

ALASKA LEGISLATURE SPECIAL COMMITTEE/SUBJECT FILES 8672

2949 SCOMM 129: JOINT COMMITTEE ON NATURAL GAS PIPELINE, 2001-02

Yukon Pacific notes the lack of a termination clause for the proposed Federal Act raising the specter of complications arising in the future when the producers' overland projects fail to materialize, as was the case with the current Alcan project. For those of us who have watched that project for 20 some odd years and have had to interact with its "expedition" legislation, there can be no question that failure to include a firm termination for the legislation is a most serious mistake and potential impediment to the commercialization of North Slope natural gas

I hope these answers are helpful. We look forward to answering any further questions at the next hearing.

Sincerely,



Jeff Lowenfels

Proposal # ANGTA 1

The Joint Committee on Natural Gas Pipelines respectfully requests that Congress reaffirm that the Alaska Natural Gas Transportation Act (ANGTA) is the prevailing law with respect to a transportation system for delivery of Alaska natural gas to Alaska, the contiguous States, and other markets, and the construction and initial operation of that system.

The Joint Committee on Natural Gas Pipelines also respectfully requests that Congress allow certain amendments to ANGTA to modernize the act without changing the basic nature and general route of the approved transportation system or otherwise preventing or impairing in any significant respect the expeditious construction and initial operation of the transportation system.

Justification for Proposal # ANGTA 1

Before the enactment of ANGTA there were three competitive proposals for an Alaska Natural Gas Transportation System. Specifically those proposals were:

- 1) the Arctic Gas Project, which proposed an overland pipeline extending from Prudhoe Bay, across the North Slope of Alaska to the Canadian Mackenzie Delta and thence southerly through Canada to the lower forty-eight states;
- 2) the El Paso LNG Project, which proposed an overland pipeline extending from Prudhoe Bay to Southern Alaska, where the gas would have been liquefied and transported by tankers to terminals in the western United States; and
- 3) the Alcan Pipeline Project, referred to in Canada as the Alaska Highway Pipeline Project, which proposed an overland pipeline extending from Prudhoe Bay to Fairbanks, Alaska, and thence southeasterly through western Canada to the lower forty-eight states.

All of these proposals were filed under the Natural Gas Act, debated by FERC, and Congress passed AN'TGA, which authorized the President to select a route. The President then approved the ALCAN route and entered into a treaty with Canada, which were later confirmed by Congress. The

Canadian Parliament also passed the Northern Pipeline Act, the equivalent of ANGTA. ANGTA was never repealed. In fact, in 1992 the federal inspector recommended that ANGTA be abolished, but Congress rejected that notion.

Proposal # ANGTA 2

The Joint Committee on Natural Gas Pipelines respectfully requests that Congress adopt provisions that prohibit the over-the-top route through the Beaufort Sea as a pipeline route.

Justification for Proposal # ANGTA 2

- The Alaska Legislature has banned this route in Senate Bill 164.
- The House of Representatives in Congress has adopted an amendment in the Energy Bill to ban this route.
- This route seriously decreases the benefits Alaskan's will receive from the development of natural gas.
- The North Slope Borough and the Alaska Eskimo Whaling Captains oppose this route.

Proposal # ANGTA 3

The Joint Committee on Natural Gas Pipelines respectfully requests that Congress create a mechanism for allowing the transparent and fair distribution of the costs allowed to be included in the tariffs associated with a conditioning plant(s).

Justification for Proposal # ANGTA 3

Other producers will likely discover gas downstream from access to a conditioning plant in Prudhoe Bay that will require them to construct an additional conditioning plant. These producers will need to be treated fairly

with regard to tariffs to encourage development and exploration of all North Slope gas resources.

Proposal # ANGTA 4

The Joint Committee on Natural Gas Pipelines respectfully requests Congress to eliminate the Dempster-Lateral route from provisions in ANGTA, if necessary.

Justification for Proposal # ANGTA 4

The original version of ANGTA included approval for the construction of a Dempster-Lateral pipeline to deliver natural gas to market from the Northwest Territories. The Northwest Territories has developed plans for their own pipeline route to Alberta, making the Dempster-Lateral line obsolete.

Proposal # ANGTA 5

The Joint Committee on Natural Gas Pipelines respectfully requests that the Congress pass legislation that limits tariff charges for prior work to compensation for work done that does not have to be duplicated and which is deemed appropriate to the current transportation system.

Justification for Proposal # ANGTA 5

The current owner of the authorizations under ANGTA is Foothills Pipeline Ltd. Previously, Foothills had several partners, which over time have withdrawn from the partnership. The withdrawn partners spent funds in support of the ANGTA route and have filed documents with the FERC to include recovery of those costs in any tariff for transportation of Alaska natural gas. Foothills has been negotiating with the withdrawn partners to

resolve this outstanding liability. However, those negotiations have not been successful to date.

Foothills and its partners should be compensated for the work done in furtherance of the ANGTA system that does not need to be duplicated. If the work needs to be redone or modernized, they should not be entitled to collect for the funds previously expended. Accordingly, the Joint Committee should support this request.

Proposal # A1

The Joint Committee on Natural Gas Pipelines respectfully requests that Congress pass legislation to assure that Alaska have fair and reasonable access to gas produced within the State and to create a joint board consisting of members appointed from the Federal Energy and Regulatory Commission and the Regulatory Commission of Alaska to recommend access and tariffs that affect the state of Alaska.

Justification for Proposal # A1

Unlike the Trans-Alaska Transportation System for oil, the Natural Gas Act does not provide for the Regulatory Commission of Alaska to set rates for gas used in Alaska. Although section 13(b) of ANGTA provides that the state is authorized to ship its royalty gas on the approved system for use within Alaska and to withdraw such gas from the interstate market for use within Alaska, it does not deal specifically with how Alaska delivery points along the line will be approved. Access to gas is necessary for social and economic development of Alaska. Alaska's regulatory commission should be part of a team that determines how intra-state access and rates are determined.

Proposal # A3

The Joint Committee on Natural Gas Pipelines respectfully requests Congress to develop a formula that would allow for the setting of different tariff rates for natural gas distribution points along the route. (HUBS)

Justification for Proposal # A3

Alaska is studying different proposals for usage of natural gas within the state, including several proposals for LNG facilities, a petrochemical plant, several GTL plants, and in-state usage by communities. It is important to be able to set the tariff at different rates to allow these take off points.

Proposal # A4

The Joint Committee on Natural Gas Pipelines respectfully requests that the Congress pass legislation to assure that gas producers that do not have an ownership interest in the pipeline have fair and reasonable access to space on the pipeline and the ability to obtain expansion capacity of the pipeline.

Justification for Proposal # A4

ANGTA originally precluded the Producers from participating in the ownership of the gas pipeline. In 1981, a waiver was sought and obtained by President Reagan to permit the Producers to have an ownership share in the pipeline. Their participation, however, had to be approved by the FERC and could be approved only after consideration of the advice from the Attorney General and upon a finding by FERC that the participation would not (a) be inconsistent with the antitrust laws or (b) in and of itself create restrictions on access to the transportation system for non-owner shippers or restrictions on capacity expansion.

Alaska has much more gas than that contained in known fields. Current estimates provide that there is greater than 100 tcf of gas undiscovered on the Alaska North Slope. Currently, companies are considering exploring for

such gas. If discoveries are made, that gas will need access to the pipeline on fair and reasonable terms. If significant discoveries are made after the initial capacity is filled, the pipeline will need to be expanded and any expansion request needs to be determined on fair and reasonable terms. Accordingly, the law must be clear that the FERC has the authority to make such determinations.

Proposal # AH 1

The Joint Committee on Natural Gas Pipelines respectfully requests Congress to approve a provision for project labor agreements.

Proposal # AH2

The Joint Committee on Natural Gas Pipelines respectfully requests Congress to approve a preference for qualified Alaskan businesses for the construction and maintenance of a natural gas pipeline.

Proposal # T1

The Joint Committee on Natural Gas Pipelines respectfully requests that Congress pass legislation that prohibits tax incentives for LNG from sources outside of North America.

Justification for Proposal # T1

The President and Congress have recommended a variety of incentives as part of a national energy policy. Alaska natural gas is in competition with

LNG imported from foreign sources to supply gas to the lower 48 states. It is the policy of the United States to reduce dependence on foreign energy sources. Accordingly, Congress should not pass any law that gives tax incentives to facilities importing LNG from sources outside North America. Rather, Congress should enact incentives that benefit production from the frontier areas of the United States, including Alaska. Otherwise, United States gas in frontier areas may be stranded.

Proposal # T2

The Joint Committee on Natural Gas Pipelines respectfully requests that the Congress pass legislation providing a tax incentive that allows for an accelerated depreciation schedule of seven years for Alaska natural gas brought to United States markets.

Justification for Proposal # T2

The President and the Congress has recommended a variety of incentives as part of a national energy policy. It is the policy of the United States to reduce dependence on foreign energy sources. Alaska has significant gas resources that can reduce that dependence and bring cleaner burning fuel to United States markets. However, the construction of a pipeline to the lower 48 would cost billions of dollars and involve significant risk. Accordingly, Congress should enact tax incentives, such as accelerated depreciation, investment tax credits, and downside price tax credits that benefit gas production from Alaska.

Subject: Legislative E-News 09-19-01

Date: Wed, 19 Sep 2001 18:54:54 -0800

From: Ken Erickson <Ken_Erickson@Legis.state.ak.us>

Reply-To: majority_press_office@maillists.corecom.net

To: akreporg@maillists.corecom.net

Legislative E-News for September 19, 2001
<http://www.akrepublicans.org/22ndleg/subscription2.shtml>
ANS Crude: Yesterday = \$25.81 Today = \$24.70

Pipeline Committee Rejects Producers' Proposed Bill

(ANCHORAGE) - Saying Congress has already established the legal framework for an Alaska-Lower 48 natural gas pipeline, the Joint Committee on Natural Gas Pipelines today rejected federal pipeline legislation proposed by North Slope producers in favor of the 1977 Alaska Natural Gas Transportation Act mandating a southern route.

"A southern route obviously provides the greatest benefit to Alaska and the nation, and Congress realized that when it made ANGTA the vehicle for bringing Alaska gas to market," said Sen. John Torgerson, chairman of the joint pipeline committee. He will convey the Legislature's support for ANGTA, and propose the amendments, on Oct. 2 at a U.S. Senate Energy Committee hearing on the gasline in Washington D.C.

"The joint committee is responsible for representing the Legislature's position to Congress," said Rep. Joe Green, vice chair of the committee. "I feel the proposals we discussed and approved represent Alaska's views on what we'd like to see in any final federal pipeline legislation."

The full text of this press release can be found at:
<http://www.akrepublicans.org/22ndleg/press/prtorgerson109192001.shtml>

2001 Legislative Accomplishments:
<http://www.akrepublicans.org/22ndleg/info/endcontents05082001.shtml>

Current Committee Schedules can be found at the link below:
http://www.legis.state.ak.us/basis/hearing_form.asp?session=22

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SCOMM

129:5

Alaska State Legislature

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Joint Committee on Natural Gas Pipelines

FOR IMMEDIATE RELEASE: Oct. 12, 2001

CONTACT: Sen. John Torgerson, (907) 260-3041; Rep. Joe Green, (907) 269-0123

Torgerson Traveling to Boost Gasline Prospects

(KASILOF) – As part of the Legislature's continuing effort to build international support for a pipeline to bring Alaska's North Slope gas to markets, the chairman of the Joint Committee on Natural Gas Pipelines plans to travel to Canada next week to meet with government and business leaders on the issue.

"We are engaged in a long-term effort to overcome any obstacles to getting Alaska's gas resources to market," Sen. John Torgerson (R-Kasilof), said today. "As that effort continues, it is important to maintain and expand our working relationship with the Canadians who are our neighbors and potential partners in that effort."

Torgerson will travel first to Calgary, Alberta, to deliver the keynote address to the Mackenzie Delta Oil and Gas Development Strategies Conference on Wednesday, Oct. 17. He plans to discuss the history of natural gas projects in Alaska and current projects being considered; Alaska's opposition to an "over the top" pipeline route through Canada's Mackenzie River Delta; and the possibility of using incentives and state ownership in a pipeline to prevent stranding Alaska's gas.

"I also plan to continue to promote my proposal for an International Working Group of officials from Alaska and Western Canadian provinces and territories, that will help us build consensus on issues surrounding delivery of Arctic natural gas to markets," Torgerson said.

The benefits of the working group will also be on the agenda at a Wednesday meeting with Alberta's Minister of Energy, Murray Smith. Torgerson said he hopes to convey to Minister Smith that the working group will help avoid misunderstanding from cross-border communications, and will serve as a forum for the exchange of information on issues of labor employment, in-state gas processing, and U.S. and Canadian environmental standards that might bear upon the gasline project.

In meetings scheduled for Oct. 19 with the Edmonton Chamber of Commerce and the University of Alberta School of Business' Business Advisory Council, Torgerson plans to informally discuss the economic benefits of gas production and strategies our governments can employ to avoid stranding Arctic natural gas. He will also hold meetings with Foothills Pipe Lines Ltd., which holds permits for a southern route pipeline, and with Agrium, a Canadian company that owns and operates a gas-fired ammonia plant in Nikiski.

"Everyone involved in the gasline issue understands the benefits of pipeline development to our northern economies," Torgerson said. "Alaskans and Canadians are 'can-do' people, and I'm confident we can work together to realize the benefits of this project to both of our countries."

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Official Business

ALASKA STATE LEGISLATURE

JOINT COMMITTEE ON NATURAL GAS PIPELINES

Senator John Torgerson, Chair

Senator Rick Halford
Senator Pete Kelly
Senator Johnny Ellis

Representative Joe Green, Vice-Chair

Representative Brian Porter
Representative Scott Ogan
Representative John Davies

Testimony by Senator John Torgerson to the Senate Committee on Energy and Natural Resources October 2, 2001

Good morning Mr. Chairman and members of the committee. My name is John Torgerson. I chair the Senate Resources Committee and the Joint Committee on Natural Gas Pipelines which is made up of equal members from the House and Senate. One of the responsibilities of this joint committee is to represent the Legislature before Congress on natural gas pipeline issues.

The joint committee met on September 19th and we discussed the Alaska Gas Producer's Pipeline Team's proposed legislation. We unanimously opposed this draft legislation and voted in favor of requesting Congress to reaffirm the Alaska Natural Gas Transportation Act (ANGTA) as the prevailing law. Virtually everything the producers have proposed can be found in ANGTA.

One of our major concerns with the producer's legislation is the fact that it is route neutral, giving them the opportunity to apply for a buried underwater offshore ANWR pipeline route to which Alaska is adamantly opposed.

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Back in the mid 1970s, there were three pipeline applications filed under the Natural Gas Act, the so-called "over the top" route, the Alaska Highway or Alcan route, and an all Alaska or Liquefied Natural Gas route. To end the route debate, Congress passed the Alaska Natural Gas Transportation Act. Section 7 of this Act required the President to prepare a Decision on an Alaska Natural Gas Transportation System, which he did and which he submitted to Congress on September 22, 1977. The President's Decision was approved by Congress with Public Law 95-158 and modified by Public Law 97-93. The Canadian Parliament then passed its own version of ANGTA known as the Northern Pipeline Act.

Since the President and Congress have not repealed their action in selecting an Alaskan Highway route, ANGTA is still the prevailing law with respect to an Alaskan gas pipeline. Furthermore, an application should not be given consideration if it is filed under the Natural Gas Act since these very same proposals have already been reviewed and a route has been selected.

The Alaska Highway route authorized by Congress and the President is important to Alaskans for the instate jobs, the creation of value added industries along the line and along spur lines to tidewater, a stable revenue stream for our communities and the state, and most importantly, a clean burning energy source for Alaskans to rely on for many years into the future.

A pipeline built in the Beaufort Sea greatly reduces the potential for Alaskans to reap the benefits from our gas. In addition, we believe, and national environmental organizations agree, that the Alaska Highway route is more environmentally sound than a route under the Beaufort Sea.

In our support of ANGTA as the prevailing law, the Joint Committee recognizes that a few changes would be helpful to bring this project into the 21st century. Therefore, we approved twelve proposals that I have submitted in my written testimony for your consideration. In the interest of timing, I would like to highlight a few of the committee's recommendations.

- The first proposal, which I have already addressed, is to reaffirm the Alaska Natural Gas Transportation Act as the prevailing law.
- Adopt the provision in HR 4 to ban the over-the-top route through the Beaufort Sea as a legitimate pipeline route.
- Create a joint board consisting of members appointed from the Federal Energy and Regulatory Commission and the Regulatory Commission of Alaska to insure that Alaska has fair and reasonable access to gas produced within the State.
- Our last two proposals have to do with tax incentives. First we support the language currently in HR 4 allowing for an accelerated depreciation schedule of seven years. Our last proposal could be considered a tax disincentive. Since it is the policy of the United States to reduce our dependence on foreign energy sources, we believe Congress should not pass any law giving tax incentives to Liquefied Natural Gas imported from outside North America. Rather, Congress should give incentives to gas from non-conventional sources and frontier areas within the United States.

As far as other tax incentives are concerned, the producers have not asked for any and they have not shared their financial projections with my committee.

The only thing the producers have mentioned is a need for fiscal certainty in the state's tax regime. I feel we should not begin our negotiations by leading with incentives until we at least verify the profitability of a project.

In closing Mr. Chairman, I would also like to mention that it is important to Alaskan's that the provisions authorizing the exploration and drilling in the Arctic National Wildlife Refuge remain in HR 4. America needs more reliable sources of energy, we have those resources available in Alaska and we stand ready to assist you in delivering this energy to market.



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Alaska Gas Resources

Submitted to Senate Committee on Energy and Natural Resources

Prepared by Staff to Joint Committee on Natural Gas Pipelines

Alaska has huge known gas reserves and unknown discovered gas resources on the North Slope. The Alaska Department of Natural Resources' 2000 Annual Report estimated known gas reserves on the onshore North Slope at over 30 tcf. The Mineral Management Service (MMS) places the number at over 32 tcf onshore with an additional 5 tcf in the offshore. The two agencies estimate about 23 to 26 tcf in the Prudhoe Bay area alone. According to the MMS, these gas reserves "can be considered readily available for export." K. Sherwood, Prospects for Development of Alaska Natural Gas: A Review 8 (MMS 2000)

Regarding potential undiscovered resources, the numbers have varied, but all are substantial. The National Petroleum Council (NPC) estimates that gas resources from new discoveries within Alaska will be about 215 tcf and about 55 tcf from nonconventional gas resources like coalbed methane. Most of this resource is expected to be found in the Alaska Arctic. The MMS forecast for gas in Arctic Alaska is similar to the NPC forecast. The mean forecast is about 160 tcf and the high is about 340 tcf.

The oil and gas consulting firm of Purvin & Gertz reached similar conclusions.

"Alaska has over 170 tcf of natural gas resources: 26 tcf of proven reserves, 33 tcf of probable reserves, 29 tcf of possible reserves, and speculative resources of over

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80 tcf. The major share of these resources, over 55% of the natural gas reserves, are found on the North Slope. In addition over 93% of the proven gas reserves are found in Prudhoe Bay."

Purvin & Gertz, Alaskan Gas Development Strategies IV-16 (2000)

Just using the 30 tcf of known reserves, a pipeline carrying 2.5bcf/d would have a life expectancy of over 32 years. If the pipeline carried 4 bcf/d, the life expectancy would be over 20 years. But, as shown above, many more discoveries are expected. In fact, at this year's oil and gas lease sale of acreage in the Foothills, the State of Alaska sold the largest amount of acreage at any time in recent history. Most of this acreage was purchased by companies interested in exploring for and producing gas. The interest was generated by increased gas prices and the possibility of a gas pipeline.

State of Alaska
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Tony Knowles
Governor
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NEWS RELEASE



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FOR IMMEDIATE RELEASE: October 2, 2001

01-219

KNOWLES PUSHES FOR NATIONAL INTEREST GASLINE LEGISLATION
Tells Senate Committee Highway Project Meets National Need for Energy, Jobs

Washington, D.C. – Saying it meets national interests for a secure, substantial, and long-term source of clean energy and would create thousands of needed jobs, Gov. Tony Knowles went before the Senate Energy Committee today to push for federal legislation to start work on the Alaska Highway Natural Gas Pipeline.

"Tapping into America's largest known natural gas reserves of 35 trillion cubic feet, this long-term supply of affordable energy will increase consumer confidence and business investment," Knowles said. "The critical step in realizing this economic and energy boom is strong, creative, and focused national interest legislation that could come from this Committee and this Congress."

No single undertaking will do more to put Americans to work than the Alaska Highway natural gas pipeline project, Knowles told the Senate committee, chaired by New Mexico Sen. Jeff Bingaman, with Alaska Sen. Frank Murkowski the ranking minority member.

"At a time when this nation may well be in a recession and the only news from corporate headquarters is the size of layoffs, this project will provide 30,000 construction, manufacturing, and transportation jobs with a payroll in excess of a billion dollars a year," Knowles said. "At a cost estimated between \$15 billion and \$20 billion, the 3,500-mile pipeline from the Alaska North Slope to lower 48 markets would be the largest privately funded project in this nation's history and provide natural gas for homes, businesses, and electric generating plants for the next half century."

Knowles said legislation to promote development of the natural gas pipeline must contain three essential components. First, the route must be mandated along the Alaska Highway, as provided for in the 1976 Alaska Natural Gas Transportation Act (ANGTA).

"The route that follows the existing oil pipeline from the Alaska North Slope to Fairbanks and then the Alaska Highway through Canada to Alberta is currently authorized in ANGTA and is part of an international treaty with Canada," Knowles said. "It recognizes the environmental advantage of following existing transportation corridors. It allows vitally important access to the gas for the residents and businesses in Alaska. For

-more-

National Gasline Legislation

-2-2-2-

October 2, 2001

these reasons, this route has the broadest support among Alaskans of any major project in recent history."

Knowles said serious concerns remain over the proposed alternative route commonly known as the northern or "over the top" route that proceeds 240 miles under the ice-choked Beaufort Sea to the Mackenzie River Delta.

"If the producers opt for this northern route, there would be years, if not decades, of fighting from indigenous peoples, environmental groups, and Alaska's business and political leadership," Knowles said. "There also could be potential litigation for claims of rights allegedly granted by Congress two decades ago in the ANGTA regime. The only route that can provide a timely beginning of this national interest project is the already approved Alaska Highway route and current legislation must reflect that."

Secondly, Knowles said the legislation must help build American industry and create jobs. Knowles called incentives for the use of American and Canadian steel; a project labor agreement to attract the highly skilled workers in organized labor to build and maintain the pipeline; and provisions to address employment needs in Alaska, the state that will supply the nation this resource. These would include a preference for the hiring of Alaskans and Alaska Natives, and the use of Alaska businesses in accordance with applicable state and federal law.

Lastly, Knowles called for economic incentives to attract the private capital to the project which when completed will substantially add to the national treasury. This would include accelerated depreciation at a 7-year rather than a 15-year rate; investment tax credits which as used in other federal projects could shave \$2 billion off the cost of the project; and a production gas tax credit to provide investor confidence by allowing a tax credit for natural gas production tied to a floor price of gas.

"Since completion of the trans-Alaska oil pipeline nearly 25 years ago, Alaska has been proud to be America's energy storehouse," Knowles said. "We have supplied up to a quarter of America's domestic oil production from the nation's two largest oil fields. By working with this committee, the entire Congress, and the national administration, Alaska will continue to help meet America's oil needs from the Arctic National Wildlife Refuge, the National Petroleum Reserve-Alaska, and other fields.

"Yet just a pipeline away, North American demand for natural gas for electrical generation, industry, and transportation is growing," Knowles concluded. "The United States and Canada already consume about 24 trillion cubic feet of natural gas a year, with that projected to soar to 30 trillion cubic feet by the decade's end. Alaska can help meet this demand, while giving our sagging national economy a sorely needed shot in the arm.

"The State of Alaska and my administration stand ready to assist you and the national administration in crafting a sensible national energy policy that continues to rely on Alaska as our nation's energy storehouse," Knowles told the Senate Energy Committee.

While in the nation's capital, the Governor is also lobbying key senators on oil and gas development in the Arctic National Wildlife Refuge and talking to U.S. and Canadian media about Alaska development issues.



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OCT 11 2001

MEMORANDUM

To: Members of the Joint Committee on Natural Gas Pipelines

From: Senator Torgerson, Chairman *Darwin Peterson for Sen. Torgerson*

Re: Washington D.C. trip

Date: October 5, 2001

I have assembled a packet of information for all members of the Pipeline Committee that I think will be helpful for those interested in the recent hearing on an Alaskan natural gas pipeline held in Washington D.C. by the Senate Committee on Energy and Natural Resources.

Enclosed you will find:

- 1) A copy of my testimony and backup material submitted to the committee prior to the hearing. Members also received my testimony via email from my staff on October 1st.
- 2) A copy of each witness's oral testimony delivered to the committee.
- 3) Notes prepared by my staff describing the question and answer portions of the committee hearing.

If you or your staff have any questions, please don't hesitate to contact my office.

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October 1, 2001

The Honorable Jeff Bingaman
United States Senator, New Mexico
Committee on Energy and Natural Resources
SD-312
United States Senate
Washington, DC 20510-3102

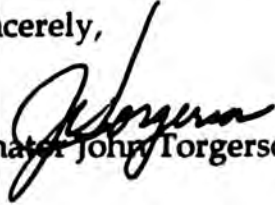
Dear Chairman Bingaman:

Thank you for the opportunity to testify before the Senate Committee on Energy and Natural Resources about the transportation of natural gas from Alaska to markets in Alaska and the lower 48. I am providing the Committee with 75 copies of the following materials as my testimony:

1. Oral Testimony of Senator John Torgerson
2. Twelve Proposals of the Joint Committee on Natural Gas Pipelines
3. Alaska Gas Resources
4. The Importance of the Alaska Natural Gas Transportation Act of 1976 Today

If you have any questions, feel free to contact me at your convenience.

Sincerely,


Senator John Torgerson

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given consideration if it is filed under the Natural Gas Act since these very same proposals have already been reviewed and a route has been selected.

The Alaska Highway route authorized by Congress and the President is important to Alaskans for the instate jobs, the creation of value added industries along the line and along spur lines to tidewater, a stable revenue stream for our communities and the state, and most importantly, a clean burning energy source for Alaskans to rely on for many years into the future.

A pipeline built in the Beaufort Sea greatly reduces the potential for Alaskans to reap the benefits from our gas. In addition, we believe, and national environmental organizations agree, that the Alaska Highway route is more environmentally sound than a route under the Beaufort Sea.

In our support of ANGTA as the prevailing law, the Joint Committee recognizes that a few changes would be helpful to bring this project into the 21st century. Therefore, we approved twelve proposals that I have submitted in my written testimony for your consideration. In the interest of timing, I would like to highlight a few of the committee's recommendations.

- The first proposal, which I have already addressed, is to reaffirm the Alaska Natural Gas Transportation Act as the prevailing law.
- Adopt the provision in HR 4 to ban the over-the-top route through the Beaufort Sea as a legitimate pipeline route.
- Create a joint board consisting of members appointed from the Federal Energy and Regulatory Commission and the Regulatory Commission of Alaska to insure that Alaska has fair and reasonable access to gas produced within the State.
- Our last two proposals have to do with tax incentives. First we support the language currently in HR 4 allowing for an accelerated depreciation schedule of seven years. Our last proposal could be considered a tax disincentive. Since it is the policy of the United States to reduce our dependence on foreign energy sources, we believe Congress should not pass any law giving tax incentives to Liquefied Natural Gas imported from outside North America. Rather, Congress should give incentives to gas from non-conventional sources and frontier areas within the United States.

As far as other tax incentives are concerned, the producers have not asked for any and they have not shared their financial projections with my committee. The only thing the producers have mentioned is a need for fiscal certainty in the state's tax regime. I feel we should not begin our negotiations by leading with incentives until we at least verify the profitability of a project.

In closing Mr. Chairman, I would also like to mention that it is important to Alaskan's that the provisions authorizing the exploration and drilling in the Arctic National Wildlife Refuge remain in HR 4. America needs more reliable sources of energy, we have those resources available in Alaska and we stand ready to assist you in delivering this energy to market.



Official Business

ALASKA STATE LEGISLATURE

JOINT COMMITTEE ON NATURAL GAS PIPELINES

Senator John Torgerson, Chair

Senator Rick Halford

Senator Pete Kelly

Senator Johnny Ellis

Representative Joe Green, Vice-Chair

Representative Brian Porter

Representative Scott Ogan

Representative John Davies

12 Proposals on Federal Legislation

Proposal # 1

The Joint Committee on Natural Gas Pipelines respectfully requests that Congress reaffirm that the Alaska Natural Gas Transportation Act (ANGTA) is the prevailing law with respect to a transportation system for delivery of Alaska natural gas to Alaska, the contiguous States, and other markets, and the construction and initial operation of that system.

The Joint Committee on Natural Gas Pipelines also respectfully requests that Congress allow certain amendments to ANGTA to modernize the act without changing the basic nature and general route of the approved transportation system or otherwise preventing or impairing in any significant respect the expeditious construction and initial operation of the transportation system.

Justification for Proposal # 1

Before the enactment of ANGTA there were three competitive proposals for an Alaska Natural Gas Transportation System. Specifically those proposals were:

- 1) the Arctic Gas Project, which proposed an overland pipeline extending from Prudhoe Bay, across the North Slope of Alaska to the Canadian Mackenzie Delta and thence southerly through Canada to the lower forty-eight states;
- 2) the El Paso LNG Project, which proposed an overland pipeline extending from Prudhoe Bay to Southern Alaska, where the gas would have been liquefied and transported by tankers to terminals in the western United States; and
- 3) the Alcan Pipeline Project, referred to in Canada as the Alaska Highway Pipeline Project, which proposed an overland pipeline

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extending from Prudhoe Bay to Fairbanks, Alaska, and thence southeasterly through western Canada to the lower forty-eight states.

All of these proposals were filed under the Natural Gas Act, debated by FERC, and Congress passed ANGTA, which authorized the President to select a route. The President then approved the ALCAN route and entered into a treaty with Canada, which were later confirmed by Congress. The Canadian Parliament also passed the Northern Pipeline Act, the equivalent of ANGTA. ANGTA was never repealed. In fact, in 1992 the federal inspector recommended that ANGTA be abolished, but Congress rejected that notion.

Proposal # 2

The Joint Committee on Natural Gas Pipelines respectfully requests that Congress adopt provisions that prohibit the over-the-top route through the Beaufort Sea as a pipeline route.

Justification for Proposal # 2

- The Alaska Legislature has banned this route in Senate Bill 164.
- The House of Representatives in Congress has adopted an amendment in the Energy Bill to ban this route.
- This route seriously decreases the benefits Alaskan's will receive from the development of natural gas.
- The North Slope Borough and the Alaska Eskimo Whaling Captains oppose this route.

Proposal # 3

The Joint Committee on Natural Gas Pipelines respectfully requests that Congress create a mechanism for allowing the transparent and fair distribution of the costs allowed to be included in the tariffs associated with a conditioning plant(s).

Justification for Proposal # 3

Other producers will likely discover gas downstream from access to a conditioning plant in Prudhoe Bay that will require them to construct an additional conditioning plant. These producers will need to be treated fairly with regard to tariffs to encourage development and exploration of all North Slope gas resources.

Proposal # 4

The Joint Committee on Natural Gas Pipelines respectfully requests Congress to eliminate the Dempster-Lateral route from provisions in ANGTA, if necessary.

Justification for Proposal # 4

The original version of ANGTA included approval for the construction of a Dempster-Lateral pipeline to deliver natural gas to market from the Northwest Territories. The Northwest Territories has developed plans for their own pipeline route to Alberta, making the Dempster-Lateral line obsolete.

Proposal # 5

The Joint Committee on Natural Gas Pipelines respectfully requests that the Congress pass legislation that limits tariff charges for prior work to compensation for work done that does not have to be duplicated and which is deemed appropriate to the current transportation system.

Justification for Proposal # 5

The current owner of the authorizations under ANGTA is Foothills Pipeline Ltd. Previously, Foothills had several partners, which over time have withdrawn from the partnership. The withdrawn partners spent funds in support of the ANGTA route and have filed documents with the FERC to include recovery of those costs in any tariff for transportation of Alaska natural gas. Foothills has been negotiating with the withdrawn partners to resolve this outstanding liability. However, those negotiations have not been successful to date.

Foothills and its partners should be compensated for the work done in furtherance of the ANGTA system that does not need to be duplicated. If the work needs to be redone or modernized, they should not be entitled to collect for the funds previously expended. Accordingly, the Joint Committee should support this request.

Proposal # 6

The Joint Committee on Natural Gas Pipelines respectfully requests that Congress pass legislation to assure that Alaska have fair and reasonable access to gas produced within the State and to create a joint board consisting of members appointed from the Federal Energy and Regulatory Commission and the Regulatory Commission of Alaska to recommend access and tariffs that affect the state of Alaska.

Justification for Proposal # 6

Unlike the Trans-Alaska Transportation System for oil, the Natural Gas Act does not provide for the Regulatory Commission of Alaska to set rates for gas used in Alaska. Although section 13(b) of ANGTA provides that the state is authorized to ship its royalty gas on the approved system for use within Alaska and to withdraw such gas from the interstate market for use within Alaska, it does not deal specifically with how Alaska delivery points along the line will be approved. Access to gas is necessary for social and economic development of Alaska. Alaska's regulatory commission should be part of a team that determines how intra-state access and rates are determined.

Proposal # 7

The Joint Committee on Natural Gas Pipelines respectfully requests Congress to develop a formula that would allow for the setting of different tariff rates for natural gas distribution points along the route. (HUBS)

Justification for Proposal # 7

Alaska is studying different proposals for usage of natural gas within the state, including several proposals for LNG facilities, a petrochemical plant, several GTL plants, and in-state usage by communities. It is important to be able to set the tariff at different rates to allow these take off points.

Proposal # 8

The Joint Committee on Natural Gas Pipelines respectfully requests that the Congress pass legislation to assure that gas producers that do not have an ownership interest in the pipeline have fair and reasonable access to space on the pipeline and the ability to obtain expansion capacity of the pipeline.

Justification for Proposal # 8

ANGTA originally precluded the Producers from participating in the ownership of the gas pipeline. In 1981, a waiver was sought and obtained by President Reagan to permit the Producers to have an ownership share in the pipeline. Their participation, however, had to be approved by the FERC and could be approved only after consideration of the advice from the Attorney General and upon a finding by FERC that the participation would not (a) be inconsistent with the antitrust laws or (b) in and of itself create restrictions on access to the transportation system for non-owner shippers or restrictions on capacity expansion.

Alaska has much more gas than that contained in known fields. Current estimates provide that there is greater than 100 tcf of gas undiscovered on the Alaska North Slope. Currently, companies are considering exploring for such gas. If discoveries are made, that gas will need access to the pipeline on fair and reasonable terms. If significant discoveries are made after the initial capacity is filled, the pipeline will need to be expanded and any expansion request needs to be determined on fair and reasonable terms. Accordingly, the law must be clear that the FERC has the authority to make such determinations.

Proposal # 9

The Joint Committee on Natural Gas Pipelines respectfully requests Congress to approve a provision for project labor agreements.

Proposal # 10

The Joint Committee on Natural Gas Pipelines respectfully requests Congress to approve a preference for qualified Alaskan businesses for the construction and maintenance of a natural gas pipeline.

Proposal # 11

The Joint Committee on Natural Gas Pipelines respectfully requests that Congress pass legislation that prohibits tax incentives for LNG from sources outside of North America.

Justification for Proposal # 11

The President and Congress have recommended a variety of incentives as part of a national energy policy. Alaska natural gas is in competition with LNG imported from foreign sources to supply gas to the lower 48 states. It is the policy of the United States to reduce dependence on foreign energy sources. Accordingly, Congress should not pass any law that gives tax incentives to facilities importing LNG from sources outside North America. Rather, Congress should enact incentives that benefit production from the frontier areas of the United States, including Alaska. Otherwise, United States gas in frontier areas may be stranded.

Proposal # 12

The Joint Committee on Natural Gas Pipelines respectfully requests that the Congress pass legislation providing a tax incentive that allows for an accelerated depreciation schedule of seven years for Alaska natural gas brought to United States markets.

Justification for Proposal # 12

The President and the Congress has recommended a variety of incentives as part of a national energy policy. It is the policy of the United States to reduce dependence on foreign energy sources. Alaska has significant gas resources that can reduce that dependence and bring cleaner burning fuel to United States markets. However, the construction of a pipeline to the lower 48 would cost billions of dollars and involve significant risk. Accordingly, Congress should enact tax incentives, such as accelerated depreciation, investment tax credits, and downside price tax credits that benefit gas production from Alaska.



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Alaska Gas Resources

Submitted to Senate Committee on Energy and Natural Resources

Prepared by Staff to Joint Committee on Natural Gas Pipelines

Alaska has huge known gas reserves and unknown discovered gas resources on the North Slope. The Alaska Department of Natural Resources' 2000 Annual Report estimated known gas reserves on the onshore North Slope at over 30 tcf. The Mineral Management Service (MMS) places the number at over 32 tcf onshore with an additional 5 tcf in the offshore. The two agencies estimate about 23 to 26 tcf in the Prudhoe Bay area alone. According to the MMS, these gas reserves "can be considered readily available for export." K. Sherwood, Prospects for Development of Alaska Natural Gas: A Review 8 (MMS 2000)

Regarding potential undiscovered resources, the numbers have varied, but all are substantial. The National Petroleum Council (NPC) estimates that gas resources from new discoveries within Alaska will be about 215 tcf and about 55 tcf from nonconventional gas resources like coalbed methane. Most of this resource is expected to be found in the Alaska Arctic. The MMS forecast for gas in Arctic Alaska is similar to the NPC forecast. The mean forecast is about 160 tcf and the high is about 340 tcf.

The oil and gas consulting firm of Purvin & Gertz reached similar conclusions.

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"Alaska has over 170 tcf of natural gas resources: 26 tcf of proven reserves, 33 tcf of probable reserves, 29 tcf of possible reserves, and speculative resources of over 80 tcf. The major share of these resources, over 55% of the natural gas reserves, are found on the North Slope. In addition over 93% of the proven gas reserves are found in Prudhoe Bay."

Purvin & Gertz, Alaskan Gas Development Strategies IV-16 (2000)

Just using the 30 tcf of known reserves, a pipeline carrying 2.5bcf/d would have a life expectancy of over 32 years. If the pipeline carried 4 bcf/d, the life expectancy would be over 20 years. But, as shown above, many more discoveries are expected. In fact, at this year's oil and gas lease sale of acreage in the Foothills, the State of Alaska sold the largest amount of acreage at any time in recent history. Most of this acreage was purchased by companies interested in exploring for and producing gas. The interest was generated by increased gas prices and the possibility of a gas pipeline.

THE IMPORTANCE OF THE ALASKA NATURAL GAS TRANSPORTATION ACT OF 1976 TODAY

Submitted by Senator John Torgerson

- I. The Alaska Natural Gas Transportation Act of 1976 provided for expedited procedures to construct a gas pipeline built when the Lower 48 required gas.**
 - A. Delayed by litigation, the oil pipeline from Prudhoe Bay was only expedited by an act of Congress and the President.**

In the winter of 1967-68, a wildcat rig drilling the Prudhoe Bay State Well No. 1 discovered the field that has become known as Prudhoe Bay field located on the Alaska North Slope (ANS). The discovery turned out to be the largest petroleum reserve on the North American continent, estimated to contain over 25 tcf of original gas in place and 25 billion barrels of oil in place.

In 1969, the State of Alaska held a lease sale in the area of Prudhoe Bay and received almost \$1 billion in lease bonuses. Shortly thereafter, the three major leaseholders, Arco (now Phillips), BP and Exxon, announced their intention to build an oil pipeline from Prudhoe Bay to a site on the Gulf of Alaska. The pipeline, known as the Trans-Alaska Pipe Line System or TAPS, became entangled in legal and environmental disputes until November of 1973. Then Congress and the President approved the construction plan and provided for expedited procedures. Construction started immediately thereafter and by June of 1977, the TAPS was ready to flow oil.

- B. Since Congress was concerned that a gas pipeline would be delayed like the oil pipeline, it passed the Alaska Natural Gas Transportation Act.**

The regulation of the gas industry in the lower 48 began in 1938 with the passage of the Natural Gas Act (NGA). The NGA created the predecessor of the Federal Regulatory Commission (FERC) and gave it power to regulate interstate natural gas pipelines, including the ability to regulate prices at the wellhead. Price volatility and gas supply shortages in parts of the country ensued. Following the oil embargo of 1973, there were many shortages and curtailments of gas deliveries. Some thought that Prudhoe Bay gas could alleviate the situation.

In March of 1974, a partnership known as "Arctic Gas" filed an application to construct a pipeline from Prudhoe Bay through ANWR, and then through the MacKenzie Delta to move gas from the ANS to United States and Canadian markets (Northern route). The application was filed with FERC's predecessor and the National Energy Board (NEB) of Canada. Shortly thereafter in September 1974, another group called "El Paso" filed a competing application. El Paso planned to build a gas pipeline adjacent to TAPS to Valdez, liquefy the gas, and ship it to California by LNG tanker (LNG route). There the LNG would be regasified and shipped to consumers through existing pipelines.

In 1975, the FERC's predecessor and the NEB conducted massive hearings. In July of 1976, a third group called the "Alcan Group" filed yet another competing application. The Alcan Group planned to build a pipeline along an existing utility corridor, the Alaska Highway, through the Yukon Territory into U.S. markets (Alcan route).

The United States Congress recognized the potential for delay inherent in the normal NGA procedures for a project of this magnitude. Congress was especially concerned given the shortages of natural gas. So in October of 1976, Congress passed the Alaska Natural Gas Transportation Act of 1976 (ANGTA) to expedite construction and initial operation of a pipeline to carry ANS gas to the lower 48. The ANGTA terminated all proceedings before the FERC's predecessor and required that the President expeditiously select a route. The ANGTA also provided for limited judicial review and created a new office, the Office of the Federal Inspector (OFI) to coordinate government activities relating to the ANS pipeline.

In the meantime under the Trans-Alaska Pipeline Act, Congress had authorized the President to meet with Canada and discuss its willingness to build a pipeline for Alaska gas across Canada. During discussions, Canada indicated that they were prepared to consider a general agreement as opposed to a particular agreement. Negotiations ensued leading to the Transit Pipeline Treaty, which was signed in January of 1977 and entered into force in September of 1977.

As required by the ANGTA, the FERC's predecessor rejected the LNG route and recommended either the ANWR or the Alcan route. Also as required, many agencies commented on the predecessor's recommendation, raising important questions regarding every major element of the recommendation. In July of 1977, the NEB made its decision regarding an overland route and rejected the northern route, finding it to be "environmentally unacceptable."

That summer Canadian and United States negotiators met to enable the President to make an informed decision. After intensive negotiations, President Carter and Prime Minister Trudeau announced that the countries had reached an "Agreement on Principles" on a joint project to transport Alaska and Canadian gas. The Agreement was signed in September 1977. The agreement endorsed the Alcan route and selected the operators for the Canadian and United States portions. The Agreement has a term of 35 years and continues beyond 2012 unless terminated on one year's notice by either party.

Two days after the Agreement was signed, on September 22, 1977, the President issued his Decision and Report to Congress as required by ANGTA. He determined that the Alcan route was the most economical and environmentally sound means to get Alaska gas to market quickly. On November 2, 1977, the Congress passed a resolution ratifying the President's Decision. Thus, the Alcan route became the designated route under United States law.

In December 1977, the FERC issued certificates to the Alcan route's sponsors. In April of 1978, the Canadian Parliament passed the Northern Pipeline Act. This act granted a certificate to the sponsors of the Alcan route for the Canadian portion of the route.

C. ANGTA has specific provisions designed to expedite the construction and initial operation of a pipeline to bring gas from Alaska to the lower 48 and insure that Alaskans have a right to use the gas in-state that can be used today.

When Congress passed ANGTA, it fully intended to pass a bill that could expedite the construction of pipeline to bring Alaska gas to market. Given that a route and an operator have already been selected, the following summarizes provisions that are relevant today and which can be used to expedite a gas pipeline from Alaska.

Section 3 set forth that ANGTA's very purpose: to expedite construction of an Alaskan gasline:

"The purpose of this chapter is to provide the means for making a sound decision as to the selection of a transportation system for delivery of Alaska natural gas to the [Lower 48] States ... and ... to expedite its construction and initial operation"

Section 5 advances this purpose by creating a new independent agency, the Office of the Federal Inspector (OFI), to coordinate all federal activities related to the pipeline, and for assuring timely, efficient, and environmentally construction. In 1992, Congress abolished the OFI. However, Congress transferred all of the functions and authority to the Secretary of Energy. The President's NEPD Group recommended that the President issue an Executive Order to rationalize permitting for energy production in an environmentally sound manner by directing federal agencies to expedite permits and other federal actions, and to coordinate their efforts. The Alaska legislature believes that the combination of the authority in the Secretary of Energy and an Executive Order by the President would be adequate to insure the federal agencies coordinate and expedite their actions so we have not asked for reinstitution of the OFI.

Section 8(g)(1) provides a mechanism to update any problem with ANGTA. The section provides that at any time the President finds that any provision of law applicable to actions by federal agents require a waiver of law to permit expeditious construction and initial operation of the approved transportation system, the President may submit a waiver to both Houses of Congress. This section was used in 1981 when President Reagan submitted certain waivers to Congress.

Section 9 deals with issuance of any certificates, right-of-way, permit, lease, or other authorization (collectively "authorizations") necessary or related to the construction and initial operation of the transportation system. It says that federal officers and agencies shall issue them at the earliest practicable date. Further it provides that such actions shall take precedence over any similar applications or requests.

Section 9 also provides that any federal officer or agency may amend or abrogate any term or condition included in the authorizations. The only limitations are that the actions cannot compel a change in the basic nature and general route or otherwise prevent or impair the expeditious construction and initial operation of such transportation system.

Section 10 limits judicial review. Claims must be brought within shortened periods. Claims are limited to constitutional violations or to authority issues. Claims must be filed in Court of Appeals for the District of Columbia. Any claim takes precedence over other matters to the greatest extent practicable.

Of particular importance to the State of Alaska is Section 9(b) of ANGTA. This section lays to rest any argument that the gas that belongs to the state as its "birthright" can by pass it.

"The State of Alaska is authorized to ship its royalty gas on the approved transportation system for use within Alaska and, to the extent it contracts for the sale of royalty gas so provide, to withdraw such gas from the interstate market for use within Alaska; the [Federal Energy Regulatory Commission] shall issue all authorizations necessary to effectuate such shipment and withdrawal"

The President's Decision also recognized the importance to Alaska that it be able to use the gas in-state.

"Furthermore, the State will be able to utilize the pipeline for natural gas distribution and development with the State. Prudhoe Bay gas, including the State of Alaska's royalty gas, will be made available to local Alaskan communities along the route of the Alcan Pipeline System. Installation of additional pipeline facilities connecting with the Alcan system could provide natural gas to other areas of the State, particularly the Cook Inlet region and Southeastern Alaska, and thus supply the energy base required for long-term economic development. The Alcan system also will offer a readily accessible transportation service for a number of potential Alaska gas reserves located in interior Alaska, Cook Inlet and the Gulf of Alaska."

Decision at 270. Alaskans need to be assured that they will get the benefit of their gas to provide for the economic development of the state.

South-central Alaska, which includes Anchorage, other urban areas, and industrial complexes, currently uses about 220 bcf a year of natural gas. That gas comes from gas reserves in the Cook Inlet in the southern part of South-central. The reserves to production ratio has been rapidly declining and the MMS has recognized that unless new reserves are found, the Cook Inlet will be out of gas in the next ten years or so. The citizens of South-central have long envisioned a spur pipeline, as discussed in the President's Decision, to Cook Inlet area. Without such a line, Alaska citizens literally may be freezing in the dark while other others are kept warm and lighted with Alaska's

gas. Accordingly, the Joint Committee has recommended certain proposals to insure Alaska's active participation in deciding when and how Alaska gas should be used in-state. See Proposals # 6 & 7.

D. ANGTA has been repeatedly reaffirmed and it has the flexibility to be modernized.

Because demand in the lower 48 for natural gas changed in the late 1970s and early 1980s, the Alaska portion of the ANGTS was not built. Twice, Congress has reaffirmed its support for the ANGTA and the selected route. The President has also reaffirmed ANGTA. ANGTA remains the law of land and can be modernized to deal with current conditions.

In 1980, Canada needed assurances reaffirming the commitment of the United States government to go forward with the Canadian portion of the ANGTS. On July 1, 1980, Congress passed a Joint resolution that reaffirmed its support. The resolution stated "it is the sense of Congress that the [ANGTS] System remains an essential part of securing this nation's energy future and, as such, enjoys the highest level of Congressional support for its expeditious construction and operation ..."

In 1987, Yukon Pacific was seeking a finding allowing the export of Alaska gas. Canadian officials expressed concern about such a finding on the ANGTS. In January of 1988, President Reagan issued a finding granting the exception. However, he also declared: "I want to reaffirm our support for the special regulatory treatment of the of the [Canadian] portion of the ANGTS, including the minimum revenue stream guarantees."

In 1992, the OFI issued a report recommending that United States abandon its support for the completion of the ANGTS, Congress repealing ANGTA, terminate the treaties and agreements with Canada, and abolish the OFI. The ANGTS did not oppose the elimination of the OFI. They did, however, oppose the other recommendations. The government of Canada objected to most of the recommendations as contrary to the obligations of the United States. The then chairman of the Senate Committee on Energy and Natural Resources also opposed the recommendations. Ultimately, Congress transferred the OFI's authorities to the Secretary of Energy, but the other recommendations were rejected.

Some have asserted that the ANGTA cannot be modernized. For example, the pipeline diameter and pressure constraints may need to be change from that discussed in the President's decision. These types of modifications will improve the efficiency, safety and environmental impact of the pipeline. Because these types of changes would not involve a change to the "basic nature" to the route, the appropriate federal agencies have authority to amend the previous approvals. As noted above, Section 9 of ANGTA specifically authorizes such amendments. If a change to the basic nature was necessary, the ANGTA also provides the President can submit waivers to the Congress for approval. Nevertheless, to clear up any uncertainty regarding this issue, Congress could make clear that federal agencies have authority to modernize the route.

II. Other than allowing the construction of an over the top route and the selection of a new operator, the Producers' proposed enabling legislation is not materially different from the ANGTA.

The Joint Committee has reviewed the Producers' proposed legislation and believes that in terms of provisions for expediting construction and an initial operation, the proposed legislation is duplicative of ANGTA. The only purpose that would be served by the producers' legislation is to renew the route and operator debate that was resolved by ANGTA. Rather than clarify the situation, the producers' proposed legislation would create confusion and chaos with ANGTA (which is not repealed by the proposed legislation) and with Canada's version of ANGTA, the Northern Pipeline Act. Although producers say the ANGTS can forward because their proposed legislation does not terminate ANGTA, as practical matter, the ANGTS would be dead. There is no way two gaslines will be built from Alaska.

The Producers' legislation would open up the possibility of a pipeline along an over the top route. The producers themselves have said they would not build along a route that the State of Alaska did not want. I am hear to tell that Alaskans do not want that route. First, it was not the preferred route in ANGTA. Second, our Alaska legislature passed a bill, SB 164, prohibiting the permitting the over the top across state lands. Third, our governor has expressed his view supporting an Alcan route. Fourth, the North Slope Borough oppose the route and the Alaska Eskimo Whaling Commission has passed a resolution strongly opposing an over the top. Fifth, conservation groups oppose the over the top route. Sixth, our entire congressional delegation opposes the route. Alaskans opposition to the over the top route has been supported by the United States House of Representatives which included in HR 4 a provision banning the route and environmental group. There is simply no way Alaskans will allow the gas, which is owned by the state and its birthright, to be extracted and shipped out of the state without a line running through the state. As Senator Ted Stevens told the Joint Committee, Alaskans would rather see the gas left in the ground than go over the top.

III. The Joint Committee believes that ANGTA prevails over the Natural Gas Act.

A. Congress should reaffirm ANGTA as the prevailing law to put to rest questions raised by the Producers and federal agencies about ANGTA.

The Joint Committee believes that in passing the ANGTA, approving by resolution the President's decision selecting an Alcan route under section 7 of the ANGTA, and reaffirming ANGTA and the Alcan route, Congress has demonstrated its intent that ANGTA prevails over an application over the Natural Gas Act (NGA) and a competing proposal to construct a different pipeline cannot be considered under the NGA. Nevertheless, some have pondered the question: "To what extent can the FERC consider a new proposal that varies from the ANGTS that was previously approved by the

President and Congress, including consideration of proposals under section 7 of the NGA?" Although my view may be colored because I am a legislator, I cannot believe that agencies are even questioning what I believe was this legislative body's clear intent. To put this issue to bed, Congress could expedite the process by reaffirming that ANGTA controls and that an application under the NGA cannot be considered until after the ANGTA approved line is built.

B. To expedite the construction and initial operation of an Alaska gasoline, Congress could update some of ANGTA's provisions.

As discussed above, the Joint Committee believes that section 9 of the ANGTA allows the line to be updated so long as a proposed amendment do not change the basic nature and general route of the transportation system. Nevertheless, there are provisions that Congress might consider that could benefit the ANGTS, enhance the possibility of in-state deliveries for Alaskans, and could provide more gas for Alaska and the nation, which are contained in Proposals that the Joint Committee has submitted to you today. In this section, I discuss two issues that have been raised as possible impediments to the construction of ANGTS.

The first is what has been referred to as the "withdrawn partner contingent liability". The partnership that was selected to build the Alcan route originally had eleven partners. Today only two remain. We have been told that the partnership actually spent around \$280 million to advance the Alcan route. On the most recent FERC Form No. 2, which is filed for ratemaking purposes, this amount had grown to \$3.7 billion because of the 14% interest allowed under FERC accounting. The Alcan route (or any other route for that matter) would clearly not be economical if it, in essence, started \$3.7 billion in the hole.

The two remaining partners, Foothills and Transcanada, say that this contingent liability will not impede construction and operation of the Alcan route. No monies will be paid to the withdrawn partners unless the line is built and payment can be paid without "undue hardship to the Partnership." Accordingly, Foothills and Transcanada say that the withdrawn partners have strong incentive to work cooperatively to resolve the matter.

Nevertheless, they have not resolved the matter to date. The Joint Committee discussed the matter and decided that the partnership should be compensated for past work, but only if the work does not have to duplicated now and the FERC decides that it is appropriate for inclusion in a modern ANGTS. See Proposal #5 attached.

The second possible impediment concerns the partnerships' obligation to construct a Dempster Lateral pipeline to connect gas in the MacKenzie Delta with the ANGTS after the Alaska portion of the ANGTS is built. This requirement is no longer necessary because various parties have filed applications with the NEB to bring MacKenzie Delta gas south along the MacKenzie River and south. They say that this route would be cheaper and no other parties have shown an interest in a Dempster Lateral route. Accordingly, the Joint Committee respectfully requests Congress grant the FERC the authority to eliminate the Dempster Lateral from ANGTS, if necessary. See Proposal #4.



Official Business

ALASKA STATE LEGISLATURE

Senator John Torgerson

- ♦ Chair, Senate Community & Regional Affairs Committee
- ♦ Chair, Senate Resources Committee
- ♦ Chair, Joint Committee on Natural Gas Pipelines

Fax

To: Joint Committee on Natural Gas Pipelines **From:** Darwin Peterson, Sen. Torgerson's office

Fax: **Pages:** 10 w/ cover

Phone: **Date:** 10/11/01

Re: Federal Energy Bill **CC:**

Members of the Joint Committee on Natural Gas Pipelines,

I have attached a letter we received today from C.J. Zane with the law firm of Dyer, Ellis & Joseph, the committee's contracted firm in D.C. Mr. Zane explains the recent activity regarding the energy bill. Also included are news articles and Senator Murkowski's recent floor speech.

Sincerely,

Darwin Peterson

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MEMORANDUM

TO : The Honorable John Torgerson
FROM : C. J. Zane
DATE : October 11, 2001
RE : Energy Bill

Senator, you probably picked up on most of this already but I wanted to forward some articles and give you a short note about what we hear regarding the energy bill. With the declaration by Senators Landrieu and Akaka that they would favor an ANWR opening provision in the energy bill, Senator Daschle has pulled the bill from the Energy and Natural Resources Committee and said he will bring an energy package directly to the floor. The Democrats say the reason for bypassing the committee is due to the multiple committee jurisdictions that such a wide sweeping bill touches upon and that having the bill referred to multiple committees will take too long. However, the real reason appears to be to avoid having ANWR added in the bill in the Energy and Natural Resources Committee. In addition, most folks on the Hill believe that Daschle has given anything but a firm commitment to bring a bill to the floor. He has said things like he wants to try to complete an energy bill this session, but that finishing the Appropriations bills, completing an economic stimulus package, resolving the anti-terrorism and airport and airline security bills, are all top priorities and must be finished before there would be floor time for an energy package. In short, we may still be getting the slow roll, but Daschle is positioning himself and the Dems to move a bill quickly if they perceive the American people want one and/or if events in the "war on terrorism" further propel the need for a bill.

Mike Menge, Dan Kish and Justin Stiefel all say that even if Daschle is doing the "slow roll", the Delegation will continue to look to alternative vehicles to move ANWR. Such vehicles include individual appropriations bills or the "mini-omnibus" appropriations bill (containing the last three or four appropriations bills), the economic stimulus package or even the anti-terrorism package. With or without an specific energy bill per se, the Delegation favors including some language on the gas line, but it's not clear at this point what that language would be. It does seem to us, at least, that the Delegation, despite some mixed comments lately, favors the existing ANGTA route and they can be convinced to support language clarifying the primacy of the existing route or to do nothing if that ends up helping the existing route. All appear to agree that resolving the withdrawn partner issue and getting U.S. firms like Enron and Williams in the deal will do much to create momentum for the ANGTA route, both legislatively if needed, and at the White House.

I have included for your information several articles and Murkowski's floor statement from yesterday. Please call Duncan Smith or me if you have any questions. Thanks.

Attachments (4)

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Congressional Record, 10/10/012003
Page 1 of 4**ANWR -- (Senate - October 10, 2001)**

[Page: S10421]

Mr. MURKOWSKI Mr. President, I call attention to some of the comments made in this Chamber earlier today relative to the issue of taking up a national energy security bill before this

[Page: S10422]

body. I spoke a little earlier on the floor today and indicated that, clearly, it is in the national interest that we in the Senate proceed with an energy bill--report it out, bring it to the floor, and vote on amendments in an orderly manner.

As I further indicated earlier, the majority leader has indicated that it is his intent to develop an energy bill--in his words, a "balanced bill"--and it would be introduced by the majority leader. Of course, this excludes the process associated with the committee reporting out a bill.

Further, in the discussion that has taken place today, the issue of ANWR came up as the bone of contention. I want to address a couple points because there is a good deal of misunderstanding around this issue. There was a reference today that the accident that occurred when a bullet penetrated the pipeline earlier this week was proof that we should not rely on increasing the supply of oil that would traverse through that pipeline.

I remind my colleagues that that pipeline is about 28 years old. It has provided the Nation with 25 percent of the total crude oil produced in the United States for that period of time. That volume has dropped from 25 percent to 17 percent. The pipeline capacity was a little over 2 million barrels a day previously, in the early development of the Prudhoe Bay oil fields, that flowed through that pipeline. Today, with the decline in Prudhoe Bay, it has dropped a significant amount, to roughly 1 million barrels a day. But it still supplies this Nation with 17 percent of the total crude oil produced in this country.

Now, to suggest that this firing by a very high-powered rifle penetrated the pipeline is not quite accurate because it has been shot at numerous times. It is half-inch, high-tensile steel. It is my understanding that this particular firing--a blast of five bullets--penetrated an area where there is a valve and, as a consequence, because of pressure in the pipeline, there was a significant leak, a spillage. The question of whether there is any permanent damage done has been addressed in the cleanup. There was no movement of any oil into any water or streams in the area. The security group of Alyeska found the incident as a consequence of the notification of a drop in pressure. They went out with helicopters and not only found the leak but identified and arrested the perpetrators. You can criticize anything, but the system did work. Everything is subject to, obviously, the exposure of terrorist activity, but in this particular instance this was a fellow who was extremely drunk, bored, or he lost his mind, and he simply decided it would be fun to start firing at the pipeline.

That pipeline has been bombed; bombs have been wrapped around it. It has been wrapped with hand grenades, shot at, and it suffered exposure of numerous earthquakes over the 27 years and it continues to be one of the wonders of the world. So to suggest that somehow this bullet-piercing accident is somehow questionable relative to the integrity of that pipeline is an expression of very little knowledge--factual knowledge--on behalf of those who suggest that somehow the pipeline can't be trusted for additional flowthrough if indeed ANWR is developed.

I am going to conclude, as I promised my friend from Pennsylvania that I would be brief, with an explanation of some of the more common myths associated with the ANWR issue. I hope we can get ANWR

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up before this body and vote on it up or down in conjunction with an energy bill. That is the democratic process. Clearly, that did not prevail in the Energy and Natural Resources Committee because I can only assume the votes were there to report out a bill with ANWR in it. I can only assume the votes are in this body to pass an energy bill with ANWR in it. Polling seems to indicate nearly 60 percent of the American public support opening ANWR as a significant contributor to reducing our dependence on imported oil.

Some say there is an insufficient amount of oil. Some say it is only a 6-month supply and not nearly enough to justify exploration. That is nonsense. The U.S. Geological Survey, experts who have studied the 1002 ANWR area, estimate that between 6 and 16 billion barrels of oil are economically recoverable; 10 billion barrels is equivalent to what we would import from Saudi Arabia over a 30-year period; 10 billion barrels is the equivalent of what we import from Iraq for a period of 50 years.

We are importing a million barrels a day from Iraq and enforcing the no-fly zone. We are taking the oil, putting it in our airlines, bombing some of the targets in Iraq, and have for some time. They take our money, pay the Republican Guard, develop a missile capability, and aim it at our ally, Israel.

Maybe that is a short synopsis of foreign policy, but nevertheless I think one can conclude that is the ultimate outcome.

We do not know what is in ANWR because we have never been allowed to determine through modern exploration, through seismic exploration, specifically what is available. Only Congress can authorize it.

What is the extent of the area? It is interesting because ANWR is about 19 million acres—about the size of the State of South Carolina. The proposal is to allow exploration on 1.5 million acres. The House-passed bill, which is H.R. 4, has limited that to 2,000 acres. That is the size of a small farm in the entire State of South Carolina—the wilderness, if you will, as a comparison.

Prudhoe Bay was supposed to produce 10 billion barrels. It is on its 13 millionth barrel today. It is absurd to think ANWR is only a 6-month supply of oil. That is to assume ANWR is the country's only source of oil; that there is no oil produced in Texas, or Louisiana, offshore, or no other oil is being imported into the country. The American people are wise enough to see that argument just does not hold oil, if you will.

Clearly, the potential for this country's domestic supply is ANWR, and the abundance associated with the likelihood of a major discovery is second to none identified in North America. It is almost like wondering if you have a strategic petroleum reserve in your own backyard, but if you do not know, and if you do not have the ability to develop it, you really cannot use it.

What is required in development? Very little. We need authorization by Congress. The House has done its job. The House passed a bill. H.R. 4 includes ANWR. It is a challenge to the Senate to do its job.

Some say it will take as long as 10 years before the oil is flowing and that is too long to make a difference. If the

previous President had not vetoed the budget reconciliation bill in 1995, today ANWR would be open, or if the oil was not there, it might have been a park. We could have been less dependent on foreign oil, and our energy future would look a lot more certain if, indeed, we had taken that action back in 1995, but we could not overcome a Presidential veto.

We built the Pentagon in 18 months. We built the Empire State Building in a year. Industry says if they make a discovery, they can develop and get oil online in somewhere between 18 months and 2 1/2 years, depending on our will to give them the authority within the environmental parameters to do it safely.

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Some people say our energy policy is misguided; we need to focus on natural gas. We found 6 trillion cubic feet. Let's use gas. Recognize that America moves on oil. Our planes, our ships, our trains move on oil.

In response to the September 11 attack, we are preparing now for a long, sustained war. Are we going to count on unstable governments in the very part of the world where we are fighting to assure our energy security? We need to begin at home with energy solutions found within our borders, and if we make the commitment to authorize the opening of this area, I assure my colleagues it will be very symbolic. It would send a very solid message to that part of the world where we continue to increase our dependence on imported oil.

About 67 percent comes from foreign sources, a majority of that from the Mideast. Fighting a war uses a lot of energy. Mr. President, 450,000 barrels of petroleum products were estimated to be used daily, and that was through 582,000 soldiers in the Persian Gulf war. It is estimated we are using over 500,000 barrels a day currently in this conflict.

[Page: 510423]

Some say it is America's Serengeti, its mountains; it is deserted; it is beautiful. Again, it is the size of the State of South Carolina. It is 19 million acres. Can we open it safely? Yes.

Some say we can get the energy from the National Petroleum Reserve in Alaska; that is why it was established. That is wishful thinking because actually just 15 percent of that entire coastline is open for exploration. Just 3 years ago, the Federal Government closed vast amounts of NPR to protect the birds that live in the lakes. If you look at the model and lakes over NPR, that is where bird life is. There are very few lakes associated in the ANWR area.

Finally, there is a concern of the Porcupine caribou and the Gwich'in, but no one mentioned what is happening on the Canadian side and involvement of the Gwich'in who are participants in putting up land for lease.

There was an extraordinary article in the Vancouver Sun newspaper indicating the Gwich'in are benefiting greatly from oil and gas exploration because Canada expanded its oil and gas leasing program to include testing exploratory wells, et cetera.

The bottom line is there seems to be a great fear suddenly to take up an energy bill, with no particular explanation, particularly when the administration has encouraged Congress to take it up, particularly when the House has done its job, and now we are advised by the majority leader that the committee of jurisdiction, the Energy and Natural Resources Committee, is going to suspend any further markup on energy legislation for "this session"—this session.

I have a press release that states that instead the chairman will propose comprehensive and balanced energy legislation. The chairman will. It does not say with the participation of the committee or the minority or the Republicans. It says the chairman outside the parameters of the committee.

It further says "the comprehensive and balanced legislation that can be added"—it does not say "will be added;" it says "can be added"—"by the majority leader to the Senate calendar for," it says, "potential action." It does not say "action."

Mr. President, I ask unanimous consent that the press release be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

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Energy Committee Suspends Mark-Ups; Will Propose Comprehensive and Balanced Energy Legislation to Majority Leader

At the request of Senate Majority Leader Tom Daschle, Senate Energy & Natural Resources Committee Chairman Jeff Bingaman today suspended any further mark-up of energy legislation for this session of Congress. Instead, the Chairman will propose comprehensive and balanced energy legislation that can be added by the Majority Leader to the Senate Calendar for potential action prior to adjournment.

Noted Bingaman, It has become increasingly clear to the Majority Leader and to me that much of what we are doing in our committee is starting to encroach on the jurisdictions of many other committees. Additionally, with the few weeks remaining in this session, it is now obvious to all how difficult it is going to be for these various committees to finish their work on energy-related provisions.

Finally, and perhaps most importantly, Bingaman said, the Senate's leadership sincerely wants to avoid quarrelsome, divisive votes in committee. At a time when Americans all over the world are pulling together with a sense of oneness and purpose, Congress has an obligation at the moment to avoid those contentious issues that divide, rather than unite, us.

Bingaman will continue to consult and build consensus with members of his committee, with other committee chairs and with other Senators as he finalizes a proposal to present to the Majority Leader.

Mr. MURKOWSKI. I encourage again the majority leader to reflect on this action, give us the assurance he will take it up during this session and allow sufficient time for Members to provide for amendments, provide us with an opportunity to have an up-or-down vote on contentious issues, and that we meet our obligation as the Senate, as the House of Representatives has done, in addressing what is in the national security interests of our Nation, and that is the passage of the comprehensive energy bill.

I thank my colleague from Pennsylvania for allowing me this extra opportunity to speak.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. MILLER. I ask unanimous consent to speak as in morning business for up to 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

END

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washingtonpost.com: Daschle Stops Panel's Consideration of Energy Bill

http://www.washingtonpost.com/ac2/wp-dyn/A40032-2001Oct10?language=prin

Daschle Stops Panel's Consideration of Energy Bill

Measure, Headed for Passage, Would Have Allowed Oil Drilling in Arctic National Wildlife Refuge

By Eric Fassin and Peter Behr
Washington Post Staff Writers
Thursday, October 11, 2001; Page A04

Senate Majority Leader Thomas A. Daschle (D-S.D.) yesterday abruptly halted further committee consideration of major energy legislation after Democrats concluded there were probably enough votes on the panel to approve the Bush administration's plan for drilling in Alaska's Arctic National Wildlife Refuge.

Two Democratic members of the Energy and Natural Resources Committee — Sens. Daniel K. Akaka (Hawaii) and Mary Landrieu (La.) — said they would vote with the Republican minority in favor of exploratory oil and gas drilling along the coastal plain of the Alaskan refuge, provided they agreed with other major sections of the energy package, according to their aides.

"Several members of the other side don't want a vote on ANWR because they know they would lose," Sen. Frank H. Murkowski (R-Alaska), a chief proponent of the drilling plan, angrily told reporters. "They didn't have the votes in committee and we did."

Senate Democratic and energy industry sources confirmed that Murkowski had enough votes in committee to approve the Alaska drilling proposal. An aide to Daschle said that while he was unaware of a hard count, the issue had become "a bit of a wild card" for the Democrats.

As majority leader, Daschle has authority to bring up a major energy bill of his choosing, and some senior Democrats are urging him to do so if he can work out an agreement with the GOP and the administration to set aside the question of drilling in the Alaskan refuge.

The House in early August approved drilling in the pristine 19 million-acre Arctic refuge along with other major portions of President Bush's plan to stimulate energy production, including \$33.5 billion in tax breaks and other incentives for the power industry aimed at increasing domestic production.

Environmentalists and their Democratic allies — stunned by the strong 240 to 189 House vote and the effective lobbying by the Teamsters and other labor groups that favor drilling — assumed that they could derail the drilling plan in the Senate or block it with a filibuster.

But with the labor groups continuing to press for approval of the drilling plan and Akaka and Landrieu signaling their likely support, Democratic leaders decided not to risk a vote. Instead, Daschle instructed Sen. Jeff Bingaman (D-N.M.), chairman of the committee, to suspend any further markup of energy legislation and provide him with a set of energy proposals that he could place on the calendar for "potential action" before adjournment.

Some Democrats said that with so many other pressing issues and a looming deadline for adjournment, that it was unlikely the Senate would turn to an energy package until early next year. However, Bingaman said yesterday that Daschle still hopes for action on energy legislation before adjournment, after Congress completes work on emergency legislation to address the continued threat of terrorist attacks and recession and the 13 spending bills for the fiscal year that begins Oct. 1.

Bingaman said that, after weeks of deliberation within his committee, it became apparent that many of

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washingtonpost.com: Daschle Steps Panel's Consideration of Energy Bill <http://www.washingtonpost.com/ac2/wp-dyn/A40032-2001Oct10?hpid=hp:print>

the issues under consideration -- from electricity restructuring to automobile and air conditioning efficiency standards -- fall under the jurisdiction of other committees that need to be consulted.

"He [Daschle] wants the Senate to be in a position to move to consideration of an energy bill in a timely fashion and it was his view that this process of putting a bill together -- hopefully on a consensus basis, involving input from Democrats and Republicans -- was the best way to do that," Bingaman said.

But Murkowski and fellow Republicans Larry E. Craig (Idaho) and Craig Thomas (Wyo.), yesterday blasted Daschle's action, saying that it would almost certainly postpone action on an energy package during a time of war, when the United States should be attempting to reduce its dependence on oil from the Middle East.

Craig said that by ordering the Energy and Natural Resources Committee to "cease and desist," Daschle is blocking "a national energy policy for this country, which is now a national security issue."

Daschle spokesman Doug Hattaway said the majority leader "thinks it [the energy package] is an important piece of legislation and ought to be considered as soon as possible . . . but he's made no commitment on when it would go to the floor."

Daschle's maneuver allows him to attach other important and highly controversial issues to an energy bill that are not within the jurisdiction of Bingaman's energy committee.

If he chooses, Daschle could seek a Senate vote on a proposal he made last year to greatly increase the use of ethanol -- a grain byproduct -- as a pollution control additive in gasoline. Strongly backed by corn growers in Daschle's state, an ethanol promotion measure could trigger a divisive Senate debate over formulas for blending gasoline, which vary greatly from region to region.

The nation's energy agenda had occupied center stage in the first months of the Bush administration. Since then, it has lost steam as California's electricity crisis eased, energy prices dropped around the nation, and the administration focused on the terrorism crisis.

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REGULATION, LAW & ECONOMICS

(No. 194)

A-45

governmentwide board Bush plans to set up shortly that will coordinate the protection of critical information systems.

The two appointments came one day after Bush formally named former Pennsylvania Gov. Tom Ridge as the head of the new Office of Homeland Security, which will coordinate the executive branch's efforts to deal with terrorist threats within the United States.

The White House said Downing and Clarke will report to both Ridge and National Security Adviser Condoleezza Rice. Rice said she and Ridge plan to work closely together to make sure U.S. security in the face of terrorist threats is "seamless."

"We will make sure that what we are doing abroad to protect and defend American national security is closely coordinated and matched with what we are doing to protect the security of Americans at home," Rice said.

Two-Prong Effort Described. Rice and Ridge described the appointments as part of a two-prong effort being undertaken in the wake of the terrorist assaults last month on New York and Washington. The reorganization of the government underway, Rice said, puts an emphasis both on fighting terrorism on the global level and domestically.

In his role as national director for combating terrorism, Downing will be the president's principal advisor on all matters related to combating global terrorism, including efforts to detect, disrupt, and destroy global terrorist organizations, the White House said.

The White House said Downing has ample experience in combating terrorism, crisis management, training large and small organizations, and more. During his 34-year career in the Army, it said, Downing served in a variety of command assignments in infantry, armored, special operations, and joint units culminating in his appointment as the commander in chief of the U.S. Special Operations Command. After his retirement, he was appointed by the secretary of Defense to assess the 1996 terrorist attack on the U.S. base at Khobar Towers in Saudi Arabia and to make recommendations on how to protect U.S. facilities worldwide from terrorist attack. More recently, Downing served on the National Commission on Terrorism.

Downing said his job will be difficult and did not predict any early conclusion to the administration's war against terrorism.

"[L]et's not make any bones about it: this is going to be an extremely difficult job," Downing said. "It's a tough foe, it's a determined foe. And as events have shown us, it's a very, very smart foe and a crafty foe."

Cyberpace Terrorism Feared. Ridge said the administration remains particularly concerned about protecting the nation's information technology.

"It pervades everything from a shipment of goods, to communications, to emergency services, and the delivery of water and electricity to our homes," Ridge said. "All of these aspects of our life depend on a complex network of critical infrastructure information systems. Protecting this infrastructure is critically important."

Ridge said the challenge is both to prevent disruptions and, when they occur, make them infrequent, short, and manageable. Besides being a technical challenge, he said, it is a legal challenge, since the effort raises both privacy and civil liberties issues.

Ridge also said there is a political challenge involved as the government must work in partnership with the private sector, which owns and operates most of the nation's infrastructure.

Ridge said Clarke is one of the nation's leading experts on cyber security, having been appointed the first national coordinator for security, infrastructure protection, and counter-terrorism in May of 1996. He also has served as deputy assistant secretary of State for intelligence in the Reagan administration and as assistant secretary of State for political military affairs in the first Bush administration.

Besides being Bush's principal advisor on cyber security, Clarke will serve as chairman of a new board that will be charged with coordinating the protection of infrastructure systems, Ridge said. The president, he added, is expected to sign an executive order soon that will formally establish the governmentwide board.

By NANCY OGDONOVICH

Energy

Senate Panel Agrees Not to Mark Up Energy Bill

Sen. Jeff Bingaman (D-N.M.), chairman of the Senate Energy and Natural Resources Committee, announced Oct. 9 that he intends to abandon all committee efforts to mark up a comprehensive energy bill before the end of this session.

The move is designed to avoid contentious votes which Republicans say include issues such as drilling in the Alaskan National Wildlife Refuge.

But Republicans were incensed. "This action by the Democratic majority has taken the nation's energy security and made it a partisan issue locking out Republicans and the entire committee process," Sen. Frank H. Murkowski (R-Alaska) said. Murkowski is the ranking member of the Senate Energy and Natural Resources Committee.

The decision to avoid "divisive votes" came at the request of Senate Majority Leader Tom Daschle (D-S.D.), Bingaman said in a prepared statement.

"The Senate's leadership sincerely wants to avoid quarrels, divisive votes in committee," Bingaman said in a prepared statement. "At a time when Americans all over the world are pulling together with a sense of oneness and purpose, Congress has an obligation at the moment to avoid those contentious issues that divide, rather than unite, us."

In place of a committee markup, Bingaman will deliver a legislative package to Daschle. The majority leader plans to add the legislation to the Senate calendar for a vote prior to Congress adjourning, Bingaman said.

Prior to Bingaman's announcement Daschle told reporters that he hopes there will be time this session to bring the energy bill to the Senate floor for a vote.

"A lot of my colleagues are hoping we will be able to address [an energy bill]," Daschle said.

Democrats Dodge ANWR Vote. The move comes on the heels of Republican pressure to move ahead with an energy bill and to vote on an amendment to allow drilling in ANWR.

DRAFT AGENDA
Alaska Highway Natural Gas Policy Council
October 31, 2001, 9:00 a.m. to 4:30 p.m.
Sheraton Anchorage Hotel

9:00 – 9:10 a.m.	Introductory Remarks Council Co-Chairs
9:10 – 10:00 a.m.	Consideration of Ownership Committee recommendations
10:00 – 10:50 a.m.	Consideration of Federal Committee recommendations
10:50 – 11:10 a.m.	Break
11:10 a.m. – 12:00 noon	Consideration of Alaska Hire Committee recommendations
12:00 – 1:15 p.m.	Lunch
12:45 p.m.	Keynote Remarks Governor Tony Knowles
1:15 – 2:15 p.m.	Consideration of Access Committee recommendations
2:15 – 2:30 p.m.	Break
2:30 – 3:30 p.m.	Consideration of Environmental Committee recommendations
3:30 – 4:30 p.m.	Closing Remarks/Meeting Wrap-Up Council Co-Chairs

Subject: Draft Subcommittee Reports Attached

Date: Sun, 28 Oct 2001 18:15:11 -0900

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Organization: Alaska Office of the Governor

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Attached please find four draft Subcommittee Reports for the Gas Policy Council. The Council will meet at 9 am Wednesday, October 31 at the Sheraton to vote on the recommendations contained in each of the attached reports.

The Environmental Considerations Subcommittee is still working to finalize its recommendations. We will forward you their report as you as it is available.

If you have any trouble opening these attachments or would like copies

DRAFT
Committee Report
Federal/International Action Committee
Charlie Cole, Chair

Introduction

Members of the Gas Policy Council were extensively involved in decisions on state policy and in the development of proposed legislative changes. A substantial product of the Federal/International Action Committee were recommendations for changes to federal law to address key concerns of the state of Alaska in the development of a natural gas pipeline.

The committee supports modifications to modernize ANGTA and believes such modifications would be beneficial to an Alaska gasline project. The committee endorsed ten key policy goals that should be included in any new gasline legislation.

The ten policy goals developed to guide drafting of the legislation were debated by the full Council and ratified in concept by a majority of its members on September 25, 2001. Several changes were made as a result of points raised by Council members during the September 25 debate.

If Congress moved forward with new legislation as suggested by the producers, a principal concern of the Council was that Congress should take steps early to reaffirm the southern, or Alaska Highway, route as the sanctioned route for a natural gas pipeline, as a previous Congress did in 1977 when it ratified the President's choice of the southern route under the Alaska Natural Gas Transportation Act. Such a step would focus the attention of industry and federal agencies on regulatory and permit approvals for a project along this route.

This committee also notes that a southern route provides several advantages over other alternatives. Among these is use of the pipeline corridor for other purposes, including the possibility of constructing a railroad or other utilities over time. In addition, a southern route could facilitate access to highly mineralized areas which are located in close proximity.

A second concern of the Council was the probability that with a new initiative in Congress, an Alaska gas pipeline would be subject to Federal Energy Regulatory Commission jurisdiction on issues important to Alaska without a defined role for the state with the FERC. Such issues would include tariffs on intra-state shipment of gas, and access to and from a pipeline. The proposal for a Joint Board that would give the Regulatory Commission of Alaska joint jurisdiction with FERC on issues affecting Alaska grew out of this concern.

Other concerns of the Council involved provisions to encourage hiring of residents of Alaska for a gas pipeline project, and the hiring of Native Alaskans.

It was recognized by the Council that the pipeline project will be substantial and that, for all practical purposes, qualified Alaskan workers wishing to work on the project will be employed. Still, an explicit encouragement to hire locally will be a strong inducement for companies and unions to train Alaskans for pipeline-related construction and operating jobs. The skills developed in the Alaskan workforce as a result of training and employment will thus be a lasting legacy of the project.

The Council also considered the importance of pipeline access and the need for future open seasons to facilitate pipeline access for new discoveries. Failure to provide for additional capacity either at startup or through future open seasons could create a "monopoly" on pipeline capacity, discouraging exploration by non-owners. Any new gasline legislation must address this issue to protect the interests of the state of Alaska.

Other policy points guiding development of proposed legislation are detailed later in this report.

The committee recognizes the Governor's strong advocacy of the 10 Principles, as reflected in his recent testimony before the Senate Committee on Energy and Natural Resources and in other forums. It would appear that the State's policy position is well understood by decision makers in Congress and the Federal Executive Branch.

With this in mind, the committee believes that it would be useful for the State administration to continue its efforts with the commercial parties to develop a market driven solution to transport Alaska natural gas to market via the Alaska Highway route.

Close coordination and communication between the State, the North Slope producers and the pipeline companies could facilitate the establishment of a consortium of companies with the financial capability to build the pipeline.

In our opinion, current discussions among the parties concerning economic feasibility and reestablishment of the previous pipeline partnership underscore the need for such coordination at this time.

Background on ANGTA

Congress enacted the Alaska Natural Gas Transportation Act (ANGTA) in October 1976, after finding that the national interest called for the expeditious construction of a transportation system to bring Alaska natural gas to markets in the lower 48 states. The

primary goal of ANGTA was to "provide the means for making a sound decision as to the selection of a transportation system . . . by providing for participation of the President and Congress in the selection process, and . . . to expedite its construction."¹

To achieve that goal, the Federal Power Commission (the precursor to the Federal Energy Regulatory Commission ("FERC")), held hearings and prepared a "Recommendation to the President," which recommended two possible overland routes through Alaska and Canada. The President then selected the southern route, the Alaska Natural Gas Transportation System (ANGTS), as the preferred alternative. Congress approved the President's selection by a joint resolution in November 1977.

ANGTA establishes the framework under which federal agencies (including the FERC) are to review and approve the ANGTS project. ANGTA supplements, but does not supersede, the Natural Gas Act – which is the law that normally governs approval of natural gas pipelines, and requires a certificate of public convenience and necessity before interstate natural gas pipelines are built.

However, because ANGTA was designed to expedite construction of an Alaska gas pipeline, it contains numerous provisions that speed up administrative and judicial review. For example, ANGTA directs that any applications under it shall take precedence over similar applications and shall be expedited by federal agencies.² ANGTA also provides that a Federal Inspector be appointed to coordinate all federal activities and enforce federal requirements.³

In addition, ANGTA contains provisions dealing specifically with access to facilities and in-state access to gas. ANGTA provides that there shall be no discrimination against any shippers based on the degree of ownership in the system. It also provides that the State of Alaska is authorized to ship its royalty gas on the system and withdraw its gas for use within Alaska.⁴

Finally, ANGTA limits judicial review of any agency action to issues of whether the agency violated constitutional rights or statutory authority – effectively limiting the scope of environmental challenges to a project constructed under ANGTA.⁵

Because no project has been constructed under ANGTA since its enactment 25 years ago, there may be outstanding issues regarding its current application. For example, the

¹ 15 U.S.C. § 719a.

² 15 U.S.C. § 719g.

³ This provision was repealed in 1992. Pub. L. 102-486, Title XXX § 3012(a), Oct. 24, 1992, 106 Stat. 3128.

⁴ 15 U.S.C. § 719k.

⁵ 15 U.S.C. § 719h.

creation of legislatively designated areas—such as parks or wildlife refuges—may require re-routing portions of the project. This raises the question whether the project approved by the President has been altered so substantially as to render the findings in ANGTA ineffective. In addition, a competing project may be proposed under the Natural Gas Act, raising the issue of whether the preferential treatment required under ANGTA has already been provided, or whether an ANGTA project must be constructed before any other project designed to bring Alaska gas to the lower 48 states can be approved.

Summary of the "Alaska Natural Gas Pipeline Act of 2001"

The "Alaska Natural Gas Pipeline Act of 2001," set forth by the Alaska Gas Producers Pipeline Team, provides a streamlined administrative process and limited judicial review for non-ANGTA gasline projects. The legislation is designed to eliminate outstanding legal issues regarding whether non-ANGTA gasline projects may proceed absent the repeal of ANGTA.

Section 2 of the bill, "Congressional Findings," states that it is in the national interest to provide "as much regulatory certainty and expedition as practicable" for approval of one or more pipeline systems from Alaska to the lower 48.

Section 3 of the bill, "Congressional Purpose," states that the purpose of the bill is to expedite federal decision making, create an Office of the Federal Pipeline Director to coordinate federal agency decisions, and expedite and limit judicial review concerning both the Act and the approval process for any Alaska gasline project.

The bill defines "Alaska Facilities Gas Project" to mean any natural gas pipeline system that carries Alaska gas to the lower 48. It does not specify a preferred route.

Section 5 of the bill amends the Natural Gas Act to set out an expedited approval process for an Alaska gasline. It directs the Federal Energy Regulatory Commission ("FERC") to issue approval within 18 months of an application if: there is an agreement to ship with a party that controls Alaska natural gas; rates can be established according to FERC's usual procedures; and if there is compliance with all environmental laws.

The bill states that the lead agency for preparing an EIS shall be the FERC, and that the environmental impact statement ("EIS") process shall be expedited and the final EIS issued within 18 months after an application is filed.

Section 7 of the bill establishes the Office of the Federal Pipeline Director. This office appears to have a function analogous to the Office of the Federal Inspector, created under ANGTA. The Federal Pipeline Director will coordinate all federal activities related to the pipeline project. It will be a "one window point" for filing and issuing all necessary

permits and is responsible for coordinating and expeditiously completing all environmental reviews and studies.

The bill directs federal agencies to coordinate and expedite review of the gasline project and gives the Federal Pipeline Director the authority to remove discretionary requirements from federal permits if they would impair or prevent the expeditious construction of the pipeline.

Section 9 of the bill limits judicial review to claims challenging the Act itself, constitutional claims, or claims that an agency is acting outside of its jurisdiction. Lawsuits must be brought within a shortened time frame, with jurisdiction in the U.S. Court of Appeals for the District of Columbia.

Section 10 provides that, if any provisions of the Act are invalidated, the remainder of the provisions will be unaffected.

Background on Canadian relations

First Nations

The Kaska First Nations located in Northern British Columbia and the Yukon continue to negotiate land claims and self-government agreements with the Government of Canada and the Province of British Columbia. While these negotiations are expected to continue for the foreseeable future, speculation is that when the time is right, the Kaska will be open to a side agreement on any proposed pipeline running through their territory.

The eight First Nations who have land claims along the proposed route of the Mackenzie Valley pipeline have been negotiating with producers since late spring of 2001. Early in October of 2001, seven of the eight groups came to an agreement on ownership sharing of any pipeline built through their territories. This agreement would grant 30% ownership to the First Nations Bands. The eighth, the De Cho, refuse to sign the agreement. While the Minister of Indian Affairs and Northern Development has been quoted as saying that one Band cannot hold a veto over any project, the De Cho believe that they have the right to refuse construction on lands they claim.

Position of the Government of Canada on Arctic Gas Production and Transportation

The Government of Canada has affirmed that in relation to this project, all departments and agencies will maintain route and project neutrality. In the spring of 2001, the Prime Minister set up a Cabinet reference group to study the current state of Canada's energy policy. The main issue of study was whether to express a preference for one route over another. A number of Cabinet Ministers expressed support for either the over-the-top route or a two-pipeline route with the construction of the Mackenzie Valley line happening first. After careful consideration of all available information and a careful review of the regulatory implications of each option, the Cabinet reference group

recommended to the Prime Minister that the original position of route and project neutrality be maintained.

Provincial and Territorial Positions

Of the four non-federal jurisdictions involved in the issue, only the Yukon Territory is firmly supporting the Alaska Highway route. While they have not been overly aggressive in the past, they intend to become more aggressive in promoting the route with the Canadian Federal Government. The Yukon Government has commissioned an economic study of the benefits to Canada of constructing and operating the Alaska Highway route and it is expected that this study will be released to the public in January of 2002.

The Northwest Territories is aggressively promoting the Mackenzie Valley line either in conjunction with an over-the-top segment or as a stand-alone line. Assuming the latter is chosen by producers, the Northwest Territories is demanding that this line be built before an Alaska Highway gasline. They are very active with the Federal Government asking for financial incentives to ensure the line's construction.

The other two jurisdictions involved, British Columbia and Alberta, have remained route and project neutral. Premier Klein of Alberta has said that regardless of what line is built, he will not allow a "bullet line" to cross his province. He demands that Albertans share in the long term economic prosperity created by a line to the lower United States. Principally, he is referring to gas liquids and would like to see the petrochemical industry in his province benefit from them.

While it would seem logical for the Government of British Columbia to be supportive of the Alaska Highway route, this government has only been in power since June 2001 and this issue has yet to be critically examined by the Premier and his Cabinet.

Recommendations

The committee endorsed ten key policy goals that should be included in any new federal gasline legislation. The 10 principles and corresponding legislative provisions are outlined below.

Key principles

1. Find that the Alaska Highway natural gas pipeline is in the national interest.
2. Mandate the already permitted Alaska Highway route as the preferred route.
3. Provide opportunities for new pipeline participants, such as existing producers, pipeline companies, and major Alaska companies.

Corresponding Legislative Provisions

- The 1976 Alaska Natural Gas Transportation Act (ANGTA) that established a process selecting the ANGTS project following the Trans-Alaska Pipeline and the Alaska

Highway through Canada to the lower 48 should be the framework for any new gasline legislation.

- The legislation should provide for updating and modernizing the process provided in ANGTA for the expeditious environmental review and approval of a pipeline application for the Alaska Highway route.
- A finding that an Alaska Highway route would make an important long-term contribution to the nation's energy supplies and independence.
- A finding that an Alaska Highway route would have less potential environmental impacts and related delays in construction.

Key principles

4. Provide a mechanism for Alaska communities and businesses to obtain access to natural gas from the pipeline.

Corresponding Legislative Provisions

- FERC should require each project sponsor to demonstrate how the sponsor plans to meet reasonable projections of in-state local consumption needs, including the needs of Fairbanks, Cook Inlet, and rural Alaska. In addition, the sponsor should allow for possible future construction of a pipeline to tidewater for the export of LNG.
- The Regulatory Commission of Alaska should have concurrent jurisdiction with FERC to set just and reasonable rates for the shipment of natural gas over the Alaska section of the gasline for in-state users.
- The Regulatory Commission of Alaska should have exclusive jurisdiction to set just and reasonable rates for any lateral pipeline connected to the Alaska section of the gasline that serves in-state users.

Key principles

5. Provide access to the pipeline for new natural gas discoveries that will keep Alaska's oil and gas industry healthy through new leasing, exploration and production.

Corresponding Legislative Provisions

- FERC should require each applicant to make reasonable plans and procedures, including additional open seasons if necessary, for the expansion of the Alaska section of the gasline as new fields of natural gas are developed on the North Slope and throughout Alaska.
- FERC should be authorized to order expansions of the gasline in the future under reasonable, non-discriminatory terms.

Key principles

6. Provide for Alaska hire and Alaska Native hire.
7. Provide for the use of Alaska businesses.

Corresponding Legislative Provisions

- To the extent allowed by law, Alaska residents and contractors should be employed when they are available and qualified. In turn, contractors would be encouraged to employ and train Alaska residents.
- Recruitment should be accomplished primarily by advertising in-state and using Alaska's job service organizations to notify the Alaskan public.
- The project sponsors must, whenever feasible, enter into construction contracts with Alaska firms and fabricate modules in Alaska.
- The gasline sponsors should be required to enter into an agreement to provide for pre-employment recruitment, on-the-job training, and employment of Alaska Natives.

Key principles

8. Provide for a project labor agreement for the construction and maintenance of the pipeline, and for worker training.

Corresponding Legislative Provisions

- The project labor agreement should require all contractors and employees to agree to a total ban on strikes, lock-outs and other disruptive activities for the life of the agreement.
- The agreement should be designed to ensure a steady supply of skilled labor and a contractually binding means of resolving worker grievances.

Key principles

9. Provide a priority for the use of American and Canadian steel.

Corresponding Legislative Provisions

- Only steel manufactured or produced in the US or Canada should be used in the construction of the Alaska section of the gasline unless its use is inconsistent with the public interest or the cost is unreasonable. Factors to be considered in evaluating the public interest should include quality, availability and delivery times.

Key principles

10. Provide for economic incentives to give investors in ANGTS additional levels of confidence.

Corresponding Legislative Provisions

- Accelerated depreciation on gasline investments.
- An investment tax credit for an approved ANGTS project.
- A tax credit for producing gas from the Alaska North Slope tied to a price floor.

DRAFT
Committee Report
State Pipeline Ownership and Tax Structure
Bill Corbus, Chair

Recommendation:

The Committee believes the pipeline is economically feasible for certain investors and should be undertaken with private financing. We recommend against direct state investment unless there is clear evidence of economic benefits to Alaska that cannot be achieved through other regulatory or political mechanisms.

Recommendation:

The Committee encourages exploration of creative financial structures to facilitate all or part of a gas pipeline and/or in-state gas infrastructure, provided such entities finance their activities through private markets.

Recommendation:

The Committee recognizes that state tax policy is one of several tools that could play a role in influencing pipeline development, but reserves a decision. It is premature to decide how to use this tool until there is more definition of a project and the nature of its ownership.

Conclusions:

- * When the Committee began its work early in 2001, there appeared to be certain problems that could be resolved by partial state ownership in a gas pipeline, and that it could be an important advantage for Alaska. However, through the process of gathering information and holding meetings, the Committee has determined that most if not all of these could be resolved through other means, other tools the state has at its disposal. For example, access to and from a pipeline can be facilitated through the state Regulatory Commission of Alaska working with the Federal Energy Regulatory Commission, and through stipulations in a state right-of-way lease across state lands.
- * The Committee believes a natural gas pipeline from Alaska would be good investment, but there are other, equally good investment opportunities for public funds that entail less risk. The state has a policy of diversifying investment of its assets (the Permanent Fund is an example) to reduce risk.
- * From information gathered during hearings, the Committee has concluded that, absent majority or total ownership of a natural gas pipeline, an ownership interest gives the state no right to capacity in the pipeline. Capacity in a contract carrier pipeline is obtained through the nomination process during an "open season."
- * The Committee is not persuaded that partial ownership of the pipeline raises any conflict of interests for the state (i.e. a state "ownership" interest vs. a state responsibility to regulate the pipeline) that cannot be resolved.

* The Committee investigated alternative sources of financing, including the Permanent Fund, Constitutional Budget Reserve and the ability of various public authorities to issue revenue bonds. The Committee believes that private sector companies can raise needed funds based on adequate coverage and financing reserves. State participation would not enhance the acquisition of funds, would not necessarily guarantee lower financing costs and might unduly interfere with a straightforward private sector funding. The State's participation would include a vote on a tariff but its interest would not be proportionately large and it would not guarantee a desired outcome.

* Absent a compelling public interest for partial state ownership, ownership of the pipeline is best left to private industry, and to firms which are experienced in oil and gas and the pipeline business.

* The Committee suggests that Alaskan-owned businesses, such as Alaska Native corporations, have the opportunity to invest in a natural gas pipeline project.

* Regarding alternative financing mechanisms, the Committee has been told by the producers' group that an investment in a gas pipeline might not meet the rate-of-return criteria for the producing companies. If so, alternative financing mechanisms, such as through a public authority, might facilitate others, such as pipeline transmission companies, becoming involved. A public authority may have advantages in terms of exemption from federal income tax, or jurisdiction by the Federal Energy Regulatory Commission.

* Regarding tax policy, the producers are seeking simplification and clarity in natural gas tax and royalty administration.

* The Gas Policy Council itself has endorsed the Governor's proposals for federal tax incentives, such as accelerated depreciation, an investment tax credit and a gas price volatility protection mechanism, a tax credit that becomes effective if prices fall below a certain point. The Committee reaffirms this endorsement.

* The Committee feels that if a viable proposal for a pipeline is put forward and the producers do not respond in a reasonable period of time, the state should use tools that it has available to facilitate the project moving forward.

* House Bill 393, enacted by the Legislature to facilitate construction of a liquefied natural gas project (and since lapsed) contained a mechanism for a "contract" between the state and a sponsor of a gas pipeline project that would encourage stability in taxes on a gas project. While there are legal limits to the Legislature's ability to guarantee future tax policy, such a contract would carry an important moral commitment, and would be worthy of consideration for an Alaska Highway gas pipeline.

DRAFT
Committee Report
Alaska Hire/Buy/Build Subcommittee
Mike Navarre, Chair

Recommendation:

The Committee believes that Alaska hire language, similar to language from the BP/Arco Merger "Charter Commitment," should be sought for the Alaska Highway Natural Gas Pipeline and facilities. (*Note: charter language is attached*). It should be specifically stated that the quarterly report to the Department of Labor should include all contractors and subcontractors of the company or sponsor.

Recommendation:

The Committee believes additional funding should be made available for vocational education training and should be coordinated with existing workforce training efforts now underway. Additionally, efforts should be increased to notify interested Alaskans of training opportunities available.

Recommendation:

The Committee believes every effort should be made to ensure that needed gas production facilities are constructed at sites in Alaska.

Recommendation:

The committee recommends the state's Department of Community and Economic Development undertake a study to determine the socio-economic impacts of the gas pipeline along the Alaska Highway route. The Department has already begun implementation of this recommendation. A draft "scope of work" for this study is attached.

Conclusions and narrative:

The committee held several hearings regarding the constitutionality of local hire laws. The record in Alaska on local hire litigation is not encouraging. We believe it will be difficult to construct local hire legislation that will withstand challenges under the U.S. and Alaska Constitutions (equal protection & privileges and immunities clauses). Additionally, a successful Alaska hire provision is complicated by the national and international scope of the project. Voluntary, cooperative efforts with industry seem to hold the most promise and should be pursued.

The number of jobs will be significant and will exceed the available capacity of Alaskan workers. The committee heard testimony that there is already a crisis situation being created because of the aging workforce in the oil industry, without factoring in the effect of a large-scale project like the gasline. There are

coordinated efforts already underway, by industry, unions, native and tribal organizations, the Denali Commission, the University of Alaska and state agencies to address the training of Alaskan workers, and those efforts will require additional funding. The Alaska Human Resources Investment Council has developed a white paper that details a comprehensive approach to workforce training. It is attached as part of this report.

In addition to assuring labor stability, a project labor agreement will facilitate the further ramping up of union training programs, bringing more Alaskans into apprenticeship and skill upgrade programs. An ancillary benefit of the PLA is the legality of geographic preference provisions of collective bargaining agreements.

Committee members heard testimony from rural residents along the pipeline route expressing interest in job opportunities. We believe that issue is best addressed through notification, to interested Alaskans, of available training and through registering of interested workers and their skills. Construction training in rural Alaska has increased to an unprecedented level in the past two years through initiatives such as the Alaska Works Partnership, the Tanana Chiefs/Laborers/Operators Cooperative Agreement, and the Denali Training Fund and other efforts funded by the Denali Commission. Continued support of these initiatives, which have resulted in training and employment of hundreds of rural Alaskans in construction, is essential if residents of communities along the pipeline and in areas of the state suffering economic dislocation due to fisheries problems, are to share in the economic benefits of the project. The Department of Community and Economic Development is already working with Native non-profits to create accurate job banks, focusing on rural areas and villages.

The committee also obtained information regarding module related jobs for gas treatment facilities and compressors. The opportunity is tremendous and construction of modules, at Alaskan sites, should be vigorously pursued. It is estimated that the module related jobs and opportunities will be bigger than the Alpine, Northstar, Badami and MIX projects combined.

ALASKA HIRE COMMITMENT LANGUAGE
(from BP / ARCO merger charter)

Alaska Hire Program

- Within constraints imposed by law, extend existing voluntary program to employ Alaska qualified residents and contractors.
- Advertise available positions locally and use Alaskan job service organizations to notify the Alaskan public of employment opportunities.
- Use best efforts to contract with Alaskan firms and fabricate modules in Alaska where feasible, taking into account commercial, health and safety and environmental conditions and requirements to ensure maintenance of the companies' operational standards.
(use specified criteria in determining feasibility).
- Encourage contractors to employ and train Alaska residents to extent permitted by law.

Reporting

- Submit to Director, division of Oil and Gas an annual report detailing the specific measures taken/planned by companies and their contractors/sub-contractors in support of Alaska Hire Program above.
- Submit a quarterly report to the Department of Labor regarding employment of Alaska residents.

**Department of Community and Economic Development
Alaska Gas Pipeline Socio-Economic Impact Study
Scope of Work (DRAFT).**

The Department of Community and Economic Development is currently undertaking a study to determine the socio & economic impact of the gas pipeline along the Alaska Highway route. There are currently two segments of the report. In order for the State of Alaska to anticipate future needs arising from the gas pipeline project, it will be necessary to look at both the positive and negative impacts associated with the construction and the operation.

Segment 1

The first segment is an analysis of the impacts to state departments (specifically DCED, DHSS, DNR, DOL, DPS, DOE). The Department is currently investigating this section internally. After completing a preliminary analysis of potential impacts to state agencies, the report will be disseminated amongst the agencies so that the departments can tailor more specific questions that will need to be addressed.

Segment 2

The second segment is the potential economic benefits the gas pipeline would have for the state of Alaska and perhaps in more detail the communities along the proposed Alaska Highway route. An independent third party contractor will investigate this segment.

Identify potential economic opportunities created by the gas pipeline along the highway route during construction and also during the operational phase. For the construction phase, the study would examine past pipeline projects to see which sectors benefited from the construction activities as well as what types of business developed in the region during the construction phase.

The study would also include an analysis of what types of businesses might expand or relocate to Alaska as a result of accessibility to large supply of natural gas. These projects might include a petro chemical facility, an increase in mining activity, and transportation infrastructure. Other benefits that could be examined include the potential for cheaper utility to rural areas as well as an increase to the local tax base for communities along the pipeline.

Once the scope of work can be finalized, an RFP will be created based on the finalized scope of work.

DRAFT

DRAFT
Recommendations and Conclusions
Access for In-State Gas Use and Future Opportunities
Ken Thompson, Chair

Purpose: The Access for In-state Gas Use and Future Opportunities Committee will address key issues and make recommendations on state policies to enable fair and transparent pipeline access for in-state gas use and for the creation of a broader natural gas business within Alaska upon commercialization of North Slope gas.

Goal #1: Assess current supply/demand for in-state natural gas use and assess potential demand for expansion of current use as well as conceptual new uses.

Recommendation:

A long-term clean energy plan and vision needs to be developed for Alaska, providing for substantially increased use of natural gas for residential and industrial use and for power generation.

Recommendation:

The State should take a long-term, broad and strategic view of its entire natural gas resources. This should include areas on the North Slope, including non-producing areas, in interior basins and in south Alaska. There is a significant potential gas resource base in Alaska much larger than the 35 TCF proven natural gas reserves in existing fields on the North Slope.

Recommendation:

The State of Alaska should undertake more intensive, updated geologic and geophysical studies of the natural gas potential of current nonproducing areas, including Interior and Southcentral Alaska basins. This should include a more thorough assessment of basin geology and natural gas generation and migration utilizing the most modern technology tools, as well as a more thorough assessment of the producible methane gas potential from coal seams within Alaska. In recent years new tools, such as in satellite imagery and soil sampling techniques, have been developed. Another gas resource that should be assessed is gas from gas hydrates on the North Slope and in Interior basins which are very sizeable and could be developed in future decades as technology advances.

Recommendation:

The State should evaluate incentives and policies to spur the exploration by private companies for natural gas, to better delineate the natural gas resources not only on the North Slope but elsewhere throughout the State. Strategies and plans should be implemented to attract additional companies interested in natural gas exploration, who now utilize new technologies, to the North Slope, Cook Inlet, the Interior basins and elsewhere in the state.

Recommendation:

A major gas pipeline should traverse Alaska if the State is to fully exploit its longer-term resource from all basins over 50-plus years and to also gain access to future multiple markets over the long-term. In addition such a pipeline could ensure long-term, reasonably priced supplies of energy to the Railbelt and other areas of the State thereby encouraging economic development.

Recommendation:

The State should facilitate favorable policies and incentives to encourage development by the private sector of a broader natural gas infrastructure within the State that meets the long-term clean energy demand of Alaskans at reasonable market prices.

Conclusions:

* Natural gas supply in Southcentral Alaska is decreasing while demand for natural gas in home and commercial use as well as for electrical demand is increasing. Additional reserves of natural gas will be needed to meet future demand.

* The natural gas demand in Southcentral Alaska in 1998 was 589 million cubic feet per day (MMCFD) and is estimated to have grown 1 - 2.5% per year over more than 30 years. Approximately 166 MMCFD is for local utilities; 75 MMCFD for residential and commercial space heating use and 91 MMCFD for electric power generation. 360 MMCFD is for industrial use, 214 MMCFD for LNG export and 147 MMCFD for ammonia-urea manufacture. 46 MMCFD is for fuel to operate oil and gas production facilities.

* Unless new significant gas reserves are developed, a shortfall in natural gas deliverability for peak winter demand is predicted for Southcentral Alaska by 2006-08. This deliverability shortfall may be offset by gas storage, by curtailment of industrial use or by bringing new reserves on line. However, replacement of the deliverability will add higher cost resources, substantially increasing natural gas and electricity bills for consumers and businesses in Fairbanks, Anchorage, the Mat-Su Valley and the Kenai Peninsula.

* By 2009 without significant new sources of gas, the continued operation of the LNG plant and/or the ammonia/fertilizer plant is at risk. The export license for the Kenai LNG facility expires in 2009. It is conceivable that the export of LNG plant would not be authorized beyond 2009 and rising gas prices may make it difficult for the ammonia-urea plant to compete in international markets

*In the long term, conventional natural gas (excluding coal bed methane) in Cook Inlet will probably be unable to meet the needs of the Cook Inlet region even with the cessation of all industrial uses. A long term solution to this pronounced shortfall in deliverability would be gas from the North Slope. Depending on the delivered price of North Slope gas, this may also allow the continued operation of the industrial plants, thereby saving over a thousand total jobs and maintaining property taxes and state revenues

* By 2018 in Southcentral Alaska, other fuel alternatives, heating oil and coal, may have to be relied on. In the case of fuel oil and coal, there are clean air environmental consequences for citizens in Anchorage, the Mat-Su Valley and on the Kenai Peninsula.

* Current natural gas purchases by residential and commercial users in the Anchorage area total over \$100 million per year. The deliverability shortfalls starting as early as 2006 could cause natural gas prices to increase affecting business growth and corporate taxes to the State as well as affecting cost of living for residents.

* The only known proven reserve, longer-term natural gas supply solution for consumers in the areas around Anchorage will be North Slope gas which can potentially be delivered to the Anchorage area at competitive market prices via a spur line off a main trunk line.

* The most competitive priced and cleanest fuel for consumers in Fairbanks may be North Slope gas that can be delivered to the Fairbanks area through an offtake "hub" or tap in the main gas pipeline.

* Along the pipeline route from the North Slope through Interior Alaska 14 large mineral prospects within 20 miles of the gas pipeline have been identified. These mineral prospects are currently not economic with the largest cost for development being energy cost. Testimony was given that some of these mineral prospects may be commercially viable if a reasonably priced natural gas supply was available.

* The natural gas resources in interior basins and in South Alaska have not been fully explored and delineated, but earlier screening studies have indicated the presence of natural gas. Little exploration or development has taken place because of lack of transportation to market and perceived geologic risk. In some areas, very little is known about basin geology and natural gas generation and migration, yet natural gas has been recognized as present.

* Alaska has the United State's largest volume of coal beds, but little work has been done to quantify the methane gas potential from coal seams. In the Lower 48 over the past fifteen years coal seam gas production has become a major supply source near locales where pipeline transportation is available.

* Potential reserves of methane gas trapped as gas hydrates in shallower geologic formations on the North Slope or Interior basins could be very large. Recent studies in the Lower 48 and in Canada indicate trillions of cubic feet of entrapped natural gas as hydrates. Numerous research and technology studies are underway by the Department of Energy and private companies to better assess the gas hydrate resource base and technologies needed to commercialize this huge resource in the future. Alaska needs to better quantify its very large gas hydrate resource base on the North Slope and in other basins of Alaska and stay abreast of technology improvements.

* Interestingly, exploration companies new to Alaska such as Forest Oil, Andex Resources, Lappi Resources, Evergreen Resources and others have shown interest in the Interior basins for new conventional gas exploration using new technologies and for coalbed methane. Four new exploration licenses totaling 4.8 million acres are underway as well as more extensive leasing of coalbed methane leases. This new exploration should continue to be encouraged through favorable State policies and incentives. If these gas resources prove to be of large size over the next 50 years, a pipeline option that offers access to markets outside the State will be necessary as in-state markets are somewhat limited in size.

* There is not a long-range energy plan for the State that positions for the marketing of natural gas from different basins, including the prolific North Slope. A pipeline traversing Alaska offers the best option to allow assessment and future marketing from all basins across the State into future multiple markets globally.

Goal #2: Assess how natural gas or natural gas products can meet the clean and economical energy needs of communities along the pipeline routing and in rural Alaska.

Recommendation:

The State should sponsor a comprehensive economic and environmental study of assessing fuel switching in certain and rural interior communities from diesel to cleaner burning propane to provide information for the likelihood of economic natural gas "hub" propane processing facilities.

Recommendation:

The State should sponsor a comprehensive economic and environmental study of assessing broader electrical power distribution to certain interior and rural communities to provide information for the likelihood of economic power generation plants near natural gas "hub" offtake points.

Recommendation:

The State should encourage private investors to initiate an economic study of creating one or two "gas hubs" for gas distribution, natural gas liquid processing, and power generation near Fairbanks and/or Delta Junction in order to foster a broader clean energy natural gas, propane and electrical distribution system within Alaska once a pipeline is endorsed across Alaska.

Conclusions:

* Because a North Slope gas pipeline will likely be heavy-walled and high-pressure, and will likely transport large quantities of natural gas liquids, any "tap" on the pipeline for local access to gas will be very expensive and may require facilities to remove the natural gas liquids. It is possible that only one or two "hubs" for gas offtake, for local natural gas use or gas-based industrial development, may be economically viable.

* To other communities without large populations, affordable and clean energy from the gas pipeline might best be distributed from gas-fired power generation at the offtake hubs, or through bulk distribution of propane more widely across interior communities and rural Alaska. Large quantities of propane, a well-known natural gas liquid fuel source, will be moved through the pipeline in large quantities and can be removed at "hub" natural gas processing facilities.

* In an economic analysis of fuel-switching in Interior Alaska, the local cost of replacement or conversion of oil-burning stoves and generation equipment must be included and the positive economics on the environment of cleaner burning natural gas, propane or electricity be assessed.

Goal #3: Assess the costs or benefits of the state taking its royalty share "in kind" for facilitation of in-state access and use.

Recommendation:

The State should retain its right to take its royalty share of gas on the North Slope "in kind" or "in value". This flexibility creates competition to maximize wellhead value for the State by either the producers or other firms such as energy trading companies interested in marketing the State's share of gas. The producers have requested a long-term commitment by the state and are asking the State to decide up front to take either "in-kind" or "in-value". The council feels the flexibility to switch on six months notice is very important, creates marketing competition and will ultimately maximize resource value. The State should not negotiate away its right to take its royalty share of gas "in-value" or "in-kind".

Recommendation:

The state could maximize the value of its natural gas royalty resource with a mixed portfolio of "in-value" and "in-kind" sales, with in-kind royalty marketed by energy trading companies such as Duke Energy, Enron, Williams Energy or major companies like them. The state should put its royalty "in-kind" gas out for bid and seek bids from multiple parties for contract terms and price. Such contracts should ask for a "floor price" equal to or exceeding the average netback wellhead price achieved by the three major producers or from "in value" sales as "insurance" that the energy trading companies are working in their marketing to beat the producers gas sales realization.

Recommendation:

When there are out-of-state sales using an energy trading company, the energy trading company will reserve the capacity and the liability associated with that capacity, and that liability will not fall back on the state.

Recommendation:

The State may choose to direct market some portion of its gas to in-state consumers using State staff, but it is recommended that sales to customers in outside markets be handled by professional energy trading firms considering the complexity of and rapid change in those markets. This would also allow those firms to absorb the risk of nominating pipeline capacity and buying hedging instruments to lessen risk on pricing of contracts.

Recommendation:

By keeping some portion of its royalty share of natural gas "in-kind", the State may be able to make some contract deals with consumers in-state at more favorable terms than the producers as the State might realize added dollar benefits through jobs and corporate taxation of value added processing such as natural gas liquids processing, petrochemical manufacturing, power generation, etc. that may not otherwise be economically viable to entrepreneurs within the State. However, there should not be a subsidy in sales of royalty-in-kind gas. The state should receive a netback price for royalty gas equal to or greater than the market-based "netback value" of gas on the North Slope.

Recommendation:

To the extent practical, the State of Alaska should enforce its "higher of" clauses on natural gas royalty as this could add value and ensure producers work hard in their marketing to obtain the best value in their sales of natural gas. When the State elects to take any share of its royalty gas "in value", existing lease terms and statutes allow the State to receive royalty payments and production taxes on the "higher of" actual proceeds or market value. Other states, as well as the U.S. Minerals Management Service, are aggressive in ensuring all producers pay this "higher of" price for royalty and relevant taxes and receives such payments from the same producers that produce on the North Slope.

Recommendation:

Because of the complexities of the natural gas industry and the differences with the oil industry, the State should form a Natural Gas Services Group with people experienced in the natural gas industry, shipping, marketing, and trading so that the State becomes even more sophisticated in understanding deals and transactions that are often involved in the natural gas business. The group would provide an oversight function on sales of royalty gas out-of-state, but could also negotiate and manage in-state sales much like the Division of Oil and Gas now manages sales of royalty oil.

Recommendation:

For more cost effective development of in-state gas infrastructure resulting in more economical transportation of state royalty gas within the State, the State should encourage entities to examine the port authority concept of tax advantaged financing for a gas "hub", spur lines and other distribution facilities.

Conclusions:

* Current North Slope oil and gas leases, and state statutes, allow state royalty production share to be taken "in kind", i.e. physically take the oil or gas and market the products itself or arrange for other parties to purchase the gas at market value contracts, or to take "in value", i.e. allow the producers to sell the products and pay the State their realized value of wellhead price after deduction of certain transportation costs. The state has the option to switch between taking its royalty share "in-kind" and "in-value" every six months. Current state law requires any "in-kind" sales, however, to obtain values equal to or higher than "in-value" sales.

* The current North Slope producers have complied with the "in kind" or "in value" lease terms and statutes in other states and on federal offshore leases for decades and have instituted internal procedures that allow them to process the selection of "in kind" or "in value" promptly. Other states and the federal government also have internal processes for administering the switch between "in kind" or "in value" as does the State of Alaska for its royalty share of oil. The producers' arguments that Alaska must decide up front on "in kind" or "in value" to ease marketing and sales administration or to bring more certainty to gas transportation or marketing are not valid considering the same producers' decades of experience administering such programs for transportation and marketing elsewhere successfully.

* The natural gas industry in the U.S. is very sophisticated in gas trading and marketing. There are energy trading companies which may be able to market the state's royalty gas for a higher netback price than would be paid by the producers if the gas were taken in-value. If so, the state's leases include a "higher of" clause which means producers would have to pay royalties and taxes on the higher of their actual netback wellhead price or the

actual netback wellhead price of an energy trader. This, in a way, creates competition and options to achieve the best possible wellhead netback value.

* In testimony from the General Land Office of Texas, Texas has similar "higher-of" clauses in their state leases that they enforce. In 2000, enforcement of the "higher-of" clauses with producers paying royalties and taxes on the highest actual netback wellhead price achieved on various leases resulted in additional revenues of \$17 million. Alaska's royalty gas sales will be ten times higher than Texas' volume of royalty gas sales.

* Alaska may achieve higher prices on some of its royalty gas by allowing energy trading companies to market the State's "in kind" share. The State of Texas takes 53 percent of its royalty gas in-kind and 47 percent in value, and claims to achieve higher prices on much of its royalty-in-kind sales by achieving better negotiated pipeline tariffs, higher customer prices, or integration for power generation.

* However, the flexibility in taking royalty-in-kind is important for other reasons as well as price. First, royalty sales will allow the state to periodically test the market, to assess whether it is getting fair market prices from producers. Second, allowing energy trading companies to market royalty gas will create more competition by their accessing different customers than the producers and broadening the market exposure of Alaska's natural gas.

* While Texas is able to market its royalty gas with a small staff of state employees, Alaska should "outsource" its sales of royalty gas to the Lower 48 or other outside markets through an experienced gas trading firm. Because large volumes of Alaska royalty gas may be marketed in several of the Lower 48 gas markets or outside markets initially, a thorough understanding of and experience in those markets will be required.

* On the other hand, it may be more appropriate that the state negotiate directly for sales within Alaska of in-kind royalty gas as is now done with royalty oil, because of the better understanding of local conditions. A section within a new Natural Gas Services Group could perform this function.

* The concept of a public authority owning a segment of a natural gas pipeline within Alaska may present significant benefits for transportation of state royalty gas to in-state users. The tax advantage of a public authority, for example, would allow a lower tariff for transporting gas within the State and resulting savings could help generate more business activity by providing natural gas prices at lower prices to consumers. The netback price, however, should remain at market values.

Goal #4: Determine the "best practices" for methodologies to achieve transparency in netback pricing valuation at the wellhead and transportation to assure fair and

favorable pricing for in-state gas business creation and expansion as well as for taxation and royalty calculations.

Recommendation:

The state should keep a natural gas price netback valuation methodology based on actual sales proceeds, or sales contracts, and not change to a formula linked to average prices in gas trading hubs or some other general formula at least for the first several years of major gas sales. The State's right under lease terms and statutes to obtain actual realized prices for its gas and natural gas liquids should not be negotiated away.

Recommendation:

With the growing natural gas liquids (NGLs) business in the U.S., the State should keep a natural gas liquids price netback of gas-line liquids based on actual sales proceeds, or sale contracts, of the liquids and not accept a value for the liquids based on a BTU adjusted basis of the gas stream unless there is clearly a higher value obtained by BTU-based sale. The State should be very sophisticated in its assessment and knowledge of the business of NGLs, as revenues from NGL sales will be a substantial part of revenues from the overall gas stream.

Recommendation:

Alaska statutes should be reviewed and updated to require information on sales spot transactions, sales contracts, actual transportation costs, and other information be made known to the State, much as statutes in Texas and other locations provide for. When updating these statutes the process should be clarified in a way that assesses the "lessons learned" on the Alaska oil valuation disputes, and provide for more timely resolution of any differences in valuation.

Recommendation:

Alaska statutes should be reviewed and updated to require information on "affiliated sales" by producers be made known to the State, much as statutes in Texas and other locations provide for.

Conclusions:

* After several years of North Slope oil production disputes arose on netback pricing valuation that resulted in major hearings and extended litigation. The state was able to resolve these issues after several years of production once access to oil sales contracts, invoices, and transportation charges allowed the state and the producers to agree on a formula for purposes of calculating royalty. The experience with production made both the state and producers confident that the formula tracked market values, or actual proceeds of oil sales. This history may or may not be of value in regard to gas price valuation. Certainly it is in both the State's and the producer's interest to avoid replication of the lengthy disputes on royalty and severance taxes experienced with the first decade of North Slope oil production

***In contrast to oil, there have been no sales of North Slope gas, nor are gas sales contracts in place or other similar information available. For the first several years of natural gas production, the state should certainly rely on existing measures of royalty value in the lease, which include value based on sales proceeds. The state should, however, review the oil valuation disputes and see if additional clarification of information, data, definitions, etc. is required to achieve a better mutual understanding by the producers and the State to lessen points of future disagreement. An agreement on an alternative formula for royalty valuation on gas may never be needed to maximize value to the state. In the future there could be sufficient production experience to allow agreement on a formula for valuation if needed. Billions of cubic feet of natural gas are sold from various states and federal leases under the actual netback pricing mechanism. While there have been disputes, there have rarely been pricing formula agreements adopted in lieu of an actual netback pricing approach.**

*** Natural gas hub spot prices could be too easily affected, at certain times and at certain locations, by market forces external to Alaska. This concern of hub posted prices for oil was evidenced by the Federal Trade Commission forcing a sale of oil trading hub facilities in the Cushing area because of the concentration of ownership of facilities at that trading hub location by BP, Amoco and ARCO upon their mergers. While the FTC did not claim unfair trading affecting oil hub posted prices would or was taking place, the FTC did feel too much concentration of power at such trading hubs could affect posted prices. It may be possible that concentration of interests and gas trading spot volumes at certain gas trading hubs periodically in the future could potentially skew hub prices similar to the FTC concern. Alaska should simply use the maximum, actual realized price as fair market value.**

*** Information on sales spot transactions, sales contracts, actual transportation costs, and other related information will ensure that reliable data is provided so the State can accurately calculate actual realized wellhead netback gas price. Such information is provided by the North Slope producers on other states' leases where required and on many federal leases. Companies have internal record keeping and software systems in place to timely provide such information for accurate calculation of netback gas prices.**

*** Having information on "affiliated sales" will ensure the State has knowledge when a producer sells natural gas to an affiliated subsidiary company for additional value added marketing, processing or manufacturing. Having such knowledge of affiliated sales can help the State screen that a fair market value is being obtained for the gas versus a value being obtained that is less than market while the affiliate captures additional value downstream.**

*** Testimony to the Subcommittee showed that Texas bases its royalties on actual proceeds, and requires producers to report to the state, on a monthly basis, information on**

sales contracts, points of sale and transportation costs. Texas General Land Office staff has developed computer software to track these transactions and to ensure the accurate calculation of lease netback for purposes of producers, in turn, calculating accurate royalty and tax payments. The companies that report these transactions in Texas include all three of the major gas producers on the North Slope. Texas has offered to make its computer models used in monitoring transactions available to Alaska.

Goal #5: Recommend policies that assure clear and transparent rules for access to natural gas into and out of the gas pipeline for Alaska businesses and customers.

Recommendation:

The State must develop a clear and sophisticated understanding of the "open season" rules governing access to a contract carrier pipeline, and devise strategies to facilitate access to the pipeline for firms exploring for or developing new gas discoveries on the North Slope or Interior basins.

Recommendation:

The state should incorporate in any federal legislation the right to gas access in-state. This right is provided in ANGTA but not provided in the producers' recently proposed federal legislation.

Recommendation:

The state should first seek federal legislation that gives the RCA authority to set tariffs for the transportation of intra-state gas used in state similar to that authority given to the RCA for tariff review on the TAPS oil line. The state RCA should review applications for pipeline access within the state to ensure fairness in pre-determined fees and terms based on reasonable rates of return for investors who ship to in-state consumers.

Recommendation:

Failing to achieve RCA, obtaining sole authority in-state, the state should seek through federal legislation the creation of a Joint Board between the Regulatory Commission of Alaska and the Federal Energy Regulatory Commission that would have authority to set tariffs for the transportation of intra-state gas used in state. This joint board should participate in review of applications for pipeline access within the state to ensure fairness in pre-determined fees and terms based on reasonable rates of return for investors who ship to in-state consumers.

Recommendation:

Alaska should consider including a "fairness" clause in the granting of state right-of-way approvals across state lands to guarantee fair access, similar to provisions developed by Texas for pipeline rights-of-way approved across state lands. Such a clause will give the

state valuable leverage in negotiating fair access rules. The clause could also provide an avenue for appeal to the RCA in the event of disputes.

Recommendation:

The state should complete a thorough socio-economic study of various approaches to in-state natural gas pricing of in-kind royalty gas.

One approach is that the sales price of in kind royalty gas or gas liquids to in-state users, whether private or state, be based on the market netback price of gas on the North Slope (which is determined by subtracting actual pipeline transportation costs from actual realized market sales prices in the Lower 48 or other outside markets) adjusted for intra-state tariffs actually incurred for the transportation of the gas to the in-state access point, or hub, and then transportation costs to the consumer with allowance for an reasonable rate of return on investment. Price of gas or gas liquids to in-state users should not be based on comparisons with alternative fuels, such as diesel. Providing that the intra-state tariff is determined on a prorated basis and not the "postage stamp" methodology, this policy will create a supply of reasonably priced, clean energy for communities in Interior Alaska, and ultimately Southcentral Alaska if a spur line is built. These more affordable natural gas prices would passed along to consumers who purchase from a regulated utility but may not be passed along to consumers who purchase from a non-regulated company. A problem with this approach is that the State receives a potentially lower netback value than if the price is determined through competition with other fuels. This may favor the consumers in that area at the cost of lower State revenues. On the other hand, such an approach could mean more affordable natural gas to a large number of customers who purchase from regulated utilities, potentially enhancing economic development and quality of life for businesses and consumers.

Another approach is that the sales price of in kind royalty gas or gas liquids to in-state users should be based on being competitive with the pricing of alternative fuels. as that may create higher netback prices resulting in higher royalty and tax revenues to the state. This would potentially increase the revenue received by the State but would not significantly lower the costs of consumers using this in-kind gas or gas liquids. However sellers other than the State could compete for these higher netback markets and so drive the price down well below the alternative fuels.

Conclusions:

* Some existing, large pipeline companies in the Lower 48 have built pipelines with spare capacity as a speculative investment, allowing for future growth in volumes and revenues. Some pipeline companies do not invest in speculative capacity. Producers also

tend not to invest in speculative, spare capacity but tend to construct to immediate capacity needs.

Without spare capacity in the pipeline, it is very important that the State have a clear understanding of the "open season" rules and how to position for new entrants being allowed to produce into the pipeline.

* It is recognized that with a thick-wall, high-pressure pipeline, access taps and liquids processing facilities will be expensive. Points for gas offtake might be limited economically and operationally to only one or two distributions "hubs" along the pipeline route in Alaska.

* With a limited number of "hubs" for offtake, it may be more economical for several Interior and rural communities to obtain the clean energy not by direct natural gas use, but by benefiting from potentially economic electricity generation and natural gas liquids (propane) distribution from the centralized "hub" location(s).

* To fairly govern gas taken off at an in-state distribution hub(s), general access terms should be developed in advance by the RCA (or the Joint Board of RCA and FERC) that are clear and understandable. Similar general terms have been developed to govern contracts at gas trading hubs in the U.S., United Kingdom and the European Union.

Goal #6: Assess pipeline sizing and the pipeline "contracted volumes" structure for growth of in-state use and/or potential future export markets to Asia and the West Coast, or expansion of deliveries to the Lower 48.

Recommendation:

The state should investigate ways of working with pipeline transmission companies as investors to build in excess capacity, to provide space for transporting new gas that will be discovered on the North Slope or Interior basins.

Recommendation:

The State should evaluate innovations in using part of its "in kind" royalty share in contract sales to energy trading companies who can bid for shipping capacity which then may be used in a creative way in the future to ship gas from new discoveries while the State elects at the time of new discoveries to change and sell the originally nominated royalty gas volumes "in value".

Recommendation:

The state should seek an order by FERC or federal legislation for periodic open-season nomination periods, to allow for additional capacity to be built for new gas, when

triggered by requests from existing or potential producers, transporters, shippers, customers, or the state.

Conclusions:

- * Failure to provide for additional capacity either at startup or through future open seasons could have the effect of creating a "monopoly" on pipeline capacity by existing producers, discouraging exploration by others who are not owners of the pipeline.
- * Strategies for natural gas pipeline open season nominations and shipping arrangements become very complex. A new Natural Gas Services group could have such expertise in-house or these skills could be out-sourced to experienced gas trading firms.
- * Because of current lease terms and statutes, the producers must allow to have enough capacity and construction size to ship the entire volume of the State's royalty share of gas "in value" if the State were to elect at any time to have its royalty share sold direct by the producers.

Goal #7: Evaluate conceptual options for future value-added projects during the fifty-year life of gas reserves for in-state use and/or export to Asia and the U.S. West Coast.

Recommendation:

No one can rule out with certainty the viability of value-added processing of natural gas in Alaska over the next 50 years. Alaska should have a natural gas pipeline that allows this option to remain open. The previous recommendations regarding access, reasonable tariff and pricing, and capacity expansion will keep these options open.

Recommendation:

Gas and gas product markets are highly cyclical in price and somewhat cyclical in demand, and somewhat regional in nature thus the State should facilitate a pipeline option that will allow access to multiple markets in the future.

Recommendation:

As markets change, the state should take a proactive role in encouraging investors to consider the possibilities for liquefied natural gas (LNG), gas-to-liquids (GTL), expanded uses of natural gas liquids (NGLs such as propane, butane), and downstream processing such as petrochemicals.

Conclusions-General:

- * Original investors in the Trans-Alaska Pipeline System, the producers, estimated the life of the North Slope oil fields at 25 to 30 years. Twenty-five years have passed since startup of the TAPS line, and these investors are now applying for a 30-year extension to

the rights-of-way for TAPS, so that oil developed since the pipeline startup can be shipped to market.

* The same circumstance may develop for North Slope gas, as exploration continues on the North Slope. Accordingly, the state should position itself for a 50-year life for a new natural gas industry and encourage development of a system that will access multiple markets. Only a gas pipeline following the southern route will be able to access additional markets through a spur line to an LNG plant on the southern Alaska coast.

* Oil and gas are commodities, and all commodity markets experience supply/demand and price cycles. If Alaska has access to multiple markets for gas, to the Lower 48 through an all-land pipeline, to the U.S. West Coast and Asia through LNG shipments, and into the growing petrochemicals industry through sales of gas and natural gas liquids, the state will benefit because the commodity cycles may be different in these markets at different times as has been past history. In the future, there could be a more uniformly priced global gas market, however, there will likely remain cycles in volume demand or demand trends by regions.

* There is also the longer-term potential for a gas-to-liquids industry, with plants in Alaska manufacturing clean-burning liquid fuels directly from natural gas, and for development of new industries related to the petrochemicals industry. These may be important future "value-added" industries for the state over the long-term.

Conclusions-LNG

* Both Cambridge Energy Research Associates and the gas producers have provided information to the Committee that the cost of delivering LNG to Asian markets is currently not competitive with LNG supply from other sources, such as Indonesia, Malaysia, Australia and the Middle East.

* Yukon Pacific Corp., the Alaska Gasline Port Authority and a citizens' group have presented information that they believe LNG exports from Alaska is currently competitive. Yet none of these organizations have secured substantial financial backing or presented firm contracts for sales of LNG.

* Despite this, no one has presented information that rules out LNG in the future. Asian nations may want to secure large-scale supplies of LNG from Alaska for purposes of energy security, to not be dependent on one or two regions such as the high-risk Middle East for the majority of import needs. Therefore, it is in Alaska's interest to maintain the flexibility to be able to supply LNG to export markets, or to U.S. West Coast markets, in the future.

Conclusions-GTL:

* Large-scale gas-to-liquids projects, the making of clean-burning liquid fuels from natural gas, could be an option for North Slope producers if they do not proceed with a gas pipeline project. These liquids could be shipped down the existing trans-Alaska oil pipeline. Testimony from the producers and information presented at a recent international conference on gas-to-liquids, held in Girdwood, indicate that large-scale application and commerciality of such a remote resource of gas as the North Slope reserves using GTL technologies may be 10 years in the future, if ever, versus competitive sources of gas elsewhere that could use the GTL technologies.

* There is sufficient potential for growth of North Slope gas reserves, and the expectation is that there will be sufficient reserves established for both a conventional gas pipeline and gas-to-liquids plants, once it can be shown that Alaska GTL plants can be commercially viable on a large scale.

* A possible negative for a stand-alone GTL project, without a gas pipeline is that it would lock Alaska into one market for its gas, the West Coast fuels markets. It may not be cost competitive to serve other markets with GTL fuels from Alaska because of shipping distances. However, if a gas pipeline is built, GTL could be a potential value-added product that reaches a different market, the future demand for clean-burning fuels on the U.S. West Coast.

Conclusions-NGLs

* Information presented at the Girdwood GTL gas conversion conference indicates major breakthroughs in cost-reductions of processing natural gas liquids through related technologies. Costs of processing NGLs today is seen as much less than was the case a few years ago. This could serve to enhance the viability of a gas pipeline that also carries NGLs to market.

* The NGL business in the U.S., mainly in propane and butane, is a very large multi-billion dollars industry and a key component of the integrated natural gas industry. The producers are studying the construction of a large NGL extraction plant in Alberta.

* A gas access and distribution hub(s) built near Fairbanks or Delta Junction could facilitate expanded production and sale of NGL products in the state, for distribution to Interior or rural communities. Fuels from NGLs have the potential for becoming an economic and clean-burning alternative source of energy for Alaska communities. The Williams Companies and other firms in Fairbanks are now assessing investment opportunities and potential for uses of NGLs.

Conclusions-Petrochemicals:

* A previous assessment of a petrochemical industry for Alaska, done by Dow-Shell, found that a petrochemical industry would not be viable in Alaska at the time that study was done. However, changed circumstances have affected several assumptions used in

the study. Dow-Shell assuming that a separate, small-diameter gas liquids pipeline would be built from the North Slope, and envisioned an industry based on manufacturing complex petrochemicals.

* Today there is a proposal for a natural gas pipeline that could also carry NGLs, so there is no need for a separate pipeline. Also, one new study underway of using NGLs, by Williams, envisions manufacturing a simpler petrochemical product than that envisioned in the Dow-Shell study.

* Williams' study is considering the making of polypropylene, one of several petrochemical products in the olefin family, and shipping the product via the Alaska Railroad to Anchorage for shipment to markets in Asia. Olefins are fundamental feedstocks for the rapidly growing plastics industry. It is a business involving \$41 billion in annual sales, with significant supply shortfalls expected in 2006. Williams has completed an initial screening study and is now engaged in a more detailed analysis of its study.

* All three major producers on the North Slope have recently expanded their olefins business in the Lower 48. All three of the major producers have extensive separate businesses in olefins in the U.S. and Canada. For example, ExxonMobil is ranked as the number 3 producer of ethylene in North America, while Phillips-Chevron is number 4, and BP is ranked number 7.

Goal #8: Determine strategies to promote and attract investment for in-state distribution and value-added processing.

Recommendation:

The state should develop and periodically update a formal marketing plan to attract investors in Alaska who may be interested in in-state gas distribution or development of value-added industries. Assisting this could be an additional function of a new Natural Gas Services group within the Department of Natural Resources.

Conclusions:

* It should be recognized that Alaska businesses, such as Enstar and Fairbanks Natural Gas Company, have already voiced interest in developing more in-state distribution.

* While the scale of in-state processing may not be attractive to the major producers, in-state value added businesses may be of interest to Alaska Native Corporations and other Alaska companies once a gas infrastructure exists.

DRAFT
Committee Report
Environmental Considerations Committee
Peg Tileston, Chair

Goals:

- To define and address key environmental issues, both natural and human, associated with the construction of a natural gas pipeline.
- To make recommendations for policies and procedures necessary to ensure that the design, construction, and operation of the natural gas pipeline will proceed in an environmentally sound manner.
- To identify potential environmental benefits of a natural gas pipeline.

Introduction and Background

The proposed Alaska natural gas pipeline project is comparable to the Trans-Alaska Pipeline System (TAPS), which was built in the mid-70s to transport crude oil from Prudhoe Bay to the Valdez Marine Terminal. The gas pipeline under consideration is proposed to be large-diameter (up to 52 inches), high-pressure, chilled, completely buried (except for above ground crossings of the Yukon River and possibly the Tanana River), and supported by a number of compressor stations. In addition, a large conditioning plant will be required on the North Slope to treat the natural gas before it enters the pipeline. Furthermore, the proposed Highway route would be international, crossing portions of the United States and Canada and thus requiring trans-boundary coordination of the pipeline's daily operation, maintenance, and emergency response capabilities. Except where noted the comments in this report deal solely with the Alaska segment of the proposed gasline.

Much has been learned from the TAPS experience over the last 27 years. When the State of Alaska and federal agencies undertook oversight of the design and construction of the TAPS project, they embarked on a new frontier and there was limited understanding of the impacts and problems associated with a project of that magnitude. Delays caused by litigation provided industry and agencies with an opportunity to review and improve TAPS engineering design and construction planning. This review resulted in successes, but there were also unanticipated failures. Careful planning and design, as well as continuing vigilance in monitoring and enforcement are essential to reducing environmental concerns.

Oversight and regulation of TAPS have been enhanced over time due to a commitment to continuous improvement of the oversight process by industry, government and the public. In the early 1990s, the Joint Pipeline Office (JPO) was established to provide a coordinated, cooperative federal-state structure for oversight of the line. This has proven to be an effective inter-agency oversight mechanism. A similar joint office, the Gas

Pipeline Office (GPO), has been established for the natural gas pipeline, and it is important that it be adequately funded and staffed with highly qualified personnel to provide the needed agency liaison and coordination of the permitting standards and process.

The impacts of a project of this magnitude will be extensive, particularly during the construction phase, and must be considered not only in the context of the natural environment but also as it will affect the human environment. Quality of life in communities can be degraded in numerous ways ranging from reduced services, traffic congestion, crowded schools and health services, reduced recreational opportunities, and inflationary pressures. Rural residents depending on subsistence may experience increased industrial and recreational activities in traditional hunting and fishing areas. On the other hand, pipeline construction will create jobs and increase short-term economic opportunities, and the completed pipeline could supply natural gas to communities that presently depend on less efficient liquid petroleum products for energy, altering lifestyle and environmental patterns ranging from fuel consumption to air quality over the long term.

The charge for the Environmental Considerations Committee of the Natural Gas Policy Council is to make recommendations to assure that the project follows Governor Knowles' policy of "doing it right." The committee has determined that its most effective contribution is to recommend needed policies and procedures, many of which should be put into place as early as possible during engineering design and prior to the start of construction. Every effort must be made to ensure that best technology and best environmental practices are implemented in order to make the project as environmentally benign as possible, and to make sure that the net impact on human lives will be positive. The following recommendations to decision-makers are presented with these goals in mind.

Recommendations and Supporting Rationales

1. Endorse the Alaska Highway gas pipeline route as the environmentally preferred pipeline route that minimizes the potential adverse environmental effects and maximizes potential environmental benefits to Alaska.

An Alaska Highway route would limit the gasline to an existing corridor, minimizing impacts to the environment as well as to fish and wildlife. It would also allow Alaska communities access to a cleaner, more efficient fuel. In addition, a highway route following the TAPS line would make oversight of both lines more efficient and effective. At hearings of the Gas Policy Council, Alaskans voiced overwhelming support for the environmentally preferred southern route.

Any frontier route would require a "start from scratch" approach, including collection and analysis of physical, biological, and social data and determination of required technology.

2. Recommend that the GPO conduct a thorough review of "lessons learned" from TAPS design, construction, and operation. This review should include public comment and public participation. Use "lessons learned" to develop procedures for the gas pipeline that ensure past mistakes are avoided and successes repeated.

A natural gas pipeline following the TAPS/Alaska Highway corridor will have many environmental concerns similar to those of the earlier project. Certain differences need to be identified and addressed, such as the effect of a buried, chilled pipeline crossing beneath streams, geologic and hydrologic data for areas where TAPS is not buried, and design and operational differences between a low-pressure, hot oil line and a high-pressure, cold gas line. In addition, Canadian and other high-latitude gas pipelines should be studied for lessons learned.

A rigorous environmental review should be required and could be done either by a supplemental environmental impact statement (EIS) building on the ANGTS EIS or a full EIS done in an expedited manner using information from the ANGTS EIS. The outcome of either process should spell out for public review the full range of alternatives, environmental pros and cons associated with them, and mitigation measures that should be taken to avoid or minimize adverse impacts.

3. Adequately fund and staff a natural gas pipeline office that is housed in one place to facilitate communication, coordination, and cooperation among all affected state, federal, and Canadian agencies.

Lack of timely and complete communication among agencies can have severe consequences on any project, but can be particularly difficult in one of this size. A facilitated review of the JPO operation by all the involved agencies to note procedural changes they might recommend to improve effectiveness and efficiency would be beneficial. Acquiring personnel with the necessary technical and scientific expertise may be difficult for both federal and state agencies when competing with industry, which will be hiring for the same positions and will have considerably higher salary scales. Every effort should also be made to include the considerable number of borough and local agencies concerned with the various project alternatives, along with Alaska Native corporations, tribes, and villages that will be affected by a pipeline right-of-way (ROW).

4. Establish an open and available data and information process for the public, agencies, and industry.

Frustration and suspicion take hold when individuals, organizations, and communities are unable to get information on issues of concern in a timely and appropriate manner. Such a process should start at the beginning of the project and make available all non-proprietary material. Meaningful involvement by affected communities is important. Effort should be made to include all stakeholders, not just decision-makers. Websites, e-mail addresses, and information repositories, such as local libraries, borough offices, and central sites such as the Alaska Resource Library & Information Services (ARLIS) should be used as effectively as possible and adequately funded. An information clearinghouse such as the Exxon Valdez Oil Spill Library (which is now consolidated in ARLIS) could be an appropriate approach.

5. Establish mandatory training for all personnel involved with the gas pipeline project.

Timely, appropriate, and sufficient training is vital for all personnel associated with a major project. Such training should start with applicable federal, state, and local laws and regulations, agency mandates and responsibilities, enforcement options and penalties for noncompliance, best practices, and appropriate technologies. Government and industry should coordinate to ensure commensurate levels of training for the public and private sectors, including all contractors and subcontractors. Sessions to update personnel as the project progresses should be included, along with required orientation for those joining it.

6. The state should take a long-term view of the gas pipeline to minimize environmental concerns.

In view of the likely long-life of this project, the state should encourage a long-term view be taken in design, construction, operation, and maintenance in order to mitigate environmental risks over the entire life of the project.

7. A records management system for compiling and maintaining complete and updated documentation should be in place at the beginning of the project and maintained and updated throughout the life of the pipeline in accordance with professional document control standards. The state must have copies of all documents.

The TAPS experience has shown that older engineering drawings, including "as-builts"

and documents confirming original facility configurations and placements, have not always been readily accessible by pipeline managers and regulators when needed. Establishing a professionally designed and maintained document control system will help to ensure that accurate records from every phase of pipeline development remain rapidly retrievable under unforeseen future circumstances. This process will undoubtedly be aided by recent advances in technology.

8. Assure that effective and adequate monitoring and enforcement systems are in place at the start of the project and continue throughout the life of the pipeline.

Adequate funding will be needed to ensure that a sufficient number of appropriately trained agency personnel are available for monitoring and enforcement throughout pipeline construction and operation. Agency personnel without a working knowledge of pipeline construction, operation, and maintenance will have little credibility with their industry counterparts. Training of agency personnel associated with all aspects of the pipeline should be integral to the project. Such training should emphasize the prevention and early detection of problems, and understanding of regulations, codes, and penalties. Enforcement of regulations and codes is essential but will not occur without trained personnel who are actually available on site.

9. Direct the GPO to establish a comprehensive citizen's involvement plan. This effort may include the creation of a citizen advisory council with representatives from communities affected by construction of the pipeline.

A determined effort should be made to aggressively involve and engage affected communities during the planning and construction phase through a coordinated federal/state effort. If necessary as determined by the federal/state plan, a citizen advisory council should be formed and adequately funded to receive and evaluate information and respond to pertinent issues. If established, the council would also evaluate their role following construction of the pipeline.

The public involvement process should also include a full review, including stakeholder involvement, of proposed federal grant and state lease right-of-way provisions and stipulations.

10. Provisions should be incorporated into ROW lease agreements to ensure that adequate DR&R funding will be available for the Alaska segment of the natural gas pipeline.