional, and spiritual renewal inherent in birthing forth new life -- while attending to the possibility that a problem may arise that will require medical intervention or care in the acute care setting of the hospital. This is in opposition to the view that pregnancy is an illness and birth a medical/surgical event that needs to be cured.
- The birth center program of education encourages parents to become informed and self-reliant; to assume responsibility for their own health and the health of the family.
- The birth center brings generations together to celebrate new life by encouraging grandparents and children to participate in the birth center program.
- Birth centers have demonstrated that they are a viable alternative to unattended home birth and to costly hospital acute care for 20 years. It is now time to mainstream these services.

What are the benefits to business and industry?

- Birth centers offer business and industry direct savings in the cost of health benefits. If only 100,000 births were attended in birth centers, annual savings could be almost \$314 million.^{2, 3}
- The birth center program provides a starting base for the wellness and prevention programs being established in industry.
- The family is the hinge pin of the employee. Industry's support of a program that encourages family unity, self-determination and responsible health can only improve employee performance.
- Birth center care encourages childbearing women (who may also be employees) to be confident in the design of their bodies. Such confidence, in turn, builds self-esteem and starts the young family off on thinking of pregnancy, birth and family health as wellness, not disease.
- The nine-month intensive focus on improving family health by promotion of lifestyle changes in pregnancy can have a significant ripple effect in the long-term improvement of family health.

How will it affect the hospital acute care service?

- Birth centers have had a major impact on humanizing the acute care maternity services provided by hospitals. Note the rise in hospital birthing rooms, in privileges for nurse-midwives, in childbirth education programs, and in more liberal attitudes about family participation.
- Birth centers are showing that the majority of women can safely proceed through pregnancy and birth using acute care services only as needed. In a wellness orientation to pregnancy and birth, birth centers would be the managed care gatekeepers for the acute care obstetric newborn services.
- Birth centers eventually will help to reduce the number of costly hospital beds and expand primary care services.
- Birth centers will help to reduce dependency fostered by institutional confinement and strengthen the family's ability to share responsibility for maternity care and family health.
- Birth centers will help to develop a system of care based first, on the needs of the family and second, on the needs of medical education or product promotion.

How will it affect the obstetricians?

- Birth centers provide an opportunity for obstetricians and family physicians to learn and practice midwifery - time and education intensive, "with woman" - care.
- Birth centers provide an opportunity for obstetricians to invest in a service in which they can expand their interests.
- Birth centers offer obstetricians an opportunity to develop teams of professional care providers that will improve primary care services to families and better use their specialist skills.

How is the quality of care assured in birth centers?

- Through the promotion of state regulations for licensure (37 states currently license birth centers).
- Through established National Standards (adopted 1985).
- Through a Continuous Quality Improvement Program for Birth Centers (model program available).
- Through accreditation by the Commission for the Accreditation of Birth Centers.

How do birth centers contain costs?

- By retaining autonomy (control) over birth center operations and program regardless of ownership (some hospitals own freestanding birth centers).
- By providing "high touch" rather than "high tech" care, birth centers minimize the overuse of technology.
- By providing a program of primary care that emphasizes education, wellness, prevention, self-help and self-reliance in family health maintenance.
- By using staff efficiently; staff are only in-house when a mother is in-house. Since birth centers do not compete with emergency services or hospital acute care, levels of staff are used efficiently and appropriately.
- By sharing responsibility with the childbearing family for health and prevention of illness.
- By using existing community services when available (instead of creating costly duplications) for transport services, social services, medical consultation, laboratories, etc.
- By using established policies and procedures for screening and transfer of women with problems to acute care services.
- By using low cost construction that meets safety codes.

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4. Rooks, J., et al., "The National Birth Center Study: Part I - Methodology and Prenatal Care and Referrals", *Journal of Nurse-Midwifery*, Vol. 37, No. 4: 222-253, July/August, 1992
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6. Rooks, J., et al., "The National Birth Center Study: Part III - Intrapartum and Immediate Postpartum Neonatal Complications and Transfers, Postpartum and Neonatal Care, Outcomes and Client Satisfaction", *Journal of Nurse-Midwifery*, Vol. 37, No. 6: 361-397, November/December, 1992

The Birth Center

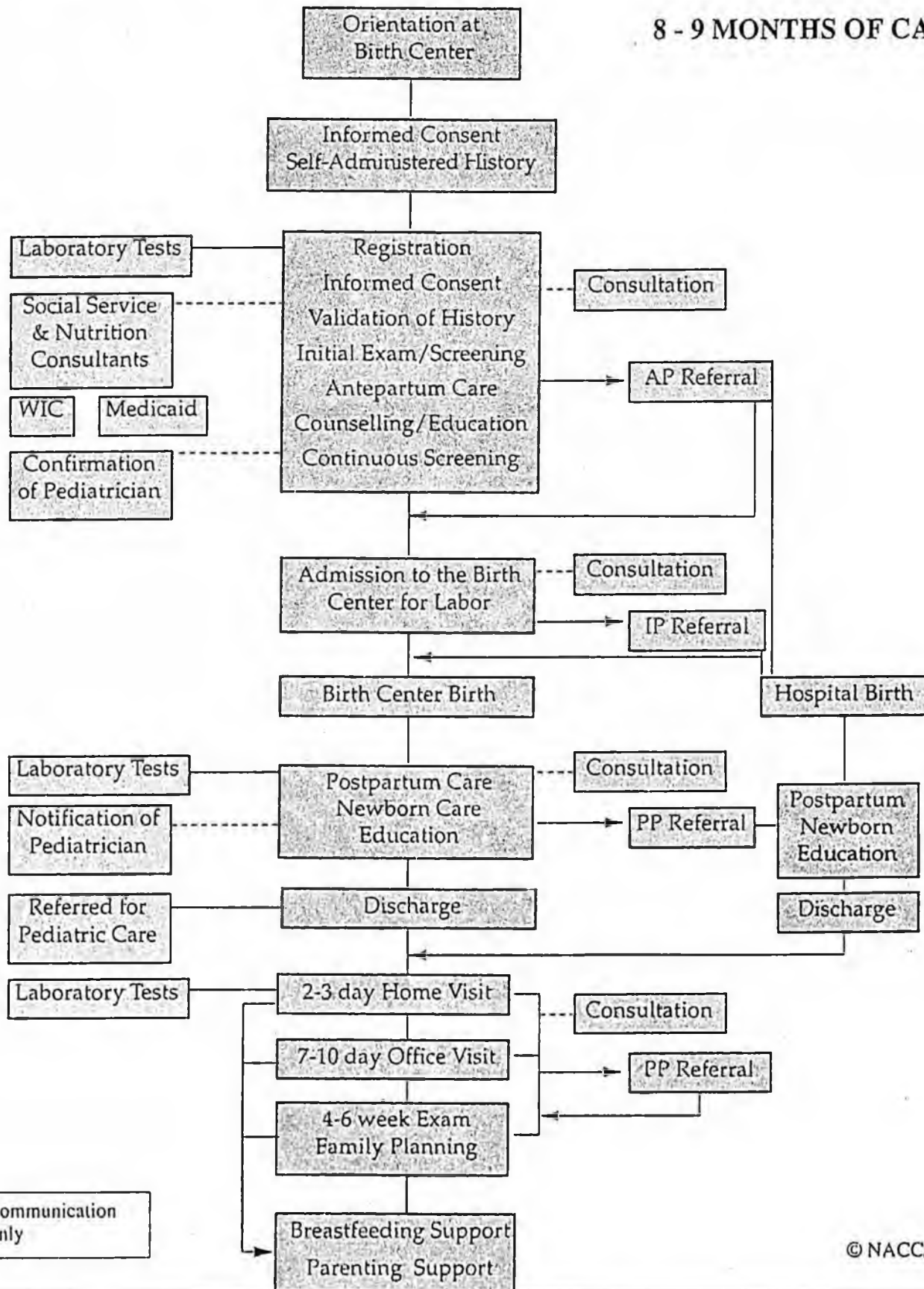
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ORIGINAL ARTICLE

[◀ Previous](#)

Volume 321:1804-1811

December 28, 1989

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[Next ▶](#)

Outcomes of care in birth centers. The National Birth Center Study

JP Rooks, NL Weatherby, EK Ernst, S Stapleton, D Rosen, and A Rosenfield

Abstract

We studied 11,814 women admitted for labor and delivery to 84 free-standing birth centers in the United States and followed their course and that of their infants through delivery or transfer to a hospital and for at least four weeks thereafter. The women were at lower-than-average risk of a poor outcome of pregnancy, according to many but not all of the recognized demographic and behavioral risk factors. Among the women, 70.7 percent had only minor complications or none; 7.9 percent had serious emergency complications during labor and delivery or soon thereafter, such as thick meconium or severe shoulder dystocia. One woman in six (15.8 percent) was transferred to a hospital; 2.4 percent had emergency transfers. Twenty-nine percent of nulliparous women and only 7 percent of parous women were transferred, but the frequency of emergency transfers was the same. The rate of cesarean section was 4.4 percent. There were no maternal deaths. The overall intrapartum and neonatal mortality rate was 1.3 per 1000 births. The rates of infant mortality and low Apgar scores were similar to those reported in large studies of low-risk hospital births. We conclude that birth centers offer a safe and acceptable alternative to hospital confinement for selected pregnant women, particularly those who have previously had children, and that such care leads to relatively few cesarean sections.

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Source Information

Center for Population and Family Health, School of Public Health, Columbia University, New York.

Juneau Family Birth Center

The JFBC midwives have attended 392 (as of September 30, 2003) births since opening in April 1998. This number includes all women who started their labor intending to deliver at the birth center or at home.

1998 77 women served

30 women prenatal care only

6 hospital support

41 births attended **Births in Juneau 407**

11 home births

27 birth center births

3 hospital transports

0 cesarean sections

1999 118 women served

36 women prenatal care only

5 hospital support

79 births attended (18.8% of Juneau births-421)

17 home births

46 birth center births

16 hospital transports

9 cesarean sections

2000 101 women served

39 women prenatal care only

5 hospital support

68 births attended (16.2% of Juneau births-421)

12 home births

48 birth center births

8 hospital transports

7 cesarean sections

- 2001** **118 women served**
 45 prenatal care only
 10 hospital support
 73 births attended (17% of Juneau births-435)
 9 home births
 56 birth center births
 8 hospital transports
 4 cesarean sections
- 2002** **125 women served**
 42 prenatal care only
 14 hospital support
 83 births attended (20.5% of Juneau births-405)
 14 home births
 55 birth center births
 14 hospital transports
 6 cesarean sections
- 2003** **140 women served (as of September 30, 2003)**
 6 hospital support
 48 births attended
 4 home births
 33 birth center births
 7 hospital transports
 6 cesarean sections

Total births attended to as of September 30, 2003 by JFBC
midwives - 392

Total women served by the birth center- 700

Statistics as of August 24, 2003

| | | |
|---|----|-------|
| Number of women transported in labor | 56 | 15.5% |
| Number of cesarean sections | 32 | 8.2% |
| (Number of cesarean sections nation wide | | 28%) |
| Number of transports of mom postpartum | 6 | 1.8% |
| Number of transports of baby postpartum | 7 | 1.8% |
| Baby deaths at birth | 0 | |
| Baby deaths before 6 weeks | 2 | |
| One of heart problems at 5 weeks | | |
| One of a birth defect incompatible with life | | |
| Homebirths | 67 | 17.3% |
| Breastfeeding rate for the first 6 weeks | | 98% |
| (Most of our moms breastfeed for years, but we have no official way of tracking this) | | |
| Average baby weight | | 8 lbs |

COST DIFFERENTIAL FOR BIRTHING CENTERS AND HOSPITALS IN ALASKA

ANCHORAGE

| | |
|---------------------------|--------------|
| Geneva Woods Birth Center | \$1200.00 |
| Providence Hospital | \$3460.00(1) |
| Alaska Regional | \$3475.00(2) |

JUNEAU

| | |
|----------------------------|---|
| Juneau Family Birth Center | \$1200.00 |
| Bartlett Regional Hospital | \$2695.00-\$3850.00 (mom) plus \$1170.00-\$1755 (baby) (3) |

FAIRBANKS

| | |
|--|-------------------------|
| Alaska Family Health & Birth Center | \$1200.00 |
| Fairbanks Memorial Hospital | \$2500.00-\$3500.00 (4) |

1. Quote is for Providence Hospital, uncomplicated delivery and 24 hour stay after delivery. Epidural anesthesia is \$1300.00 additional. Cesarean section is \$7104.00 for 3 day stay, not including anesthesia or physician charges.
2. Cesarean section at Alaska Regional is \$7206.00.
3. Bartlett Regional Hospital does not have all-inclusive pricing. They quote a range of prices and everything from an IV to oxygen and medication is an additional charge. Cesarean section in Juneau costs \$7203.00-\$8295.00 (mom) with an additional charge for the baby of \$1995.00-\$2310.00.
4. Fairbanks Memorial does not have all-inclusive pricing and charges for labor and delivery by the hour. Baby is an additional charge, as is any medication, oxygen, etc. Cesarean section is approximately \$8,000.00.

Provided by Sen. Davis



Geneva Woods Birth Center

Barbara Norton, CNM, ANP
Geneva Woods Birth Center
3730 Rhone Circle, Suite 102
Anchorage, AK. 99508

Honorable Senators Seekings, Bunde, Davis, Stevens and French,

I would like to take this opportunity to discuss with you my support for Senate Bill 349. As I am sure you are aware, this bill would require licensure for birthing centers, effectively changing currently registered birthing centers into licensed birth centers. This is an important bill because there are currently two standards for birthing centers in Alaska. Licensed birth centers have regulations to follow, annual inspections and safeguards in place to guarantee the birth center is a safe environment for families. Registered birth centers, on the other hand, have no regulations, no inspections and no oversight at all.

The establishment of this "double standard" was inadvertent, and there is no better time to remedy the situation. All owners of registered and licensed birth centers agree, and in fact, have worked together to rewrite the regulations (which haven't been changed since 1982) to accommodate both certified nurse midwifery practice and certified direct-entry midwifery practice.

The registered birth centers in Alaska will be given six months to upgrade their facilities, and put the appropriate safeguards in place. As an owner of a licensed birth center, I will work with the other birth centers to prepare for their conversion to licensure by sharing policy & procedure information, risk assessment tools, and quality assurance programs.

Approximately 5 % of Alaskan families choose out-of hospital birth, which represents several hundred families each year choosing the birth center option. There are numerous studies showing the safety of birthing centers for low-risk women, and in addition to significant cost savings, families overwhelmingly report positive, rewarding experiences in birthing centers.

There should only be one standard for birthing centers in Alaska and I trust our representatives in Juneau will agree that this is an essential bill that will remedy the double standard and serve to protect the public.

Sincerely,

Barbara Norton, CNM, ANP
Barbara Norton, CNM, ANP



JUNEAU
FAMILY BIRTH
CENTER

3225 Hospital Drive Suite 106, Juneau, AK 99801
(907) 586-1203 fax (907) 586-5765

03/12/2004

Dear Legislator

I am a Certified Direct-Entry Midwife and an Executive Director of the Juneau Family Birth Center, a non-profit Registered birth center here in Juneau. I have worked on midwifery issues in Alaska since 1984 and look forward to helping to clarify for you midwifery and birth center issues. I served on the State Licensing Board for Certified Direct-Entry Midwives from its inception in 1992 until 2000.

Midwifery is a growing profession, as I am sure you are aware. Alaska's Certified Direct-Entry Midwives deliver almost 10% of the babies in Alaska. This is an amazing statistic considering that nationwide, Direct-Entry Midwives attend 2% of the births. Alaska is at the forefront of midwifery and other states look to our law when crafting legislation.

I would like your support of SB 349, a bill changing registered birth centers to licensed birth centers. It was never our intention, or the legislature's intention, to have two kinds of birth centers in Alaska when this law was passed in 1992. The wording of the law was meant to allow us to practice autonomously in birth centers as the regulations at the time allowed only for CNM's and Physicians to practice in birthing centers. While focusing on this, we mistakenly used the word registered instead of licensed in the language of the bill. It wasn't until later when the Dept of H&SS interpreted this to mean a completely different kind of birth center that the mistake became apparent. Registered birth centers have also been without regulations since this time, even though this law stated that regulations would be developed by the Commissioner. It is in the best interests of the State of Alaska, our birthing women and their families to have one standard for birth centers with good updated regulations.

I appreciate your support on this bill. I would be happy to meet with you if you need more information.

Sincerely,

Kaye Kanne, CDM
Executive Director,
Juneau Family Birth Center

Woman's Way Midwifery, Inc.

149 E. Corral Ave. Suite 2
Soldotna, AK 99669
907-262-9446
Fax: 907-262-9354

March 1, 2004

Senator Con Bunde, Chair
Senator Ralph Seekings, Vice Chair
Senator Bettye Davis
Senator Gary Stevens
Senator Hollis French

It would be of great benefit to families and the state of Alaska to pass SB349 and I am writing this letter to strongly urge you to do so.

Birthing centers are a popular option for families and are integral in prenatal education and providing a variety of early prevention programs that reduce the likelihood of costly birth complications and health issues in the mother and baby. Providing licensing and standardized regulations for birth centers will make the midwifery model of care more accessible to parents and increase the quality of birth centers in our state.

Midwives are highly trained and licensed by the state of Alaska to provide individualized care and to dedicate time to families that is simply not possible for most health care providers to spend. Each prenatal at our clinic averages 1 hour and much of that time is spent on nutritional and healthy living education. Prevention is the key to health improvement in the individual and ultimately cost savings to the state. In addition, there is much evidence that increasing the involvement of the parents in their prenatal care will have a remarkable long-term impact on the family. In our own practice we could site many examples of parents who have made huge lifestyle changes due to their active involvement in their pregnancy. Midwives emphasize the importance of healthy nutrition, eliminating alcohol, drugs and cigarettes from the home, preventing premature

labor, early bonding and educate on parenting skills. We also provide other free services to the community. Our birth center has a classroom and we teach a variety of free classes, we offer a free lending library and a lactation consultant volunteers her services from our building.

Making birth centers available to the public is the next step in supporting families, encouraging them to make healthy decisions for their children and providing adequate health care. In addition to the cost saving of preventative health care, midwifery care (health care as well as facility fees) simply cost less. Midwives and birth centers need your support to continue with important services.

The state of Alaska has 22 licensed midwives attending 10% of the births. We and the families that we serve encourage you to support SB349.

Thank you,

Kelly de Sicyes, CDM LPM
Kelly de Sicyes, CDM CPM

Moonlight Midwifery

Laura Gore C.D.M.
P.O. Box 112051
Anchorage, Alaska 99511

March 2, 2004

Honorable Senators Seekings, Bunde, Davis, Stevens, and French,

I am writing in support of Senate Bill 349. As I'm sure you are aware, this bill would require licensure for all birthing centers, changing currently registered birthing centers to licensed birthing centers. This is an important bill because there are currently two standards for birthing centers in Alaska. Licensed centers have regulations to follow and annual inspections to insure public safety. Registered birth centers currently have no established regulations or inspections but instead rely on the Certified Direct-Entry Midwives, Statutes and Regulations to provide some standard of care.

The establishment of these two different types of birthing centers was not intentional; rather it was an error in wording. I currently operate a registered birth center and I am the Administrator for a licensed birth center. I can assure you the standards (as proposed in the rewrite 2/04, using input from owners of both licensed and registered birth centers) for licensed birth centers is both achievable and practical for all birthing centers and will benefit the public by assuring one uniform standard for this type of facility.

Sincerely,

Laura Gore C.D.M.
Certified-Direct Entry Midwife

Sharon K. Evans, CPM, CDM
PO Box 67
Palmer, AK 99645
March 3, 2004

Subject: Senate Bill 349

Dear Senator:

I am in favor of SB 349, an act which would require licensure of midwifery birth centers. As a licensed midwife and Alaska State Direct Entry Midwifery Board member, I am currently involved in the regulation of midwives. I am interested in our state providing quality assurance through the regulation/licensure of birth centers.

At this time, 34 states currently license birth centers. Standards and quality of care can be assured through the licensing of Birth Centers, with Alaska's requirements being comparable to other states, allowing consumers and the economy to be greatly benefited.

Please support SB 349. By doing so, our state would be on the leading edge in quality, cost-effective maternity care in Alaska state licensed birth centers.

Sincerely,

Sharon K. Evans, CPM, CDM

Sharon K. Evans, CPM, CDM

Mat-Su Midwifery, Inc.

2650 Broadview Ave., Wasilla, AK 99654

907-373-3420 Fax 907-376-7847

March 2, 2004

Subject: Senate Bill 349

Dear Senator:

I am writing this letter in support of SB 349, an act which would require licensure of midwifery birth centers. I am a certified direct-entry midwife licensed in this state since 1993. I own and operate Mat-Su Midwifery, Inc. in Wasilla, AK which is a registered out-of-hospital birth center. We currently deliver over 100 babies per year at our birth center. I would like to be able to assure our clients that the standard and quality of care we provide here is state-approved, as is our practitioner's license.

At this time, 34 states currently license birth centers. With Alaska's requirements being comparable to other states, consumers and the economy would be greatly benefited.

Sincerely,

Judi Davidson, CDM, CPM

Judi Davidson, CDM, CPM

FRONTIER MIDWIFERY SERVICES

March 1, 2004

Dear Senator,

I am writing regarding rewriting of one set of regulations for all licensed birth centers. I am the owner of a birth center in Soldotna. We serve a large community including, Homer, Seldovia, Seward, and individuals from bush communities all over the state who commute to town to receive prenatal, labor and delivery and postpartum care.

We are encouraging this change as a benefit to the individuals, the community and the state. Midwifery care is most importantly safe and cost effective. The focus of A Midwifery Model of Care is quality and prevention. Each patient spends an average of 45 minutes with a highly trained licensed health care provider concentrating on early parenting education and bonding. Our goal is to offer a personalized care. All of these factors have been cited as significant contributors to reducing adverse outcomes, especially prematurity and low birth weight.

In conclusion we would like you to consider Midwifery and Birth Center care for an innovative and cost effective approach to the escalating costs of health care.

Sincerely,



Katherine Piatt, CDM



Alaska Family Health & Birth Clinic

728 Gullney Rd. Suite 100, Fairbanks, Alaska 99701 • (907)456-3719

March 3, 2004

Subject: Senate Bill 294
Senate Bill 349

My name is Dana Brown and I have been a licensed Certified Direct Entry Midwife (CDEM) since January 1993. I am writing in Support of SB294 and SB349.

I am the director of Alaska Family Health & Birth Center, a non-profit registered birth center. I am in favor of all birth centers becoming licensed with inclusion of CDEM's as providers. Licensing birth centers assures high standards and is in the best interest of the public. SB 349 supports this. Birth centers have been proven safe for low risk pregnancies and offer an affordable alternative. In fact, birth centers can provide a savings of 50 - 75% less than hospital births. Birth centers benefit consumers as well as the economy. SB294 offers a promise of savings and cost effectiveness. Please support SB294 and SB349. Thank you for your consideration.

Sincerely,

Dana Brown
Certified Direct Entry Midwife



Alaska Family Health & Birth Clinic

728 Gaffney Rd. Suite 100, Fairbanks, Alaska 99701 • (907)456-3719

Danielle Baham, CMA
728 Gaffney Street, Suite 100
Fairbanks, AK 99709

March 3, 2004

Subject: Senate Bill 349
Senate Bill 294

Dear Senator:

I am the Office Administrator at AHF&BC a non-profit birth center in Fairbanks.

I am support of SB 294 & SB 349 and ask that the legislative please pass these bills.

Thank you for your consideration in this matter.

Sincerely,

A handwritten signature in cursive script that reads "Danielle Baham".

Danielle Baham, CMA



Alaska Family Health & Birth Clinic

728 Gaffney Rd. Suite 100, Fairbanks, Alaska 99701 • (907)456-3719

Vanessa R. Dunham
Apprentice Direct-entry Midwife
728 Gaffney Street, Suite 100
Fairbanks, AK 99707

March 3, 2004

Subject: Senate Bill 349
Senate Bill 294

Dear Senator:

I am in favor of SB 349, an act which would require the licensing of birth centers. As a soon to be direct-entry midwife, working for Alaska Family Health and Birth Center I feel that licensing contributes to the high standards of birth centers.

I am in favor of SB 294. This bill is cost effective and will give medicaid recipients the same options as private and insurance clients.

Thank you for your consideration in this matter.

Sincerely,

Vanessa R. Dunham



Alaska Family Health & Birth Clinic

728 Gaffney Rd. Suite 100, Fairbanks, Alaska 99701 • (907)456-3719

March 3, 2004

RE: Senate Bill 294
Senate Bill 349

I am writing in support of SB294 and SB349. These bills would require all birth centers to be licensed and provide for Certified Direct entry Midwives to be the attendants at these births. This would provide a safe alternative to low risk women at a savings to the State for all Medicaid and Denali Kid Care patients. Certified Direct Entry Midwives typically have a high percentage of Medicaid and DKC clients and charge 50-75% less overall for prenatal care and childbirth services. CDEMs are currently doing homebirths or working in birth centers that may be registered through the State but do not have any licensing provisions. These bills would provide for consistent quality for all birth centers.

Thank You,

Cheryl Corrick
Certified Direct Entry Midwife

**SENATE COMMITTEE REPORT
First Committee of Referral**

DATE: 2/16/04

FURTHER: Finance

Date of 5-Day Notice: 4/15/04
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 4/20/04

Labor and Commerce Committee considered SENATE BILL NO. 349

SB 349 MIDWIFERY BIRTH CENTER LICENSING

"An Act requiring licensure of midwifery birth centers; and providing for an effective date."

and recommends:

- be replaced with _____ CS _____ (_____)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

| | |
|--------------------------|--------------------------|
| Senate Bill: | |
| <input type="checkbox"/> | Same Title |
| <input type="checkbox"/> | New Title |
| House Bill: | |
| <input type="checkbox"/> | Same Title |
| <input type="checkbox"/> | Technical Title Change |
| <input type="checkbox"/> | New Title w/ SCR # _____ |

NEW FISCAL NOTE(S):

| Department | Date | Fiscal | Indet. | Zero | FN# |
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| HSS | 2/24/04 | ✓ | | | 1 |
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PREVIOUS FISCAL NOTE(S):

| Department | Date | Fiscal | Indet. | Zero | FN# |
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APPROPRIATION - no fiscal note

| SIGNATURES AND RECOMMENDATIONS: | | DO PASS | DO NOT PASS | NO REC | AMEND |
|---------------------------------|-----------------------|---------|-------------|--------|-------|
| Seekins | <i>Paresh Seekins</i> | ✓ | | | |
| Davis | <i>Beth Davis</i> | X | | | |
| French | <i>[Signature]</i> | X | | | |
| G. Stevens | <i>[Signature]</i> | X | | | |
| | | | | | |
| CHAIR: | <i>[Signature]</i> | ✓ | | | |

Bunde

Bill History/Action Display



BILL: SB 349

SHORT TITLE: MIDWIFERY BIRTH CENTER LICENSING

BILL VERSION:

CURRENT STATUS: (S) FIN

STATUS DATE: 04/21/04

SPONSOR(s): SENATOR(S) DAVIS

TITLE: "An Act requiring licensure of midwifery birth centers; and providing for an effective date."

| | | |
|--|-----------------------------------|---------------------------|
| Bill Root: | Display Bill Root | Next Bill |
| Full Text | Fiscal Notes | |
| Committee Action with Bill History | | |

| Jrn-Date | Jrn-Page | Action |
|----------|----------------------|-------------------------------------|
| 02/16/04 | 2190 | (S) READ THE FIRST TIME - REFERRALS |
| 02/16/04 | 2190 | (S) L&C, FIN |
| 04/21/04 | 2982 | (S) L&C RPT 5DP |
| 04/21/04 | 2982 | (S) DP: BUNDE, SEEKINS, DAVIS, |
| 04/21/04 | 2982 | (S) FRENCH, STEVENS G |
| 04/21/04 | 2983 | (S) FN1: (HSS) |
| 04/21/04 | 2983 | (S) REFERRED TO FINANCE |

Similar Subject Match or Exact Subject Match

HEALTH & SOCIAL SERVICES

LICENSING

MEDICAL CARE

OCCUPATIONS & PROFESSIONS

WOMEN

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|-------------------|-----------------------------------|---------------------------|
| Bill Root: | Display Bill Root | Next Bill |
|-------------------|-----------------------------------|---------------------------|

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