

SCOMM

128:42

*Adopted 4-10-01
amended 4-10-01*

22-LS0809J
Chenoweth
4/5/01

HOUSE CS FOR SENATE BILL NO. 164(O&G)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE HOUSE SPECIAL COMMITTEE ON OIL AND GAS

Offered:

Referred:

Sponsor(s): SENATORS TORGERSON, Halford, Pearce, Leman, Donley, Kelly, Phillips, Taylor, Green, Wilken, Ward, Austerman, Cowdery, Therriault, Davis, Ellis, Elton, Hoffman, Lincoln, Olson

REPRESENTATIVES Croft, Whitaker

A BILL

FOR AN ACT ENTITLED

"An Act prohibiting leases under the Right-of-Way Leasing Act on state land in or adjacent to the Beaufort Sea; and providing for an effective date."

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

*** Section 1.** AS 38.35 is amended by adding a new section to read:

Sec. 38.35.017. Limitation on leases in or adjacent to the Beaufort Sea. (a)

Consistent with and in furtherance of the statements of general state policy guiding resource development set out in art. VIII, sec. 1, Constitution of the State of Alaska, that the resources of the state be developed "by making them available for maximum use consistent with the public interest" and in art. VIII, sec. 2, Constitution of the State of Alaska, directing that provision shall be made by the legislature for "the utilization, development, and conservation of all natural resources belonging to the State . . . for the maximum benefit of its people," and consistent with and in furtherance of the general legislative declaration of policy for this chapter set out in AS 38.35.010, it is the policy of this state that the overall strategy for development, use, and control of a

1 pipeline or pipelines to develop the state's substantial North Slope natural gas
2 resources be directed

3 (1) to enhance the standard of living of state residents by

4  (A) ensuring that, in conjunction with out-of-state market
5 driven commercial demand for North Slope natural gas, state residents and
6 businesses will have access, directly or indirectly, to that portion of the gas that
7 will meet the reasonably foreseeable in-state demands for it, including
8 substitution of the North Slope natural gas for depleting gas reserves in
9 Southcentral Alaska in order to maintain a vital domestic and industrial energy
10 source, and ensuring that the pipeline or pipelines for the transportation of
11 North Slope natural gas will be designed and located to be responsive to these
12 requirements;

13 (B) making the maximum contribution to the development of
14 job opportunities in this state by

15 (i) providing direct short-term construction and long-
16 term operation- and maintenance-related employment on the pipeline or
17 pipelines, to the end that the resources be developed with qualified
18 contractors and firms in this state for work to be performed, including
19 the fabrication and installation of required facilities, and that state
20 residents be employed, consistent with law; for purposes of this sub-
21 subparagraph, a person is considered a resident if the person is
22 physically present in the state with the intent to remain in the state
23 indefinitely and has a home in the state, and a contractor or firm is
24 considered as qualified if the contractor or firm qualifies as an Alaska
25 bidder under AS 36.30.170(b); and

26 (ii) providing necessary support services; and

27 (C) adding significant long-term property value to the tax base
28 of the state and local governments, thereby providing the means to support
29 public education, public health, transportation, and other essential state and
30 local government projects and services;

31 (2) to ensure that the design, location, and construction of a pipeline or

1 pipelines for delivery of North Slope natural gas to North American markets through
2 connection to the North American natural gas pipeline network enhance opportunities
3 for

4 ~~(A)~~ implementing gas deliveries using alternative technologies
5 and the construction of other pipelines to deliver North Slope natural gas to
6 foreign and domestic markets; and

7 (B) ensuring the utilization of the pipeline for natural gas
8 distribution and development in the state by designing and constructing the
9 pipeline, in size and operating capability, beyond the capacity, as measured by
10 the average daily volume throughput, sufficient to provide gas in interstate
11 commerce, and by entry of other appropriate orders under AS 42.06.340(b);
12 and

13 (3) to ensure construction of the pipeline or pipelines consistent with
14 careful protection of the state's natural environment, with minimum environmental
15 degradation, to the greatest extent possible, and with protection of fish, wildlife, and
16 biotic resources for the use of persons who depend upon them by using available
17 transportation infrastructure to initiate and complete project construction and
18 maintenance and by avoiding duplication of facilities.

19 (b) Consistent with the legislative policy and goals set out in (a) of this
20 section, the commissioner may not grant a lease across state land that is in or adjacent
21 to the Beaufort Sea for pipeline right-of-way purposes to authorize construction and
22 operation of a natural gas pipeline following a "northern" or "over-the-top" route
23 running east from the North Slope to Canada's Mackenzie River Valley, then south to
24 link to existing pipeline networks to transport North Slope natural gas to North
25 American markets.

26 (c) The limitation on leasing set out in (b) of this section does not apply on
27 and after the date on which a natural gas pipeline following a "southern" route that
28 parallels the Trans Alaska Pipeline System and the Alaska Highway to transport North
29 Slope natural gas to North American markets or Alaska tidewater for delivery to
30 foreign and domestic markets has been completed and has begun operation.

31 * Sec. 2. This Act takes effect immediately under AS 01.10.070(c).

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: SB 164
 (S) Publish Date: 3/29/01
 Dept. Affected: Natural Resources
 BRU: Oil & Gas Development
 Component: Pipeline Coordinator
 Component Number: 1191

Revision Date/Time (Note if correction): _____
 Title: No Gas Pipeline over Beaufort Sea
 Sponsor: Senators Torgerson, Halford, Pearce, et al.
 Requester: (S) RES

Expenditures/Revenues

(Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2001) cost: none

Check this box (X) if funding for this bill is included in the Governor's FY2002 budget proposal: ☐

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

There is no anticipated fiscal impact to the State Pipeline Coordinator's Office associated with implementation of this legislation.

Prepared by: Bill Britt Phone 271-4304
 Division: State Pipeline Coordinator's Office Date/Time 27-Mar-01
 Approved by: Pat Pourchot Date 28-Mar-01
 Agency: Natural Resources

For distribution information, call the Governor's Legislative Office

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SENATE RESOURCES COMMITTEE

Sponsor Statement

SB 164

Prohibiting a Right-of-Way Lease for an Over the Top Gas Pipeline Route

Commercialization of North Slope natural gas has been one of the legislature's top priorities. The potential benefits of commercialization include short and long-term jobs, additional state and municipal revenues, opportunities for new industries, and cheap, clean energy for much of the state. Individually legislators have opposed the "over the top" route because it does not maximize these potential benefits. This bill would amend AS 38.35, the Right-of-Way Leasing Act, to preclude the DNR Commissioner from issuing a right-of-way lease for an over the top route. Passage of this bill shows that the legislature finds that this route would not be in the state's best interests.

The bill would amend the declaration of the legislative policy regarding the issuance of a right-of-way lease. AS 38.35.010 currently reflects that a pipeline:

1. can "significant[ly] contribut[e] to the welfare of the people of the state;" and
2. should "maximize the contribution to the development of human resources of this state, increase the standard of living for all of its residents, advance existing and potential sectors of its economy, strengthen free competition in its private enterprise system, and carefully protect its incomparable natural environment."

The bill would add these policies:

1. the constitutional requirements that the state's resources be developed for "the maximum benefit of the people of the state, and directing the legislature to provide for "the utilization, development, and conservation of all natural resources belonging to the State ... for the maximum benefit of its people;"
2. North Slope natural gas should be available to meet in-state demand;
3. North Slope natural gas should be developed to maximize short-term construction, and long-term operation and maintenance employment;

4. North Slope natural gas should be developed to add to the long term property tax base;
5. a North Slope natural gas pipeline to the North American market should be designed and located to enhance the possibilities for construction of new industries in Alaska and other pipelines to Alaska tidewater; and
6. a North Slope natural gas pipeline should use available infrastructure and utility corridors for construction of the pipeline and to minimize environmental impacts.

Finally, the bill would conclude that based on these policies, the commissioner may not grant a right-of-way across state lands in and adjacent to the Beaufort Sea for an over the top route until a southern route is built. Basically, the bill recognizes that an "over the top" route is not in the state's best interests.

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MEMORANDUM

April 2, 2001

SUBJECT: Constitutional considerations identified in Senate Bill 164, prohibiting Beaufort Sea leases under the Alaska Right-of-Way Leasing Act (Work Order No. 22-LS0809\F)

TO: Representative Scott Ogan, Chair
House Special Oil and Gas Committee

FROM: Jack Chenoweth
Assistant Revisor of Statutes

Late last Friday, I was made privy to the e-mail from Assistant Attorney General Jack Griffin that accompanied your request for an opinion and spent part of the weekend considering the points and preparing a response. Mr. Griffin offers them by way of a preliminary review of the bill.

The note added by Tam Cook when she passed me your request relates that you want to know "whether SB 164 is really in danger of being held unconstitutional." With only a few days of consideration, of course I can't guarantee that the bill would not be. But I suggest in this memo that there are bases by which to rebut the considerations and concerns that are identified in the e-mail. The e-mail mentions or touches upon (1) separation of powers considerations; (2) federal commerce clause concerns; and (3) equal protection considerations.

Much of the justification of what SB 164 proposes necessarily relates to the bill's tie-in to the history of the policy of the federal government as to choice of routes. Federal policy, favoring the "southern route," arises out of decisions made by the Congress and the president following enactment of the Alaska Natural Gas Transportation Act, P.L. 94-586, as amended.

Separation of powers considerations:

My understanding from the instruction that first came with the work order request was that closing leasing under the Right-of-Way Leasing Act of state tidal and submerged lands and near-shore uplands of the Beaufort Sea was predicated on the legislature's constitutional authority to act by law to reserve land out of the public domain in furtherance of the constitutional policy statements at the head of Article VIII of the state constitution. Mr. Griffin's e-mail acknowledges the legislature's constitutional authority to establish land use policy, leaving implementation of the details to the executive. His

concern, as I understand, is that withholding exercise of discretion with the particularity identified in the bill "reflects an unconstitutional attempt to micromanage the commissioner's decision-making process." This is identified as a "separation of powers concern."

However, I'm hard pressed to find case law in this state that supports that assertion with sufficient firmness. The courts have recognized a "separation of powers doctrine" and applied it in a variety of circumstances, including circumscribing interference with discretion committed by law to the executive branch. The court has generally made decisions in this area supporting discretion in agencies as to how best to address legislatively assigned tasks: when an act is committed to executive discretion, the exercise of that discretion within constitutional bounds is not subject to the control or review of the courts, and interference with that discretion would be a violation by the judiciary of the doctrine of separation of powers. But, first, of course, the agency must have been given discretion to act. Where, as in the instance with this measure, the legislature proposes to withhold discretionary authority to lease under the Right-of-Way Leasing Act, circumscribing the authority of the commissioner of natural resources, the better to ensure compliance with objectives consistent with the legislature's perception of the statement of policy under article VIII, section 1 and the general authority provided under article VIII, sections 2, 6, and 7, it hardly seems to me that the legislature is engaged in action constituting a violation of separation of powers. It is by statute that the legislature determines and prescribes the nature of an executive agency's duties and, unless the enactment is arguably contrary to a constitutional provision, a statutory grant of authority to the agency does not thereafter keep the legislature from providing for reasonable regulation of the agency's actions by law.

I doubt that a court would readily find that the directions given in this measure exceed basic policy development and management considerations contemplated in article VIII as exercisable by the legislature. The measure's provisions, as a constitutional matter, define, they do not interfere with, the behavior of an executive branch official.

Commerce clause concerns:

As I understand, the example offered in the last paragraph of Mr. Griffin's e-mail is intended to illustrate a commerce clause concern. The example, noted that, because the choice of language of the bill's proposed AS 38.35.017(b) would allow a lease for construction of a pipeline between Prudhoe and Kaktovik but would not for a line that extended across the Alaska-Tukon border and southward through the Mackenzie River valley, the court might be disposed to find a commerce clause violation.

There are two ways of considering the distinction. To the extent the language allows construction of the line to Kaktovik but not to the other side of the international border, the objective is arguably consistent with state policy considerations outlined in article VIII, sections 1 and 2 of the state constitution ("maximum use consistent with the public interest"; "utilization . . . of [state] natural resources . . . for the maximum benefit of

its people") and with general legislative the policy declaration for the Right-of-Way Leasing Act being added to. On the other hand, the distinction identified might be enough to allow a court to say, in applying the test I identified in my March 27 memo, that the "[local] purpose could as well be served" by another, nondiscriminatory means, and that the language of the prohibition does violate the Commerce Clause.

Had the Congress been silent in the matter of selection of a pipeline route, Mr. Griffin's contention would likely prevail. However, the Congress has not been silent. It has acted, with the federal chief executive, by statute, resolution, executive finding ratification, and treaty, to put into place a comprehensive policy that favors construction of a pipeline along a route within this state adjacent to the Trans-Alaska Pipeline System south across the Brooks Range, past Fairbanks, at least to the vicinity of Delta Junction. The fact that the federal government has spoken is significant. This measure, SB 164, is congruent with the objectives of that policy, and I have to believe that, in any Commerce Clause-based challenge to the measure, the courts would not fail to give weight to contemporary federal policy favoring a "southern" natural gas pipeline route and the state's efforts to act consistently with it. See, for example, *Parker v. Brown*, 317 U.S. 341, 368, 87 L.Ed.315, 63 S.Ct. 307 (1943), rejecting a Commerce Clause challenge to a California regulation that, while having an effect on interstate commerce, was considered to be "not greater than or substantially different in kind from that contemplated by . . . programs authorized by federal statutes," and *Northwest Central Pipeline v. State Corporation Commission of Kansas*, 489 U.S. 493, 103 L.Ed.2d, 109 S.Ct. 1262 (1989), sustaining a Kansas regulation governing the timing of natural gas production against a challenge that it affected purchasing decisions, price structures, and the introduction of natural gas into interstate commerce as, in part, not a per se violation of the Commerce Clause, concluding that, as in *Parker v. Brown*, "the effect of the . . . program on interstate commerce is [not] one which conflicts with Congressional policy." 103 L.Ed.2d at 537.

Equal protection considerations:

The last paragraph of the e-mail asserts that the legislation may violate the Equal Protection Clauses of the United States and Alaska Constitutions.

This measure prohibits exercise of a power relating to the use of a state resource. At the heart of the issue is an economic decision. Within the parameters of federal equal protection analysis, the measure does not affect a fundamental interest or utilize a suspect classification. Consequently, to pass muster under a federal equal protection analysis, it need only survive review under the rational basis test. Under [this] standard a statute will be sustained if the legislature could have reasonably concluded that the challenged classification would promote a legitimate state purpose." *Exxon Corp. [v. Eagerton]*, 462 U.S. 176, 195-96, 76 L. Ed. 2d 497, 103 S. Ct. 2296, 2308 (1983)], quoted in *Katmailand, Inc. v. Lake & Peninsula Borough* 904 P.2d 397 (Alaska 1995), at 400. Arguably, SB 164 satisfies the rational basis test because the prohibition is rationally related to legitimate governmental interests identified in the state constitution and under

contemporary federal Alaska North Slope natural gas pipeline policy. Moreover, the measure articulates a number of reasons in support of this decision.

Similarly, the measure should pass muster under an Alaskan equal protection analysis. The Alaska courts apply a sliding scale approach to equal protection questions arising under the Alaska Constitution, *State v. Ostrosky*, 667 P.2d 1184, 1192-93 (Alaska 1983), under which, "as the right asserted becomes 'more fundamental' or the classification scheme employed becomes 'more constitutionally suspect,' the challenged law 'is subjected to more rigorous scrutiny at a more elevated position on our sliding scale.'" *State, Dep't of Revenue v. Cosio*, 858 P.2d 621, 629 (Alaska 1993) (quoting *Ostrosky*, 667 P.2d at 1193). Economic and commercial interests traditionally result in minimal scrutiny under state equal protection analysis. *Atlantic Richfield Co. v. State*, 705 P.2d 418, 437 (Alaska 1985) (declaring that the interest in freedom from disparate taxation is "at the low end of the continuum of interests protected by the equal protection clause"). When the question is one of economic interests, entitled to minimum scrutiny,¹ the state

¹ *Baxley v. State*, 958 P.2d 422 (Alaska 1998), the challenge to ch. 139, SLA 1996, authorizing amendment and extension of the Northstar Unit oil and gas leases, sought a declaration that the 1996 Act violated, among other provisions, the Uniform Application Clause of the Alaska Constitution. Baxley contended that the 1996 was contrary to the language of the section under which "[l]aws and regulations governing the use or disposal of natural resources shall apply equally to all persons similarly situated with reference to the subject matter and purpose to be served by the law or regulation." Alaska Const. art. VIII, § 17. The decision in *Baxley* reiterates that application of the Uniform Application Clause requires legislation dealing with natural resources to satisfy a heightened level of equal protection scrutiny, requiring a showing of an important state interest and no less restrictive alternative to further it. However, application of the Clause extends only to persons similarly situated with respect to the subject matter and purpose of the legislation. Alaska Const. art. VIII, § 17; *Reichmann v. State*, 917 P.2d 1197, 1200 (Alaska 1996) (upholding differential treatment of residential and recreational users of lakeshore land). Different legal treatment between classes of persons may be justified by the differences between the classes. *Shepherd v. State*, 897 P.2d 33, 44, at n. 12 (Alaska 1995).

Let me suggest that the Uniform Application Clause (with its "heightened scrutiny" requirement) does not apply in this instance. Appreciate that the starting point for consideration of applications for North Slope natural gas pipeline leases under the Alaska Right-of-Way Leasing Act is surely applications filed under the Alaska Natural Gas Transportation Act of 1976, P.L. 94-586, as amended, and the Presidential Decision of September 22, 1977, subsequently endorsed by the Congress, P.L. 95-158, designating for approval a transportation system for delivery of Alaska natural gas to the Lower 48 that favors the "southern route." Sec. 9(b) of the Act, 15 U.S.C. 719g(b), requires that

All actions of a federal officer or agency with respect to consideration of applications or requests for the issuance or grant of a

must show only that its purposes are legitimate and that the challenged statute bears a fair and substantial relationship to these purposes.

The legitimacy of the legislature's purpose should not be questioned: the measure itself cites the specific constitutional provisions that have motivated its introduction and consideration. It should be readily demonstrable that prohibition of Beaufort Sea leases, permitting only leases that bring North Slope natural gas to move along routes that are nearer state population centers and transportation systems, furthers the constitutional policy and authority described at the outset of article VIII. More difficult is the nexus between the choice of the measure's method--a time-limited prohibition on leasing particular state resources--and whether that choice bears a fair and substantial relation to the purpose sought to be advanced. Again, because economic interests have traditionally been afforded minimal protection under equal protection analyses, although the relationship between the classification and the legitimate governmental objective must be fair and substantial, a less than perfect fit between the means and ends will be tolerated. *Wilson v. Municipality of Anchorage*, 669 P.2d 569 (Alaska 1983).

Jack Griffin's e-mail directs attention to the fact that the measure's proposed prohibition would not foreclose use of the Right-of-Way Leasing Act to dispose of interest in land in and adjacent to the Beaufort Sea for a pipeline to Kaktovik, but only as to one that crosses the international boundary, implying that, in terms of equal protection analysis, the measure makes a distinction that is arguably "underinclusive"--the proposal draws a distinction that does not include *all* Beaufort Sea pipelines.

certificate, right-of-way, permit, lease, or other authorization to which subsection (a) [construction and initial operation of the ANGTA transportation system approved by the president] applies ***shall be expedited*** and any such application ***shall take precedence over any similar applications or requests*** of the federal officer or agency.

(Emphasis added.) A series of Administrative Orders, beginning with Administrative Order 70 (September 1, 1981) and the last Administrative Order 181 (January 8, 2001), makes clear that the state intends to work cooperatively with the federal government in the issuance of necessary permits and leases for construction and operation of a pipeline using the ANGTA approved routes. Clearly, in the history of the proposed North Slope natural gas pipeline, a 25-year old series of *federal* statutes and other public measures, supported by a series of state initiatives, very much favors one route application over competitors'. As with *Baxley*, the court could conclude that, in light of the federal laws and other public measures, other persons having an interest in a resource--state land for lease for construction of a natural gas pipeline--are ***not*** similarly situated for purposes of the Uniform Application Clause and that, because of that difference, SB 164 does not implicate a heightened scrutiny equal protection analysis because of the exception to the application of the Uniform Application Clause.

Representative Scott Ogan, Chair
April 2, 2001
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Even if "underinclusive," the measure may survive equal protection challenge. "[U]nderinclusive classifications violate the equal protection clause if the classification is 'clearly wrong, [and] a display of arbitrary power, [rather than] an exercise of judgment.'" *Gilman v. Martin*, 662 P.2d 120, 126 (Alaska 1983) (quoting *Mathews v. De Castro*, 429 U.S. 181, 185, 50 L. Ed. 2d 389, 97 S. Ct. 431 (1976)). In respect of SB 164, however, the measure represents an exercise of judgment by the current legislature, taking into consideration the singular opportunity provided at the moment to combine fulfillment of the policy objectives set out in Article VIII of the state constitution and the real likelihood of placement of significant North Slope natural gas reserves into the stream of domestic commerce, that the "southern route" so favored by the national administration and the Congress should be promoted, to the delay, though not the permanent exclusion, of any other competing claim. Under the circumstances, considering the objective of the legislation and the means chosen, the legislature's judgment should not be found to be either clearly wrong or arbitrary.

JBC:glc
01-294.glc

ALASKA STATE LEGISLATURE

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Senator Drue Pearce, Vice Chair
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SENATE RESOURCES COMMITTEE

MEMORANDUM

To: Representative Scott Ogan, Chair
House Oil and Gas Committee

From: Senator John Torgerson, Chair
Senate Resources Committee *J. Torgerson*

Date: April 4, 2001

Re: Hearing request for SB 164
"No Gas Pipeline Over Beaufort Sea"

Please accept this memorandum as a request to schedule SB 164 for a hearing in the House Oil and Gas Committee at your earliest convenience. This bill would amend AS 38.35, the Right-of-Way Leasing Act, to preclude the DNR Commissioner from issuing a right-of-way lease for an over the top gas pipeline route.

I have enclosed the following back-up information for your review and inclusion in the bill packets:

- SB 164
- Zero fiscal note
- Sponsor Statement

Thank you for your consideration of this request.

SB-164

Testimony to House Oil and Gas

10 April, 2001

Good Afternoon Mr. Chairman, members of the committee. My name is Michael Hurley and I am here today, representing the North American Natural Gas Pipeline Group, to express our concern about SB-164.

As you are aware, the three companies participating in the group (BP, ExxonMobil, and Phillips) are working diligently to develop an economically viable project to commercialize North Slope natural gas by pipeline through Canada to the Lower 48 market. And in doing that, it is incumbent on us to fully consider the options that could help accomplish that goal.

Indeed, the Federal Energy Regulatory Commission, before it issues a certificate of public convenience and necessity, requires us to analyze alternative pipeline route options as part of the application process.

This project has the potential to be the largest energy project in North America, and will require capital investments in the billions of dollars. Investment decisions cannot be taken lightly, and must be made with the confidence that can only be gained by a thorough evaluation of the alternatives, and an understanding of their relative strengths, weaknesses, risks, and rewards. Such an approach is fundamental to good business decision-making.

Our efforts are focused on creating and understanding opportunities, not prematurely discarding them. This legislation would do the latter. We believe that legislation that shuts down options before they are fully understood limits dialog and interferes with the fundamental dynamics of a free-market economy. One might question how this will encourage other investors to consider Alaskan projects.

It cannot be forgotten that any Alaskan gas project, whether it be LNG, GTL or pipeline technology, must be able to deliver products to the market at a competitive cost in order to succeed. There are many other competing sources of supply, and buyers will go elsewhere if a project fails in this regard. While our work may show that a Southern Route does offer the best combination of benefits and economic viability to Alaskans, it must be realized that efforts to prohibit the consideration of other development options such as a Northern route may impede an Alaska Natural Gas project from moving forward. If either project advances, the benefits to the state and its citizens and businesses will be substantial, and will make a significant contribution to Alaska's economic future.

Finally, the work we are undertaking this year will yield information we believe will be necessary for reasoned decision-making. We have been listening to the

views and concerns of the Alaska Legislature and of Alaska's citizens, and we will be evaluating alternatives on the basis of seven criteria:

- Overall project economics,
- Alaskan access to gas,
- Jobs for Alaskans,
- Revenues to the State,
- Safety,
- Environmental Protection, and,
- Project timing.

We do not feel we have enough information yet to make a route decision. Indeed, that is the reason for our aggressive work program. The effect this legislation may have on FERC or other agency permit applications is unknown. Again, we think that the interests of commercializing North Slope gas are best served by creating choices, not foreclosing them. We expect that there will be many future opportunities for legislative guidance and action.

Thank you Mr. Chairman for this opportunity to express our opposition to this bill.

Subject: SB 164

Date: Tue. 27 Mar 2001 14:29:58 -0900

From: "Christine A. McGraw" <backbone@alaska.net>

To: "Senator John Torgerson" <Senator_John_Torgerson@legis.state.ak.us>

Dear John:

I would like to thank you, and indeed the whole body, for your work on Senate Bill 164.

It sets forth the principles and the context needed for your work on the natural gas pipeline.

As we move forward on securing a project that will be most beneficial to the people of Alaska, this is the kind of leadership that will be essential and vital for all Alaskans to follow and emulate.

It is my hope that the other body will join you in this effort.

Thanks, John.

Christy McGraw