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129:4



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

AGENDA

**Anchorage Legislative Information Office
Basement Conference Room**

**September 19, 2001
9:00 a.m. – 6:00 p.m.**

Topic: Producer's Legislation

Wednesday, September 19

9:00 a.m. – 9:05 a.m. Call to Order and Introductions
9:05 a.m. – 11:00 noon Section by section overview/discussion of Producer's
Legislation

Patrick Coughlin, Special Consultant to the Senate Resources Committee

Producer's Team

Foothills Pipe Lines, Ltd.

Anadarko/ Alberta Energy

Alaska Gasline Port Authority

Session: January – May
State Capitol, #427
Juneau, AK 99801
Phone: 907-465-2828
Fax: 907-465-4779

Interim: May – December
35477 Kenai Spur Hwy., Suite 101A
Soldotna, AK 99669
Phone: 907-260-3041
Fax: 907-260-3044

Joint Committee on Natural Gas Pipelines
September 19, 2001 meeting
Page 2

11:00 a.m. – 12:00 noon	Public Testimony (limit to three minutes unless previously arranged by chair)
12:00 p.m. – 1:30 p.m.	Lunch Break
1:30 p.m. – 1:45 p.m.	Nan Thompson, Chair of Regulatory Commission of Alaska
1:45 p.m. – 2:00 p.m.	John Katz, Director of State/Federal Relations and Special Counsel to the Governor
2:00 p.m. – 6:00 p.m.	Committee discussion on federal legislation

Alaska State Legislature

Senator John Torgerson, Chair
Phone (907) 260-3041
Fax (907) 260-3044



Representative Joe Green, Vice Chair
Phone: (907) 269-0123
Fax (907) 269-0124

Joint Committee on Natural Gas Pipelines

FOR IMMEDIATE RELEASE: Sept. 12, 2001

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

Chairman Restates Pipeline Route Preference **Producer Threats Won't Sway Legislature From Southern Route**

(ANCHORAGE) – Responding to published threats that natural gas producers would abandon their pipeline feasibility studies if government ruled any route off-limits, the chairman of the Joint Committee on Natural Gas Pipelines on Monday strongly restated the Legislature's opposition to an "over-the-top" route that would deny Alaska the greatest benefits of North Slope gas development.

"The 'over-the-top' line is just not going to happen," said Sen. John Torgerson (R-Kasilof), chairman of the joint pipeline committee. "The Legislature passed a law against it last session, Rep. Don Young inserted language in the energy bill the House passed opposing it, Sens. Ted Stevens and Frank Murkowski oppose it in the Senate, the North Slope Borough opposes it, the Eskimo whalers oppose it and folks all over Alaska oppose it. How much clearer do we have to be?"

"Bringing North Slope gas through a southern pipeline is our best chance to fuel Alaska's economy into the 21st century," said Rep. Joe Green, vice chairman of the joint pipeline committee. "It means more construction and operations jobs for Alaskans, a reliable source of power for countless Alaska communities, and a source of hydrocarbon feed stock that could nurture a home-grown petrochemical industry in the North."

Following full and frank discussions on the issue with Torgerson and Green, BP's Gas Business Unit Leader Ken Konrad said Monday that the consortium understands and respect the Legislature's responsibility to advocate for gas development that benefits all Alaskans. He said the group is continuing its studies, and would work with the Legislature to find mutually acceptable solutions to any challenges that arise.

"We are not going to do a project that Alaska doesn't want," Konrad said.

While producers claim an over-the-top route would be shorter and could cost less to build, Green said it carries significant negatives, including: the environmental hazards of building undersea pipeline in an Arctic marine zone with massive ice scouring; concerns for the bowhead whales that are the foundation of the Inupiat Eskimo culture and subsistence hunting; and the long delays, high costs and low probability of winning government permits to build along the coast.

(MORE)

In a related development, a gas industry trade paper on Monday quoted a consortium employee as saying that neither of the two routes under consideration is economically viable because "the state is unwilling to give us a tax structure for our modeling." Konrad said that statement resulted from a miscommunication.

"We are working productively with the State to understand the many issues and options," Konrad said. "It's in the best interest of both the State and investors to have fair and certain rules around taxes before major commitments are made."

The joint pipeline committee will continue working energetically to address and resolve any issues that might impede progress on one of the most important economic issues before the state, Torgerson said. He noted that Committee members recently concluded an official protocol mission to solicit cooperation with Western Canadian governments on pipeline issues, and that the committee would continue its statewide meetings to take testimony from industry experts and the public with a meeting in Anchorage on Sept. 19.

"Following that meeting, I will be traveling to Washington, D.C. on behalf of all Alaskans, to make clear the state Legislature's opposition to the over-the-top route," Torgerson said.

"Alaska's natural gas is the energy of the future, and finding a way to get this gas to market is one of the most important development prospects on Alaska's economic horizon," Green said. "The people want it, the Legislature wants it and the industry wants it. I have every confidence that we can all work together for a gasline project that will benefit everyone."

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MEMORANDUM

SEP 14 2001

To: Members of the Joint Committee on Natural Gas Pipelines

From: Senator John Torgerson, Chair 

Re: Backup Material for September 19 meeting of the Joint Committee on Natural Gas Pipelines regarding Producer's legislation.

Date: September 11, 2001

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- 1) Alaska Gas Pipeline Status Report
- 2) Producer's Legislation
- 3) Sectional Analyses of the Producer's Legislation
 - a) Producers
 - b) Senate Resources Committee, prepared by Patrick Coughlin
 - c) Foothills Pipe Lines, Ltd.
 - d) Anadarko
 - e) Mike Macy
- 4) Foothills Pipe Lines, Ltd. letter dated September 11, 2001 regarding possible alternative federal legislation.
- 5) Van Ness Feldman, Attorneys for Foothills, letter to Senator Murkowski
- 6) Foothills Pipe Lines, Ltd. withdrawn partner list
- 7) Floor remarks by Senator Bingaman, Chair of the U.S. Senate Energy and Natural Resources Committee.

Session: January – May
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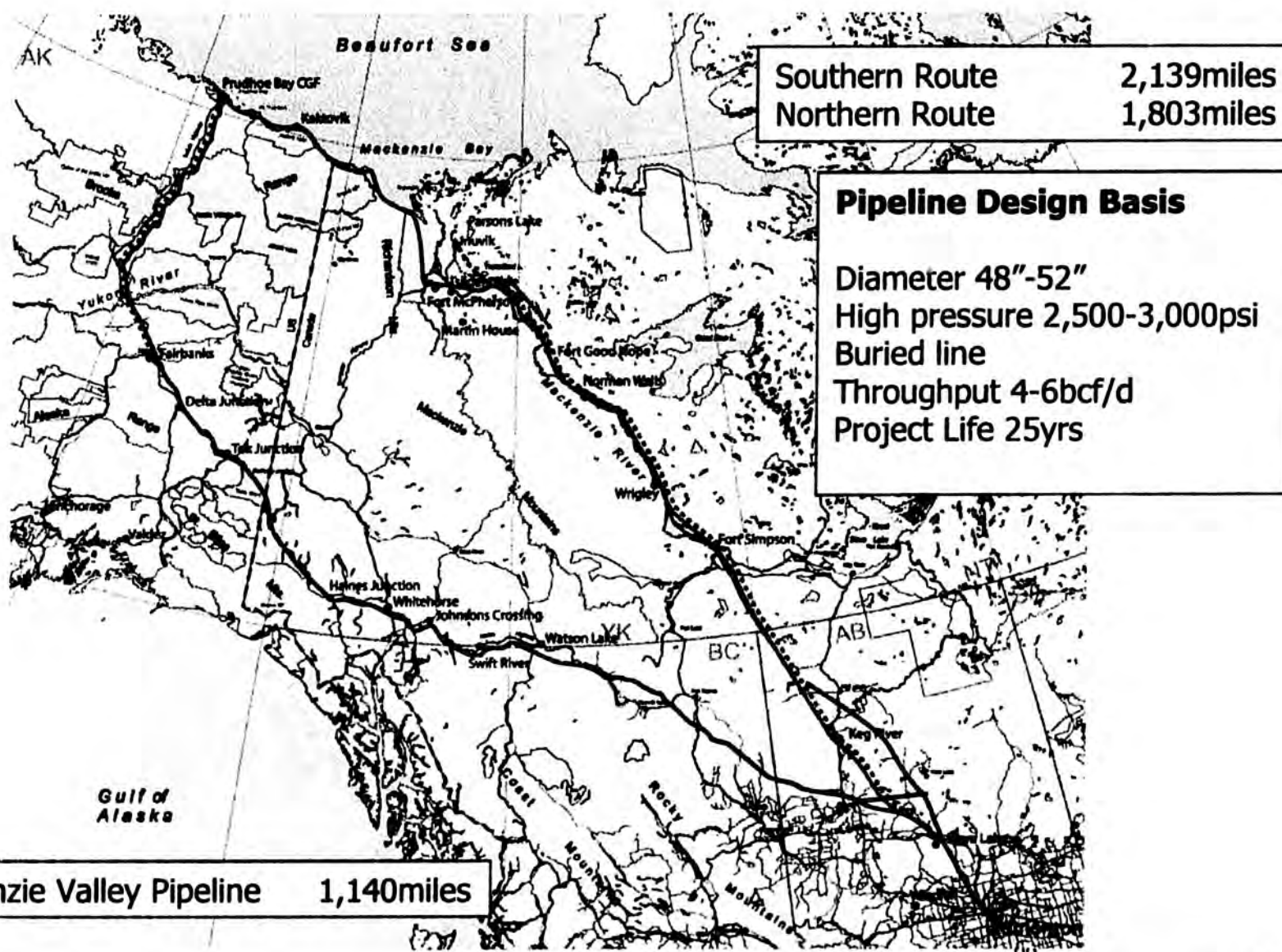
Interim: May – December
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Alaska Gas Pipeline Status Report

- Feasibility study underway – expect engineering to be completed by year-end.
- Sharing interim/preliminary data.
 - Comparison of route attribute elements
- Many issues are being evaluated, including:
 - Technology and constructability (costs)
 - Beaufort Sea construction
 - Expandability
- Current analysis indicates project is not presently economic.
 - Cost uncertainty
 - Market volatility
 - Regulatory/political risks
 - Fiscal risks 



Preliminary Comparison of Two Pipeline Routes



August 2001



ExxonMobil



Outline of Information

- Comparison of route attribute elements.
 - Economics
 - Government Revenues
 - Alaska Gas Access
 - Jobs
 - Environment
 - Safety
 - Timing
- Continued joint producer study only justified if:
 - Federal enabling legislation (regulatory efficiency) enacted.
 - State of Alaska fiscal certainty progressed.
 - Route not mandated.
- Summary of Current Status
 - Recap and conclusions.



Element 1: Economics

Neither Route Is Economic

Total Project Cost (\$bn)

(4.0bcf/d from Alaska, 0.8bcf/d from MD)

	South	North
Gas Treatment Plant	2.6	2.7
Alaska to Alberta	9.0	6.8
Alberta to Market	5.3	5.3
NGL Extraction Facilities	0.3	0.3
Alaska Project Total	17.2	15.1
Mackenzie Delta Line	2.3	0.9
Pt. Thomson Development	1.3	1.3

Notional Toll (\$/mcf)

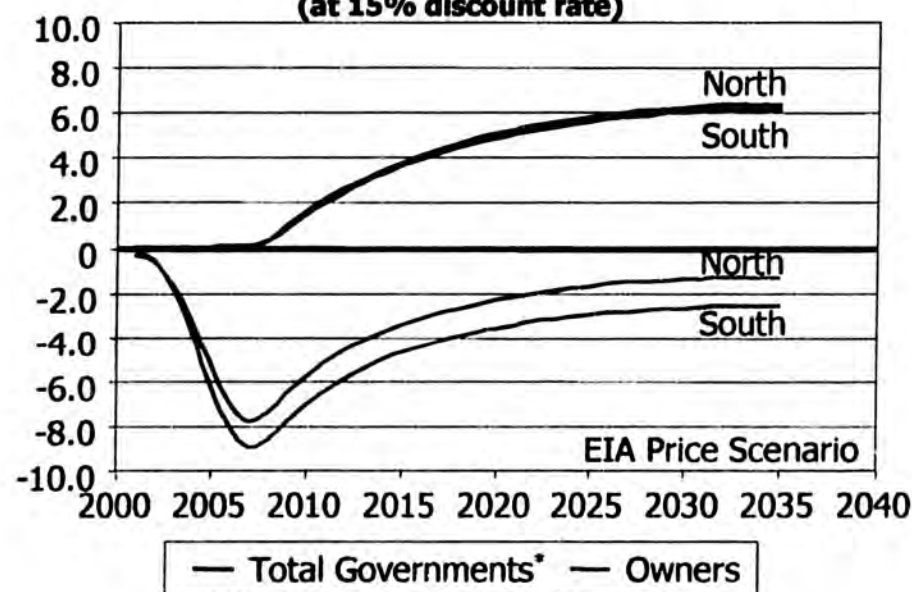
(Alaska North Slope to US L-48 Market)

	South	North
Gas Treatment Plant	0.30	0.32
Alaska to Alberta	1.31	0.97
Alberta to Market	0.78	0.78
Total	2.39	2.07

Price Assumptions

- Based after EIA, ~\$3.00/mmbtu, escalating with inflation.
- View 2000 price spike as an anomaly.

Project Discounted Cumulative Cash Flows (\$bn) (at 15% discount rate)



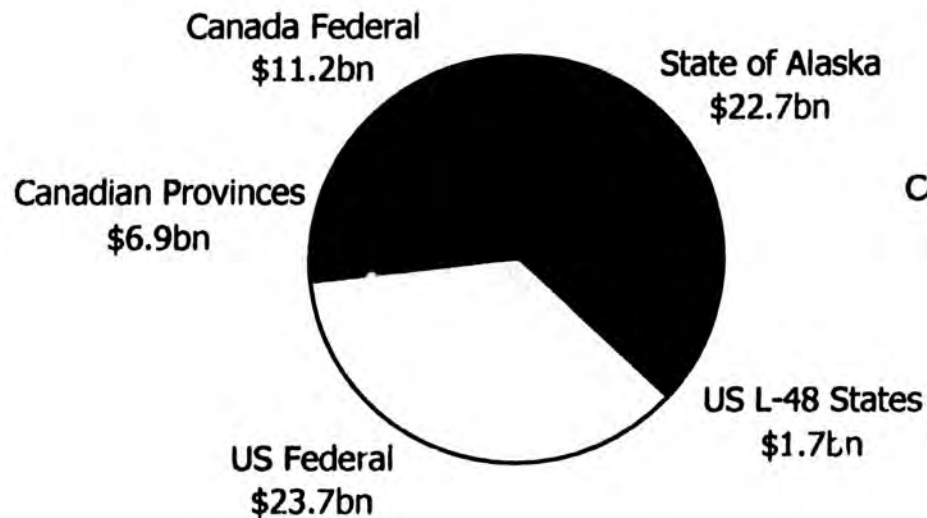
* Includes Mackenzie Delta Benefits

- Owner's investment not repaid.
- Additional risk from price and cost uncertainty.
- Team is still working to improve economics by lowering costs.

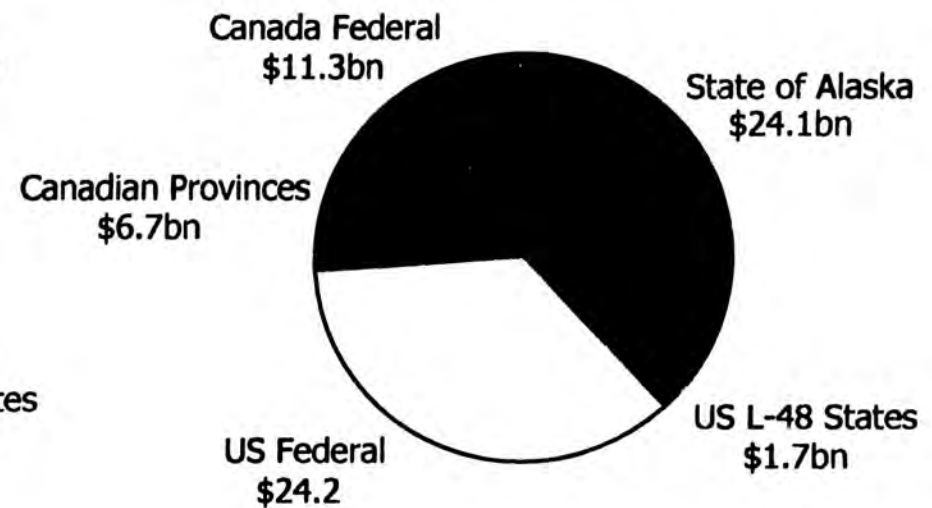
Element 2: Revenues

Substantial Government Revenues Regardless of Route

**Total Undiscounted Revenue
South
\$66.2bn, MoD**



**Total Undiscounted Revenue
North
\$68.0bn, MoD**



Assumptions:

- Both routes include MD upstream and midstream revenues.



Gas to Alaska Is Important to State

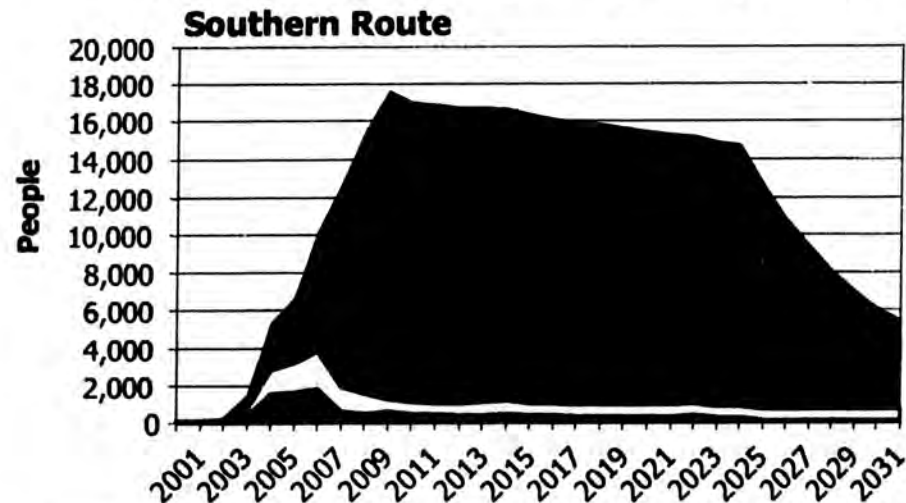
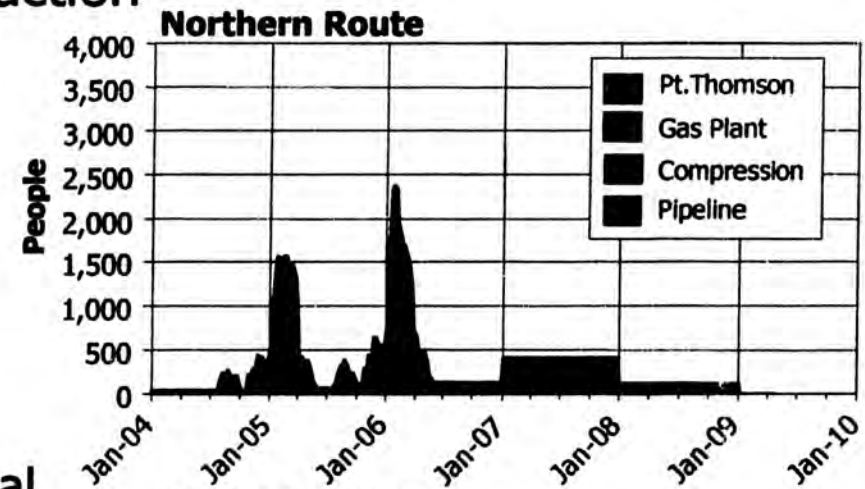
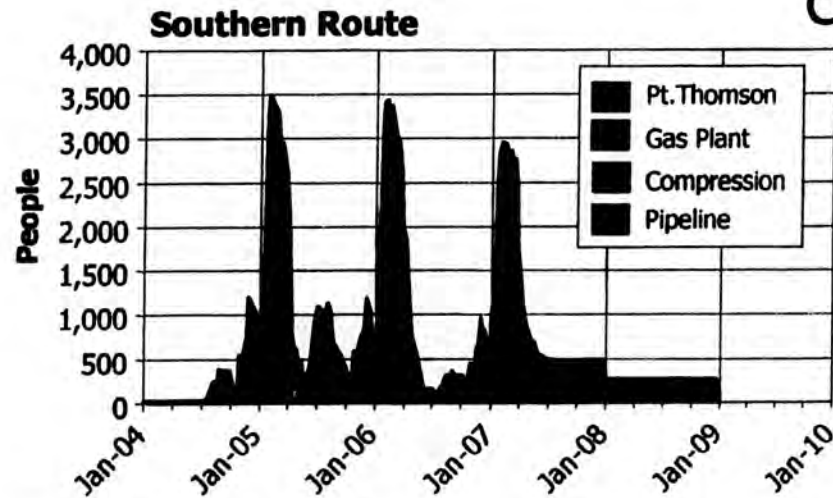
- **We understand this issue is a priority for the State.**
 - Looking for positive solution regardless of route.
- **Alaska gas demand is small relative to overall project throughput.**
 - Mid-term South Central demand could be met through Cook Inlet.
 - Fairbanks energy demand would require significant investment to convert to gas; initial volumes 10-20mmscf/d.
 - Desire to meet potential future gas demand is understood.
- **Alaska demand can be met with either route.**
 - Southern route will run through Alaska.
 - A third-party or government funded trunk line to Fairbanks for Northern route could provide similar access to gas in Alaska as a Southern route.
- **A lower-cost Northern Route generates sufficient incremental revenue for participating governments to fund building of a trunk line from Pump Station 4 to Fairbanks.**



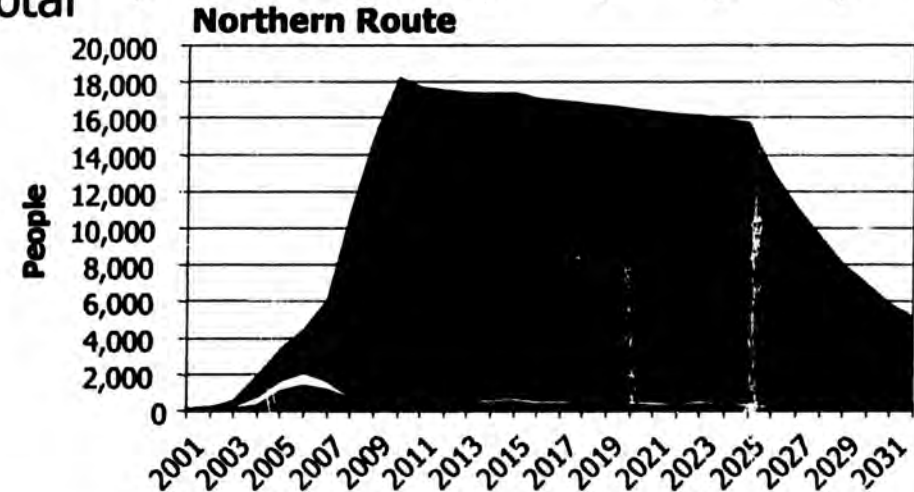
Element 4: Jobs

Massive Number of Alaska Jobs for Either Route

Construction



Total



Direct Jobs - Jobs directly associated with construction, installation, and operation.
Indirect Jobs* - Support industry jobs including activities such as hauling, catering, etc.
Induced Jobs* - Jobs created by increased government and household spend.

■ Pt. Thomson ■ Project Direct □ Project Indirect ■ Project Induced

* Per Northern Economics, 2001.

August 2001



ExxonMobil



Element 5: Environment

Footprint and Beaufort Sea Considerations

	South	North
New Infrastructure (acres)	19,800	17,200
Threatened or Endangered Species Along Route (#)	4	5
Important Wildlife Habitat (miles)	340	440
Environmentally Managed Areas (miles)	300	0
Previously undisturbed corridor (miles)	200	450 Land, 240 Sub-sea
Total CO ₂ Emissions (million tons/year)	2.5	2.0
Compressor Stations (#), horsepower (thousands)	11/512	12/532
Overall Length (miles)	2,139	1,803

- If they occur, gas "spills" vaporize and have significantly less of an environmental challenge than oil spills
- Operation of Beaufort Sea pipeline does not present a known impact to Bowhead whales
 - Possible impact of noise not yet studied
 - Whale migration could be impacted if maintenance or repairs required
- Construction of Beaufort Sea pipeline presents point-source turbidity and noise issues for whale migration
 - May be mitigated by 80-day annual construction window
 - Construction spreads planned to minimize potential interaction with whales (managed same as historic seismic survey activity).
- Northern Route follows same ROW as proposed Mackenzie Delta pipeline.
 - North impacts less than shown if assume MD pipeline built.



Element 6: Safety

Both Routes Are Safe

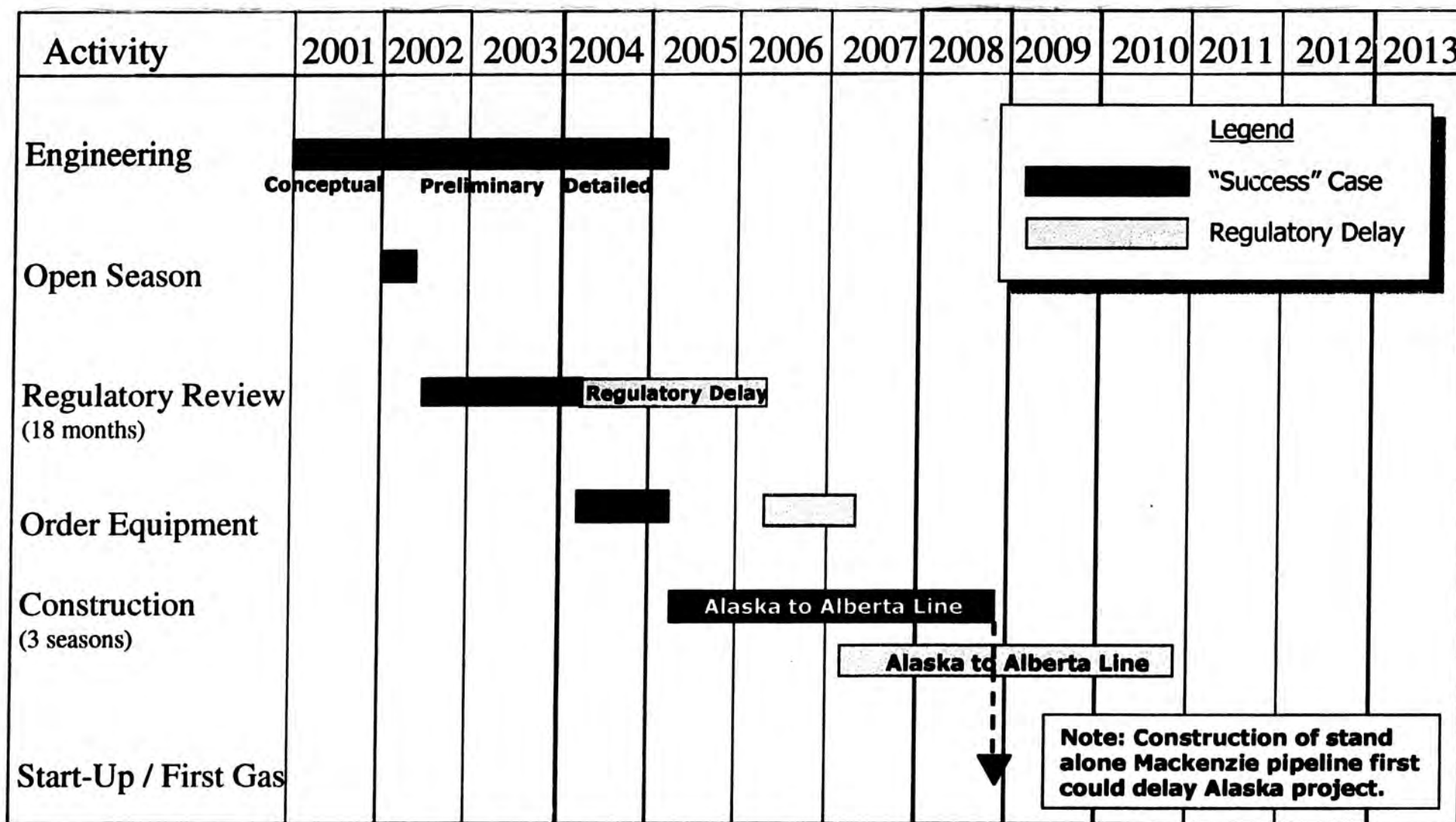
	South	North
Potential Ice Scour	0 miles	240 miles
Steep Slopes	300 miles	-
Seismic Zones	780 miles	-
Water Crossings (#)	950	650
Continuous Permafrost	250 miles	260 miles
Discontinuous Permafrost	1,470 miles	1,140 miles

- No show stoppers at present
 - State-of-the-art technology and design, inherently safe and reliable
 - Extensive pre-installment testing
 - Design for permafrost and discontinuous permafrost
 - Aggressive monitoring (smart pigs, etc)
- Seismic activity
 - Design pipeline to tolerate movement in 3 dimensions (ductile design, expansion joints, etc)
 - Bury in soft "bedding"
- Ice gouging and strudel scour
 - Survey to identify depth of historical scours and subsea geotechnical environment
 - Identify where scour is minimized as much as possible and subsea is suitable for trenching; bury below scour depth



Element 7: Timing

Challenges for Both Routes, Regulatory Efficiency Key to Success



U.S. Regulatory Enabling Legislation

- New legislation does not alter ANGTA; ANGTA remains in place
 - Does not preclude Foothills project proceeding under ANGTA
- Creates market-driven, expedited regulatory process for any viable project(s)
 - Subject to FERC regulation; fair and reasonable terms and conditions; open access
 - Subject to all environmental laws and regulations; 18 month EIS completion
- Creates Office of Federal Pipeline Director in executive branch to coordinate all related government activity
- Provides timely judicial review
- Mitigates regulatory uncertainty/risk
- Essential for continued joint producer study



Alaska State Fiscal Certainty

- Predictability / certainty are vital. Not possible to commit to project if State can later revise project economics
 - Simplification of Royalty / Severance tax valuation
 - Ad valorem tax
 - Royalty-in-value vs Royalty-in-kind - *long term commitment, every 6 months commitment*
- Potential vehicle:
 - Fiscal contract endorsed by legislature
 - 3rd Party dispute resolution.



Closing / Re-cap

- Current analysis indicates project is not presently economic
- Work continues on engineering & design, field work. \$50 million spent to date. Year end target.
- No route decisions have been made; options must not be mandated.
- Governments can help:
 - Enact regulatory enabling legislation – 1st Priority
 - Accelerated depreciation (US and Canada)
 - State of Alaska fiscal certainty
 - Do not foreclose options
 - Work cooperatively (US, Alaska, Canada, First Nations) and be supportive
- Continued joint producer study only justified if:
 - Federal enabling legislation (regulatory efficiency) enacted.
 - State of Alaska fiscal certainty progressed.
 - Route not mandated.
- Successful project = Large benefit for consumers and governments.



S. _____

IN THE SENATE OF THE UNITED STATES

A BILL

To Expedite the Approval, Construction, and Initial Operation of One or More Economically Viable and Environmentally Sound Transportation Systems for the Delivery of Alaska Natural Gas to the Lower 48 States.

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SEC. 1. SHORT TITLE.

This Act may be cited as the "Alaska Natural Gas Pipeline Act of 2001."

SEC. 2. CONGRESSIONAL FINDINGS.

(a) The Congress finds and declares that —

- (1) Over the next 20 years, the demand for natural gas in the United States is expected to increase by more than 50 percent, and the nation's anticipated production, at current growth rates, will fall far short of that level of demand.

- (2) One of the largest known reserves of natural gas in the United States, estimated at over 35 trillion cubic feet, is located in Alaska, in the vicinity of Prudhoe Bay. In addition, it is estimated that there may be up to 100 trillion cubic feet of natural gas on the North Slope of Alaska.
- (3) If delivered to the Lower 48 States, the known and expected natural gas resources on the North Slope of Alaska would make an important long-term contribution to the nation's energy supplies. At present, however, there is no natural gas pipeline system connecting the North Slope of Alaska to the Lower 48 States.
- (4) In 1976, Congress enacted the Alaska Natural Gas Transportation Act (ANGTA), 15 U.S.C. § 719, to expedite completion of a pipeline system connecting the North Slope of Alaska to the Lower 48 States. ANGTA authorized the President and Congress to designate a single project as the Alaska Natural Gas Transportation System (ANGTS), which would be entitled to the benefit of a streamlined regulatory approval process and limited judicial review.
- (5) In 1977, the President and the Congress designated an ANGTS project, and the southern portion of that project (known as the "pre-build") was completed between Alberta and the Lower 48 States in the 1980s and early 1990s.
- (6) Despite the passage of more than 20 years, parties seeking to develop the Alaska-to-Alberta section of the ANGTS project have been unable to

obtain the regulatory approvals or attract the financing necessary to permit construction of the project to begin.

- (7) As a result of the passage of time, some design features mandated for the Alaska-to-Alberta section of the ANGTS project would have to be modified to take full advantage of current technological capabilities, and other changes also may be needed to ensure an economically, environmentally, and technically sound approach.
- (8) The nation's energy supply situation has changed in recent times, thereby triggering renewed interest in a variety of proposals to construct transportation facilities to move Alaska Natural Gas to markets in the Lower 48 States.
- (9) In concert with this renewed interest in understanding technical requirements and determining if an economically viable transportation system can be developed, an important first step in assessing economic viability is to know whether regulatory approvals can be obtained and environmental impacts assessed in a timely fashion.
- (10) Therefore, it is in the national interest to:
 - (i) encourage the renewed interest in proposals to bring about the transportation of Alaska Natural Gas to the Lower 48 States;
 - (ii) provide as much regulatory certainty and expedition as practicable for approval and implementation of any such environmentally sound proposals to enhance their prospects of economic viability

and development and thereby to provide the nation with the benefit of one or more cost-effective transportation systems;

- (iii) allow for the possibility that the market may support now or in the future the construction of more than one transportation system to move Alaska Natural Gas efficiently to the Lower 48 States;
- (iv) rely on competitive market forces, to the maximum extent possible, in determining the future development of Alaska Natural Gas supplies;
- (v) encourage the development of one or more pipeline systems for transporting Alaska gas to the Lower 48 States in a manner consistent with
 - (a) maximizing the delivery of a long-term, reliable supply of natural gas to the Lower 48 States, as soon as possible; and
 - (b) complying with all applicable environmental laws

SEC. 3. CONGRESSIONAL STATEMENT OF PURPOSE

The purpose of this Act is to expedite the approval, construction, and initial operation of one or more transportation systems for the delivery of Alaska Natural Gas to the Lower 48 States by:

- (a) relying on competitive market forces to determine which such system or systems can be built and operated in an economically viable manner;
- (b) providing for the expedited review and approval of applications for a certificate of public convenience and necessity and related federal approvals for one or more pipelines transporting Alaska gas to the Lower 48 States;

- (c) ensuring the full consideration of environmental impacts and related concerns during the review of any proposed Alaska Gas Projects, consistent with the need to expedite such reviews;
- (d) creating an Office of Federal Pipeline Director to direct the efficient and coordinated participation of, and decision-making by, the various federal agencies and other governmental interests involved in the review and approval of one or more Alaska Gas Projects; and
- (e) expediting the resolution of, and limiting the jurisdiction of the courts to review, disputes concerning any aspect of this legislation or the approval process for any Alaska Gas Project.

To accomplish this purpose, Congress intends to exercise its constitutional powers to the fullest extent in the authorizations and directions contained herein.

SEC. 4. DEFINITIONS.

As used in this Act:

- (1) the term "Alaska Gas Project" means any Alaska Facilities Gas Project or Lower 48 Facilities Gas Project;
- (2) the term "Alaska Natural Gas" means natural gas derived from the area of the State of Alaska generally known as the North Slope of Alaska, including the Continental Shelf thereof;
- (3) the term "Commission" means the Federal Energy Regulatory Commission;
- (4) the term "Lower 48 States" means the contiguous States of the United States of America;

- (5) the term "Lower 48 Markets" means any market for the consumption of natural gas that is located within the Lower 48 States;
- (6) the term "Alaska Facilities Gas Project" means any natural gas pipeline system that carries Alaska Natural Gas from the area generally known as the North Slope of Alaska to the border between Alaska and Canada, including any related facilities that fall within the jurisdiction of the Commission; and
- (7) the term "Lower 48 Facilities Gas Project" means any natural gas pipeline system that carries Alaska Natural Gas from the border between Canada and the Lower 48 States to any Lower 48 Markets, including any related facilities that fall within the jurisdiction of the Commission.

SEC. 5. EXPEDITED APPROVAL PROCESS.

- (a) Section 2 of the Natural Gas Act is amended to include the following additional definitions:
 - (11) "Alaska Natural Gas" means natural gas derived from the area of the State of Alaska generally known as the North Slope of Alaska, including the Continental Shelf thereof.
 - (12) "Lower 48 States" means the contiguous States of the United States of America.
 - (13) "Lower 48 Markets" means any market for the consumption of natural gas that is located within the Lower 48 States.
 - (14) "Shipper" means, for purposes of section 7(c)(3) and (4) of this Act, any person that has entered into an agreement with a person that is or will

upon its issuance become the holder of a certificate of public convenience and necessity authorizing an Alaska Facilities Gas Project or a Lower 48 Facilities Gas Project for the purpose of transporting Alaska Natural Gas.

(15) "Alaska Facilities Gas Project" means any natural gas pipeline system that carries Alaska Natural Gas from the area generally known as the North Slope of Alaska to the border between Alaska and Canada, including any related facilities that fall within the jurisdiction of the Commission.

(16) "Lower 48 Facilities Gas Project" means any natural gas pipeline system that carries Alaska Natural Gas from the border between Canada and the Lower 48 States to any Lower 48 Markets, including any related facilities that fall within the jurisdiction of the Commission.

(b) Section 7(c) of the Natural Gas Act is amended to include the following additional paragraphs:

"(3) Notwithstanding any other provision of law, the Commission shall issue a certificate of public convenience and necessity to any person for the construction and operation of an Alaska Facilities Gas Project where:

(A) such person has reached agreement with a Shipper of Alaska Natural Gas for the transportation of natural gas through an Alaska Facilities Gas Project on behalf of such Shipper with the intent that all or a portion of such Alaska Natural Gas, along with any other natural gas, will ultimately be delivered to Lower 48 Markets for consumption; provided, however, that the Commission shall not consider the present extent of

transportation capacity downstream of the proposed Alaska Facilities Gas Project;

(B) rates and charges for, and terms and conditions of, such transportation services can be established in accordance with the procedure provided in subsection (e) of this section; and

(C) terms and conditions for compliance with all environmental laws applicable to the proposed Alaska Facilities Gas Project can be established in accordance with the procedure provided in subsection (e) of this section.

Upon the filing of any such application, the Commission shall determine within 18 months whether the agreement between the Shipper and such person meets the requirements of (A) and whether the matters identified in (B) and (C) can be established in accordance with subsection (e) of this section, and, if so, the Commission shall within such period make the findings, attach such reasonable terms and conditions as the public convenience and necessity may require, and issue a certificate, all in accordance with the procedure provided in subsection (e) of this section.

(4) Notwithstanding any other provision of law, the Commission may issue a certificate of public convenience and necessity authorizing the construction and operation of a Lower 48 Facilities Gas Project to any person that has reached agreement with a Shipper of Alaska Natural Gas that will have been first transported through an Alaska Facilities Gas Project for any continued transportation of such gas from the U.S. border with Canada to any destination

within the Lower 48 Markets, provided that the Commission makes the findings and attaches such reasonable terms and conditions therefor in accordance with the procedure provided in subsection (e) of this section."

SEC. 6. ENVIRONMENTAL REVIEWS.

- (a) **Separate EISs for Alaska Facilities and Lower 48 Facilities Gas Projects.**
 - (1) Before a certificate of public convenience and necessity is issued for any Alaska Facilities Gas Project under Section 7(c)(3) of the Natural Gas Act, a single environmental impact statement shall be prepared for that project and for any gas conditioning plant developed in conjunction with such project in accordance with the National Environmental Policy Act, 42 U.S.C. § 4332(2)(C), and this Act. The preparation of an EIS for a project pursuant to this paragraph shall satisfy the NEPA obligations of each federal agency whose approval is required for that project.
 - (2) Before a certificate of public convenience and necessity is issued for any Lower 48 Facilities Gas Project under Section 7(c)(4) of the Natural Gas Act, a single environmental impact statement for that project shall be prepared in accordance with the National Environmental Policy Act, 42 U.S.C. § 4332(2)(C), and this Act. The preparation of an EIS for a project pursuant to this paragraph shall satisfy the NEPA obligations of each federal agency whose approval is required for that project.

(b) Any environmental impact statement prepared pursuant to subsection (a) of this section shall be prepared in accordance with the regulations and procedures of the lead agency designated for that statement in subsection (c) of this section.

(c) Lead agency for preparation of environmental impact statements.

(1) The lead agency for any environmental impact statement prepared pursuant to subsection (a)(1) of this section shall be the Commission.

(2) The lead agency for any environmental impact statement prepared pursuant to subsection (a)(2) of this section shall be the Commission.

(d) The preparation of any environmental impact statement prepared under subsection (a) of this section shall be expedited. The draft environmental impact statement shall be issued within 12 months after the certificate application is accepted for filing, and the final environmental impact statement shall be issued within 6 months thereafter, unless the Commission determines for good cause that additional time is needed to comply with environmental or other laws.

(e) The scope of any environmental impact statement prepared under subsection (a) of this section shall correspond to the scope of the certificate application for which such environmental impact statement is being prepared.

SEC. 7. FEDERAL PIPELINE DIRECTOR.

(a) The Office of the Federal Pipeline Director shall be established within the Executive Office of the President. The functions of the Office shall be directed by the Federal Pipeline Director, who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) The Federal Pipeline Director shall be responsible for coordinating the expeditious discharge of all activities by federal agencies with respect to any Alaska Gas Project, from the pre-application consultation stage through the completion of project construction and initial operation. The Director also shall be responsible for coordinating the compliance by all federal agencies with the provisions of this Act with respect to such projects. Such coordination shall include requiring submission of scheduling plans for permits, certificates, grants, or other necessary authorizations. Such coordination may include serving as a "one window point" for filing and issuance of all necessary permits, certificates, grants, or other authorizations, and, consistent with law, federal government requests for data or information related to any application for a permit, certificate, grant, or other authorization. Upon the written agreement of the Director and the head of any federal agency, the agency may delegate to the Director any statutory function vested in such agency related to the functions of the Director, including permitting functions.

(c) The Federal Pipeline Director shall be responsible for coordinating the expeditious completion of all environmental and other studies and reviews of any kind that are required or conducted for any Alaska Gas Project. Such coordination shall include requiring the submission of detailed scheduling plans for completing such studies and reviews within the time periods allowed under this Act and also shall include requiring the submission of periodic reports

on agencies' compliance with such plans. Such coordination also may include serving as the "primary point of contact" for the federal government with any and all participants in such studies and reviews, including

- (i) Federal agencies and officials, including those involved in the preparation of an environmental impact statement;
- (ii) State, local, and tribal governments and non-governmental stakeholders; and
- (iii) Canadian agencies responsible for decisions relating to the transportation of Alaska Natural Gas to the Lower 48 States.

(d) The Federal Pipeline Director shall semi-annually submit a detailed report to Congress on the status of all pending applications for Alaska Gas Projects.

(e) There is hereby authorized to be appropriated, beginning in fiscal year 2002 and each fiscal year thereafter, such sums as may be necessary to carry out the functions of the Office of the Federal Pipeline Director appointed by the President under section 7(a) of this title.

SEC. 8. AGENCY REVIEWS AND DECISIONS.

(a) All actions taken by any federal officer or agency with respect to an Alaska Gas Project shall be expedited, in a manner consistent with completion of the necessary reviews and approvals by the deadlines set forth in this Act.

(b) Federal agencies involved in the review or approval of an Alaska Gas Project shall cooperate and coordinate with one another, under the direction of the Federal Pipeline Director, to expedite the decision-making process and to minimize duplication of effort. Such cooperation and coordination efforts shall include, as appropriate, the following:

- (i) memoranda of understanding with applicants or prospective applicants;

- (ii) inter-agency memoranda of understanding;
- (iii) inter-agency coordination procedures;
- (iv) inter-agency coordination meetings;
- (v) joint pre-filing or post-filing consultation meetings with project applicants;
- (vi) joint public meetings; and
- (vii) joint reports, studies, and other documents, including but not limited to the joint environmental impact statement required to be prepared for each Alaska Gas Project under section 6(a) of this title.

(c) Any certificate, right-of-way, permit, lease, or other authorization issued or granted for an Alaska Gas Project shall include the terms and conditions required by law, and may include terms and conditions permitted by law, except that with respect to terms and conditions permitted but not required, the federal officer or agency, notwithstanding any other provision of law, shall have no authority to include terms and conditions that the Federal Pipeline Director determines would prevent or impair in any significant respect the expeditious construction and initial operation of an economically viable and environmentally sound system for transporting Alaska Natural Gas to the Lower 48.

(d) Any federal officer or agency, with respect to any certificate, permit, right-of-way, lease, or other authorization issued or granted by such officer or agency for an Alaska Gas Project, may, to the extent permitted under laws administered by such officer or agency, add to, amend, or abrogate any term or condition included in such certificate, permit, right-of-way, lease, or other authorization except that with respect to any such action that is permitted but not required by law, such federal officer or agency, notwithstanding any such other provision of law, shall have no authority to take such action if the Federal Pipeline Director determines that it

would prevent or impair in any significant respect the expeditious construction and initial operation of an economically viable and environmentally sound system for transporting Alaska Natural Gas to the Lower 48.

SEC. 9. JUDICIAL REVIEW.

(a) **Exclusiveness of Remedy.** Notwithstanding any other provision of law, the actions of federal officers or agencies taken with respect to any Alaska Gas Project shall not be subject to judicial review except as provided in this section.

(b) **Limitations on the Filing of Claims.**

(i) Claims alleging the invalidity of this Act may be brought not later than the 60th day following its date of enactment.

(ii) Claims alleging that any action taken by a federal officer or agency in connection with as Alaska Gas Project will deny rights under the Constitution of the United States, or that any such action is in excess of statutory jurisdiction, authority, or limitations, or short of statutory right, may be brought may be brought not later than the 60th day following the date of such action, except that if a party shows that he did not know of the action complained of, and a reasonable person acting in the circumstances would not have known, he may bring a claim alleging the invalidity of such action not later than the 60th day following the date of his acquiring actual or constructive knowledge of such action.

(c) **Exclusive Jurisdiction of Special Court.** A claim under subsection (b) of this section shall be barred unless a complaint is filed prior to the expiration of the time limit specified in that subsection in the United States Court of Appeals for the District of Columbia

Circuit acting as a Special Court. Such court shall have exclusive jurisdiction to determine such proceeding, and no other court of the United States, or any state, territory, or possession of the United States, or of the District of Columbia, shall have jurisdiction of any such claim in any proceeding instituted prior to or on or after the date of enactment of this Act.

(d) **Expedited Procedures.** With respect to any claim under subsection (b) of this section, the United States Court of Appeals for the District of Columbia Circuit shall set the matter for expedited consideration, taking into account the national interest as defined in section 2 of this Act.

SECTION 10. SEPARABILITY.

If any provision of this Act, or application thereof, is held invalid, the remainder of this Act shall not be affected thereby.

ANGTA Comparison

- New Legislation does not alter ANGTA; ANGTA remains in place
 - Does not preclude project proceeding under ANGTA
- ANGTA
 - Historic attributes contrast today's environment
 - Deregulation of gas business
 - Not market driven
 - Major technology changes
 - Modern environmental standards are higher
 - Modern day project cannot support additional liabilities
 - Not route neutral



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Enabling Legislation - Outline

- Section 1 Short Title
- Section 2 Congressional Findings
- Section 3 Statement of Purpose
- Section 4 Definitions
- Section 5 Expedited Approval Process
- Section 6 Environmental Reviews
- Section 7 Federal Pipeline Director
- Section 8 Agency Reviews and Decisions
- Section 9 Judicial Review
- Section 10 Separability



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Section 5 – Expedited Approval Process

- **FERC required to certificate Alaska to Alberta project if 3 criteria are satisfied:**
 - Project backed by a shipping commitment
 - FERC is satisfied as to “rates” and “terms and conditions” (access)
 - FERC is satisfied as to compliance with applicable environmental laws
- **FERC directed to act within 18 months**
- **FERC may certificate Alberta to Lower-48 market project following normal FERC Sec. 7 procedures**



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Section 6 – Environmental Reviews

- Requires separate EISs for Alaska to Alberta and Alberta to Lower-48 markets
- Designates FERC as lead agency for both segments
- Sets EIS deadlines
 - Draft EIS, 12 months
 - Final EIS, 18 months
- Requires consistency between EIS scope and certification scope



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Section 7 – Federal Pipeline Director

- Establishes Office of Federal Pipeline Director
- Responsibility to coordinate the expeditious discharge of federal agencies' activities
- Authorizes funding and regular congressional reporting



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Section 8 – Agency Reviews and Decisions

- Directs federal agencies to expedite handling of project actions
- Requires federal agency coordination and cooperation via MOU's
- Prevents agencies from including discretionary terms if such terms would prevent or impair expeditious completion of the project



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Section 9 – Judicial Review

- Limits timing of challenges to 60 days
- Establishes jurisdiction to the DC Circuit Court of Appeals, and directs expedited consideration
- Judicial review is limited to claims of constitutionality or statutory authority



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Wrap Up

- In summary the enabling legislation does the following
 - Provides expedited review and approval of applications
 - Authorizes the appointment of a federal director
 - Expedites dispute resolution
 - Focuses on the North Slope to Alberta segment
 - Specifies FERC as lead agency for EISs
- The proposed legislation is an essential step to the market-based effort to bring Alaska gas to consumers in a manner consistent with today's environmental standards.



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Section Analysis
Proposed Alaska Natural Gas Pipeline Act of 2001 (Proposed Act)
Dated July 19, 2001

Prepared by Patrick Coughlin
Special Consultant to the Senate Resources Committee

I. Overview

In July of 2001, the Alaska Gas Producers Pipeline Team, composed BP, Phillips Petroleum, and Exxon, circulated to various state and federal government officials their Proposed Act. Its stated purpose "is to expedite the approval, construction, and initial operation of ... transportation systems for the delivery of Alaska Natural Gas to the Lower 48 States." The Proposed Act purports to advance this purpose by:

1. "relying on competitive market forces to determine" which transportation system can be built and operated in an economically manner; and
2. providing for various measures designed to expedite the review and approval of an application for such a transportation system, including the creation of the office of the Federal Pipeline Director to coordinate government efforts and limiting judicial review.

The stated purpose is curiously close to the stated purpose of the Alaska Natural Gas Transportation Act of 1976 (ANGTA).

"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 by (1) limiting the jurisdiction of the courts to review the actions of Federal officers or agencies taken pursuant to the direction and authority of this chapter, and (2) permitting the limitation of administrative procedures and effecting the limitation of judicial procedures related to such actions."

Both Acts contain similar provision relating to the creating a new Federal official to direct the agencies permitting efforts, expediting the permit approval process, limiting agency discretion, and limiting judicial review.

Under the ANGTA, an operator, Foothills Pipeline, and a route, the Alcan route, has been selected, through a lengthy process, which included a treaty with Canada, a Presidential finding and decision, and approval by Congress. Although not explicitly repealing the ANGTA, the Proposed Act would begin anew the selection process of both an operator and a route. The Producers claim that the ANGTA has been a "failure" and that the competitive market should be allowed to select a system/route rather than government.

Foothills, on the other hand, is wary about the assertion that a new federal law is necessary. Foothills believes that an Alcan route can be built quickly and efficiently

under the ANGTA without any statutory changes. Foothills is concerned about statements that a new law is "necessary" because it is possible that a new law will not pass. If that becomes the case, then the viability of the ANGTA has been called into question.

The Proposed Act would allow an "Over the Top" route. It would call into question the constitutionality of SB 164 that banned the Over the Top route as violating the federal Commerce Clause.

Moreover, the Proposed Act would allow the Producers themselves to be the only owners of the transportation system. Initially, under the ANGTA, the Producers were not allowed to have any ownership interest because of antitrust concerns. Later, the ANGTA was modified to allow the Producers to have some ownership interest. Both Foothills and other commentators have criticized the Proposed Act as eliminating "competitive market forces" by placing market power in the hands of the Producers allowing them to control when and how a pipeline can be built. Additionally, Foothills asserts that the ANGTA is consistent with a market based approach because it allows commercial negotiations between the producers of gas and pipeline owners for tariff terms and conditions.

Further, the Proposed Act, unlike the ANGTA, does not guarantee that Alaskans will have access to gas produced from Alaska's lands for use in-state. Section 13(b) of the Alaska Gas Act provides:

"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 Proposed Act has no similar provision.

This Section Analysis will briefly describe each section of the Proposed Act. It will also contrast the Proposed Act with the ANGTA and highlight some of the criticisms expressed by other interested parties.

II. Section by Section Summary

Section 1. Short Title.

The Proposed Act is named the "Alaska Natural Gas Pipeline Act of 2001."

Section 2. Congressional Findings.

This section sets forth the proposed findings of Congress to justify the Proposed Act. Findings (1) – (6) are uncontroversial setting forth the need for gas in the Lower 48 and a short history of the ANGTA.

Finding (6) states that despite the passage of more than twenty years, the parties seeking to develop the Alaska portion of the ANGTA project have been unable to obtain the necessary regulatory approvals or attract the necessary financing. This finding leads the Producers to claim that the ANGTA effort is a "failure." Others claim that Finding (6) is misleading because Foothills has obtained many authorizations and financing could not be obtained primarily because the Producers were unwilling to commit their reserves to the project due to market conditions.

Finding (7) states that because of the passage of time, some of the design features of the ANGTA system are outdated and would have to be modified. Although the statement is true, it implies that these modifications cannot be obtained under ANGTA. Foothills has submitted numerous briefing materials that such modifications can be obtained.

Finding (8) states that because of a change in the nation's energy supply situation, interest in an Alaska project has been renewed. This Finding, as well as the entire Proposed Act, has been criticized for ignoring a LNG option. The Port Authority presented the Committee with a draft bill in Fairbanks that incorporated an LNG option.

Findings (9) and (10) suggest that in order to assess economic certainty, one must know whether permits and environmental assessment can be timely obtained. Foothills asserts that these findings ignore the ANGTA's provisions regarding expedited permitting, limits on agency discretion, and limits on judicial review, which provide more certainty than any other federal statute.

Section 3. Congressional Statement of Purpose

This section sets forth the Proposed Act's purposes. As noted in the Overview Section above, the purpose is expedite the construction of a transportation system for Alaska natural gas to the lower 48 by relying on market forces and by providing measures to expedite necessary approvals. Again, the Proposed Act's purpose is similar to the ANGTA's purpose.

Section 4. Definitions.

This section defines various terms used throughout the Proposed Act. Most are non-controversial. Some are not.

Section 4(5) appears to limit the markets to which Alaska gas can be transported to "Lower 48 Markets." If so, this would exclude Alaska and Canadian markets. Similarly, Sections 4(6) and (7) only address facilities to be built in Alaska and the Lower 48 States. They do not address Canadian facilities. The ANGTA, on the other hand, did address Canadian facilities and, indeed, the coordination of United States and Canadian facilities were addressed in a treaty and another agreement with Canada. Foothills suggests that the Proposed Act "could create confusion and significant lack of coordination between the two countries on regulatory and commercial issues." Additionally, the definitions exclude an LNG option through Alaska. One commentator asks: if we are looking at new approaches why exclude the LNG option.

Section 5. Expedited Approval Process.

Section 5(a) adds new definitions to the Natural Gas Act (NGA), which is the federal law that generally governs construction and operations of pipelines and which is administered by the Federal Energy Regulatory Commission (FERC). Subject to the comments made in Section II.4. above, most of the definitions are non-controversial.

Section 5(b) amends the NGA to provide that FERC **shall issue** a certificate of public convenience and necessity to a firm to construct and operate the Alaska portion of a pipeline if three conditions are met. They are:

1. FERC determines that the applicant has contracted with a "Shipper" to transport some Alaska natural gas to Lower 48 Markets;
2. FERC determines that rates, terms and conditions for transportation services **can be established** under the Natural Gas Act; and
3. FERC determines that the terms and conditions for compliance with all applicable environmental laws **can be established** in accordance the Natural Gas Act.

To help expedite the process, Section 5(b) requires that the FERC makes these determinations and issue a certificate within 18 months after the filing of an application. Finally, section 5(b) adds a new section to the NGA authorizing the FERC to issue a certificate to transport Alaska gas from the Canadian border to the Lower 48 through normal NGA procedures.

The Department of Law's outside counsel, Morrison & Forestor (MoFo), and Foothills have suggested that, upon finding that these three conditions exist, FERC must issue a certificate. MoFo has suggested that FERC has no other discretion. Along the same lines, Foothills suggests that the Proposed Act would eliminate the NGA's requirement that an applicant demonstrate "public convenience and necessity."

The Proposed Act requires a contract with a "Shipper," who the Producers define as "anyone who, through contract or otherwise, controls Alaska Natural Gas", before an application can be submitted. MoFo and others have also suggested that this requirement gives the Producers a significant leg up on any other potential applicant because they already "control" the gas. Foothills and other commentators believe that giving the Producers too much control raises antitrust concerns.

Foothills also contends that the "can be established" language is designed to allow the applicant to catch up with the ANGTA's clear regulatory headstart. Under the NGA, Foothills says that rates, terms, and conditions are reviewed to insure that the public convenience and necessity standard is satisfied before, not after, a certificate is issued.

Section 6. Environmental Reviews

Section 6 requires a single environmental impact statement (EIS) for the Alaska to Alberta portion of the project and a single EIS for the Alberta to the Lower 48 portion. It

designates the FERC as the lead agency and provides that an EIS shall be prepared in accordance with the FERC's regulations and procedures. It further states that such an EIS shall satisfy the National Environmental Policy Act (NEPA) obligations of each federal agency whose approval is required for the project. The scope of an EIS shall be limited to the scope of the application. The preparation of an EIS shall be expedited, the draft shall be issued within twelve months after the filing of the application and the final EIS shall be issued within six months thereafter absent good cause.

Foothills and others assert that section 6, in combination with the mandatory provisions of Section 5, can be interpreted to eliminate the NEPA's requirement to evaluate alternative routes and to eliminate the "no action" alternative **before** issuing a certificate. Further, Foothills argues that FERC could be required to issue a certificate for an Over the Top route even though there are more environmentally acceptable alternatives.

Finally, Foothills notes that two EISs and a supplemental EIS has already been prepared for the ANGTA project. These reviews were prepared and concluded after numerous opportunities for public review and comment. Congress found that those EISs satisfied NEPA.

Section 7. Federal Pipeline Director

Section 7 creates the Office of the Federal Pipeline Director within the executive branch. The Director is responsible for coordinating expeditious action, study, review and compliance with the Proposed Act by all federal agencies. Upon a written agreement, an agency may delegate any of its duties regarding the Alaska Gas Project to the Director. Section 7 requires the Director to report semi-annually to Congress on the status of the project and authorizes appropriations for the Director's office.

Section 7 basically duplicates the provisions of ANGTA that created the Office of the Federal Inspector. That position was later abolished by Congress, but the functions were transferred to the Secretary of Energy.

Section 8. Agency Reviews and Decisions

Section 8 requires that all actions take by federal agencies be expedited and their actions be coordinated under the direction of the Director. Any necessary authorization for the Alaska Gas Project may include terms and conditions permitted by law unless the Director determines that they would impair the expeditious construction and initial operation system to transport Alaska gas. Section 8 is basically the same as Section 9(a) of the ANGTA.

Section 9. Judicial Review

Section 9 limits review of a federal agency's action in connection with the Alaska Gas Project to claims that the action violated the Constitution or was in excess of statutory authority. It also limits the time within which an action can be brought. Claims that the action were arbitrary and capricious are precluded. Section 9 requires that all claims be brought exclusively in the D.C. Circuit Court and that the court treat all claims as a

matter for expedited consideration. Section 9 of the Proposed Act is similar to Section 10 of the ANGTA.

Section 10. Separability

Section 10 provides that if any provision of the Proposed Act is invalid, the remainder of it is unaffected. This section is the same as Section 16 of the ANGTA.



Foothills Pipe Lines Alaska, Inc.

September 5, 2001

FAX: 907-260-3044

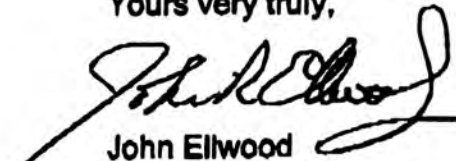
Senator John Torgerson
Alaska State Legislature
35477 Kenai Spur Highway, Suite 101 B
Soldotna, Alaska 99669

Dear Senator Torgerson:

At the August 15 meeting of the Joint Committee on Gas Pipelines held in Fairbanks, you requested I provide the Committee with more detailed comments on the producers' proposed legislation.

Attached is a sectional analysis of that proposed legislation which we would be happy to discuss with you at your convenience.

Yours very truly,



John Ellwood
Vice President

JRE:js
Attachment

**ANALYSIS OF
THE "ALASKA NATURAL GAS PIPELINE ACT OF 2001" (ANGPA)
AND
COMPARISON TO
THE ALASKA NATURAL GAS TRANSPORTATION ACT (ANGTA)
AND
THE NATURAL GAS ACT (NGA)**

SUMMARY

In ANGPA the producers have in many respects created a duplicate of ANGTA. ANGPA's stated purpose is to expedite the approval and construction of an Alaska natural gas pipeline. This is identical to the purpose of ANGTA ("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 contiguous states ... to expedite its construction and initial operation . . . Sec. 3 of ANGTA). ANGPA copies, almost verbatim, many of the provisions of ANGTA that provide for expedited permit approval, limits on agency discretion and limits on judicial review.

There are two fundamental differences between ANGPA and ANGTA. First, ANGPA seeks to rely on "competitive market forces" to determine which pipeline can be built and operated in the most economic manner. The actual effect of ANGPA may well be to concentrate market power in the hands of the producers. In contrast, Congress enacted ANGTA specifically to terminate the jockeying among the various commercial interests that threatened to delay expeditious construction. However, ANGTA is consistent with a market based approach in that it allows for commercial negotiations between the gas owners and the holders of the certificates for the pipeline within the framework of ANGTA regarding ownership, governance, tariff terms and conditions as well as rates for transportation services.

Second, by approving the selection of the ANGTS project under ANGTA, Congress determined that ownership and control of the pipeline for Alaska gas should be independent of ownership and control of the gas resources. Enactment of ANGPA would reverse this determination by vesting in the North Slope gas producers total control over when, where and by whom a pipeline is constructed as a matter of law. Contrary to the assertions of the producers, under ANGTA, the producers maintain significant control over when a pipeline is constructed and the rates, terms and conditions for transportation of the gas, by virtue of their ownership of the gas, but they cannot exercise complete control because of the involvement of independent owners such as pipeline companies.

By placing total control in the producers hands, ANGPA, if enacted, would render meaningless ANGTA and the actions of five previous U.S. Administrations and multiple Congresses.

SECTION BY SECTION ANALYSIS AND COMPARISON

ANGPA Section 2(j)

Finds that, despite the passage of more than 20 years, the Alaska Natural Gas Transportation System (ANGTS) has been unable to obtain the regulatory approvals or attract financing to permit the construction of the project.

ANGTA

- ANGTS has obtained several of the needed regulatory approvals for the project, including a conditional certificate of public convenience and necessity from FERC, Clean Water Act Section 404 wetlands permits from the Corps of Engineers and a right of way across all federal land in Alaska from the BLM.
- In Canada the ANGTS has obtained conditional Certificates of Public Convenience and Necessity as well as right of way across the entire Yukon Territory.
- The ability to attract financing is directly related to the producers' willingness to commit their gas reserves to a pipeline project. The producers have been unwilling to do this for more than 20 years because of gas market economics.
- ANGTA has no sunset provisions and neither the Natural Gas Act (NGA) nor the Canadian Northern Pipeline Act (NPA) certificates contain expiration dates.

ANGPA Section 2(7)

Finds that as a result of the passage of time, some design features mandated for the Alaska to Alberta section of the ANGTS would have to be modified to take full advantage of current technological capabilities, and other changes also may be needed to ensure an economically, environmentally, and technically sound approach.

ANGTA

- Original design features of the ANGTS definitely will need to be changed to reflect modern technologies. However, contrary to the implications of ANGPA's language, Section 9(d) of ANGTA specifically authorizes amendments to certificates and permits which would allow updating of the ANGTS to take into account economic, environmental, regulatory, tariff and technical changes, so long as the "basic nature and general route" of the project are not changed. (The "nature and route" of the system is set forth in Section 2 of President's Decision, dated September 22, 1977.)
- Section 10(b) of the international agreement with Canada (the Agreement on Principles) specifically recognizes the need for flexibility with respect to the design of the physical facilities and creates a Technical Study Group to advise FERC and the Northern Pipeline Agency in Canada on their determinations as to the most economical and efficient pipeline design.
- Moreover, Foothills' system in Alberta has been expanded numerous times pursuant to the NPA demonstrating the flexibility and adequacy of the ANGTS framework.
- The ANGTS sponsors have prepared several detailed issue papers which address this issue, among others. Copies of such papers will gladly be provided upon request.

ANGPA Section 2(10)(ii)

Finds that it is in the national interest to provide as much regulatory certainty and expedition as practicable for approval and implementation of any proposals to enhance the prospects of economic viability and development.

ANGTA

- Through its expedited permitting provisions, limits on agency discretion and limited judicial review, ANGTA provides more regulatory certainty and expedition than any other federal statute currently in existence. (See for example, Section 3 of ANGTA which provides in part "To accomplish this purpose [to expedite construction and review] it is the intent of the Congress to exercise its constitutional powers to the fullest extent in the authorizations and directions herein made, and particularly with respect to the limitations of judicial review of actions of Federal officers or agencies taken pursuant thereto.")

ANGPA Section 2(10)(iii) and (v)

Finds that it is in the national interest to allow for the possibility that the market may support now or in the future the construction of more than one transportation system and to encourage the development of one or more pipeline systems.

ANGTA

- The purpose of ANGTA is to ensure that at least one pipeline is built. However, ANGTA is not exclusive for all time. It provides a priority right to the ANGTS to construct a pipeline. After that pipeline is constructed and in initial operation the provisions of ANGTA will have been fulfilled and other pipelines may then be built, if the market will support them.
- Contrary to the structure of ANGPA, such decisions on future pipelines would, under ANGTA and the NGA, involve input from public authorities and consideration of other public policy factors – not just who can obtain a contract to control Alaska natural gas.

ANGPA Section 3

Declares that the purpose of ANGPA is to expedite the approval, construction and initial operation of one or more transportation systems for the delivery of Alaska Natural Gas to the Lower 48 States by:

- relying on competitive market forces to determine which system(s) can be built and operated in an economically viable manner;
- providing for the expedited review and approval of applications for a FERC certificate and related federal approvals for one or more pipelines;
- ensuring the full consideration of environmental impacts and related concerns, consistent with the need to expedite the review of the proposed project(s);
- creating an Office of Federal Pipeline Director to direct the efficient and coordinated participation of, and decisionmaking by, the various federal agencies;
- expediting the resolution of, and limiting the jurisdiction of the courts to review disputes concerning any aspect of the ANGPA or the approval process for any project.

ANGTA

- The purposes and provisions of ANGTA are identical to those for ANGPA. Indeed, Congress enacted ANGTA to provide a detailed procedure to make a "sound decision" between several competing projects. That "sound decision" resulted in the selection of the ANGTS. ANGTA then provides, with respect to the ANGTS, for expedited permitting, coordinated federal review of construction and limited judicial review.

ANGPA Section 4(6) and (7)

Defines and includes within its scope only the U.S. portions of a pipeline through the defined terms "Alaska Facilities Gas Project" and "Lower 48 Facilities Gas Project" or collectively "Alaska Gas Project". ANGPA does not define or include within its scope the Canadian portions of an Alaska gas pipeline.

ANGTA

- ANGTA addressed the Canadian portions of the pipeline by directing the President to consult with the Government of Canada. Pursuant to this direction, the President reached an international agreement with Canada to ensure that the Canadian portions of the pipeline would be constructed in a manner and timeframe consistent with the U.S. portion.
- Expedition and coordination of necessary regulatory and commercial issues with respect to the Canadian facilities is enshrined in the bilateral Agreement on Principles and the Canadian act of Parliament, the NPA. Development of a new regulatory regime in the United States, such as ANGPA, could create confusion and significant lack of coordination between the two countries on regulatory and commercial issues.

ANGPA Section 5(b)

Amends Section 7 of the NGA to mandate that, notwithstanding any other provision of law, FERC issue a certificate for the construction of an Alaska gas pipeline where:

- 1) the applicant has an agreement with a "shipper" of Alaska gas for the transportation of such gas on behalf of the shipper with the intent that all or a portion of such gas will ultimately be delivered to the lower 48;
- 2) FERC determines that the rates, terms and conditions of transportation can be established according to the procedures in existing NGA Section 7(e); and
- 3) the terms and conditions for compliance with all environmental laws applicable can be established in accordance with NGA Section 7(e).

The Commission would be required to make these determinations and issue a certificate within 18 months of a filing.

For purposes of the provision, "shipper" is defined as anyone who has an agreement with a person who is or will become a holder of a FERC certificate for the construction of an Alaska gas pipeline.

Pursuant to the provisions of ANGPA, an applicant has a qualified project only if the applicant has reached agreement with a shipper of Alaska Natural Gas. Therefore, before an applicant can file, its shipper appears to have to obtain control over some amount of Alaska Natural Gas. If this sequence is in fact how the ANGPA process is intended to work then the owners of Alaska Natural Gas will be able to confer upon a favored applicant mandatory entitlement to the statutory benefits of ANGPA with no

Independent evaluation by any public entities. Thus, all the producers need to do to acquire a FERC certificate is create a transportation company (ala Alyeska), sign an agreement with that company for the transportation of Alaska gas, and have that company file an application with FERC. FERC would be required to issue a certificate to that company.

ANGTA

- Section 5 of ANGPA does not repeal or otherwise directly affect ANGTA. However, ANGPA would directly override the previous determination made by Congress in approving the ANGTS project that ownership and control of the transportation system for Alaska gas should be independent of the ownership and control of the gas reserves.
- While the original prohibition on producer equity participation was relaxed pursuant to a Presidential request for Waiver of existing law, such waiver still provided for review of any producer equity participation by the Justice Department.
- This antitrust review would disappear under ANGPA.
- In this regard, because ANGPA directs the FERC to issue a certificate, notwithstanding any other provision of law, it renders the FERC certificate that the ANGTS received under ANGTA potentially meaningless. Since the producers can limit through their contracting practices who is eligible to apply for a certificate under ANGPA, they have absolutely no need or incentive to enter into an agreement with the ANGTS.
- The "can be established" statutory languages applicable to the second and third criteria appear designed to catch up with the ANGTS' clear regulatory head start.

NGA

- For an Alaska gas pipeline, ANGPA eliminates the NGA requirement that a pipeline demonstrate "public convenience and necessity" in order to receive a certificate for construction. If the applicant meets the three criteria, the project would be presumed to be in the public convenience and necessity and the Commission would be required by law to issue a certificate.
- The "can be established" threshold for meeting the second and third criteria is a significant departure from the NGA. If the Commission determines that rates, terms and conditions for transportation and the terms and conditions for compliance with environmental laws can be established it must issue the certificate. Under normal NGA procedures the proposed construction and services itself, including rates, terms and conditions of transportation service, are reviewed to make sure that such proposals satisfy the NGA's public convenience and necessity standard. Thus, ANGPA provides for the mandatory issuance of a preliminary certificate which the producers could then hold without completing the latter compliance procedures. The result would be that no one else could move forward with a pipeline and the producers could tie up development of the gas reserves.

ANGPA Section 6

This section provides that two separate EISs will be prepared (one applicable to the Alaska facilities, including any conditioning plant, and one applicable to any Lower 48 facilities) prior to the issuance of any certificate of public convenience and necessity. The section also directs that FERC would be the lead agency for the EISs and that such EISs will satisfy the NEPA obligations of each federal agency whose approval is required. It requires that the preparation of the EISs be expedited, that the draft EIS be issued within 12 months after the application is filed, and the final EIS be issued within 6 months thereafter, unless the Commission determines that additional time is needed to comply with environmental or other laws. Last, this section provides that the scope of any EIS shall correspond to the scope of the applicable certificate application.

This provision, in conjunction with the mandatory requirement to issue a certificate, can be interpreted to eliminate the need for an evaluation of alternative routes to the route proposed by the applicant and to eliminate an evaluation of a "no action" alternative. Even if that is not the case, FERC would not be required to take into account the EIS or its alternative findings, when it makes its determination that terms and conditions for compliance with all environmental laws can be established in accordance with NGA Section 7(e). Thus, FERC could be required to issue a certificate for an over the top route even though there may be more environmentally acceptable alternatives.

ANGTA

- Two EISs and a Supplemental EIS have already been prepared for the ANGTS project. These environmental review documents were prepared and concluded after numerous opportunities for public review and comment. Congress found those EISs to be sufficient to satisfy NEPA. The ANGTS sponsors have prepared a detailed policy paper on the environmental review process applicable to the ANGTS pursuant to the ANGTA regime. A copy will gladly be provided upon request.

NGA

- Under the NGA, any EIS for a proposed project would, in accordance with NEPA, include a review of alternatives, including the alternative of "no action." FERC is required to consider the findings of the EIS before making a decision on whether to grant the certificate.

ANGPA Section 7

This section establishes an Office of Federal Pipeline Director (OFPD) within the Executive Office of the President. The Director would be appointed by the President, with advice and consent of the Senate. The Director's responsibilities would include coordinating:

- the expeditious discharge of all federal agency activities;
- the compliance by all federal agencies with the provisions of the ANGPA, including serving as a "one window point" for filing and issuance of all necessary permits, certificates, grants, or other authorizations,
- the expeditious completion of all environmental and other studies and reviews of any kind that are required or conducted for a Alaska Gas Project.

In addition, the head of any federal agency may delegate to the Director any statutory function vested in such agency, including permitting functions.

This section duplicates the provisions of ANGTA which created the Federal Inspector for construction of the ANGTS.

ANGTA

- ANGTA established the Federal Inspector for the construction of the ANGTS. The Federal Inspector possessed many of the same functions and authorities of the proposed Federal Pipeline Director. The Energy Policy Act of 1992 abolished the Federal Inspector position but transferred all of the functions and authorities of the Inspector to the Secretary of Energy.

NGA

- There is no comparable provision in the NGA.

ANGPA Section 8

This section requires that all actions by any federal officer or agency with respect to an Alaska Gas Project be expedited so as to meet the deadlines set forth in the ANGPA. In addition, there is an affirmative obligation on any federal officer or agency involved in the review or approval process to cooperate and coordinate with one another, under the directions of the Federal Pipeline Director, to expedite decisionmaking and to minimize duplication of effort.

This section also prohibits agencies from imposing terms or conditions in any certificate or permit that could prevent or impair in any significant respect the expeditious construction and initial operation of the project.

This provision is nearly identical to the expedited permitting and limits on agency discretion provisions of ANGTA.

ANGTA

- Section 9 of ANGTA:
 - 1) directs federal agencies to issue all permits, authorizations and certificates at the earliest practicable date;
 - 2) directs that all applications for permits and authorizations for the ANGTS be expedited and be given precedence over any other applications;
 - 3) prohibits federal agencies from imposing any terms or conditions that would change the basic nature and general route of the ANGTS or prevent or impair in any significant respect the construction and initial operation of the ANGTS.

NGA

- There is no comparable provision in the NGA.

ANGPA Section 9

This section limits the ability of any person to bring a lawsuit to challenge the actions taken by federal agencies with respect to any Alaska Gas Project. The only claims that can be made are those that challenge the validity of the ANGPA; allege that an agency action will deny rights under the Constitution; or allege that an agency action exceeds the agency's authority.

ANGTA

- Section 9 of ANGPA is identical to Section 10 of ANGTA in all material respects.

CONCLUSION

While ANGPA is duplicative of ANGTA and does not repeal or amend ANGTA, it would have the effect of eliminating or reversing several of the benefits of ANGTA:

- 1) It reverses the Congressional judgment that ownership and control of the transportation system for Alaska gas should be independent of the ownership and control of the gas reserves by vesting in the producers total control of when, where and by whom a pipeline is constructed.
- 2) It eliminates the previous determination by Congress that the Alaska Highway Route is the best route economically and environmentally for the pipeline.
- 3) In the event a project other than the ANGTS is authorized, it would effectively nullify the existing international agreement with Canada and would require negotiation of an entirely new agreement which agreement cannot be taken for granted. Indeed, any new agreement and resulting Canadian legislation may not produce results as favorable as those under the ANGTA regime.
- 4) It undercuts the value of the certificates, permits and rights of way granted to the ANGTS project under ANGTA.

ANGPA also changes the standard procedure under the NGA by

- 1) circumscribing FERC's authority to fully evaluate the rates, terms and conditions for the transportation service and the environmental impacts of the proposed project before making a determination of public convenience and necessity and removing any discretion on the part of FERC.

What we would like

Fair access at a reasonable price.
A level playing field.
Open process and disclosure.

Concerns

Open Season

Disclosure of bidding terms and capacity award procedures.
Disclosure of project specifications and tariff.
Reasonable amount of time to evaluate terms and conditions before open season.
Capacity not held back.
NGL ownership remains with shipper.
Reasonable Btu minimums for gas entering pipeline.

Tariffs

Based on Btu not volume.
Mileage based.
Accelerated depreciation doesn't increase tariffs.
Gas conditioning costs unbundled or not included in tariff.
Rate caps on released capacity.

Pipeline Expansion

No discrimination based on pipeline ownership or initial capacity awards.
Anticipated tariff rate changes and access for expansion.
Multiple connection points and delivery options.
Assurance that pipeline will be expanded if reasonable conditions are met.

**Discussion Paper For Any
Proposed Legislation Concerning
An Alaskan Natural Gas Pipeline**

SECTION I – INTRODUCTION / SUMMARY OF ISSUE

Background / Why Construction of an Alaska Gas Pipeline is Vital

Construction of a proposed pipeline that would carry Alaskan natural gas to the Lower 48 markets is extremely important to America from several standpoints.

Demand for energy is rising rapidly in the U.S., and America is facing a long-term shortage of natural gas. A pipeline that would allow the Lower 48 states to tap Alaska's plentiful natural gas reserves would help ensure that America as a whole has adequate supplies of gas at reasonable prices.

It also is critical to the state of Alaska, for four reasons:

One, construction of a multi-billion-dollar natural gas pipeline would generate an enormous amount of new capital investment and job creation in the state of Alaska.

Two, it would allow the state to provide its own citizens with access to natural gas. Currently, only residents of the South Central area and Barrow have natural gas service. Fairbanks does not have access to gas services.

Three, it would allow the state as a royalty owner to realize the benefit of monetizing natural gas reserves associated with major oil fields on the North Slope that have lain untapped for nearly three decades.

And four, it would allow Alaska to realize the economic benefits of continuing energy activity in the state by encouraging exploration of new, yet-to-be-discovered reserves of natural gas elsewhere in Alaska.

Needs of All Potential Shippers on the Alaska Gas Pipeline

For energy companies considering exploration ventures in Alaska that specifically target "new" natural gas, access to a pipeline is critical. If producers cannot be assured of fair and reasonable access to space on a pipeline to carry enough new gas to market to make their projects economic, they will not explore. As a result, the state of Alaska will lose the benefits of capital investment and job creation that those new exploration projects would bring.

For these reasons, it is vital that any new legislation enabling the expedited construction of a new pipeline from the Slope to the Lower 48 take into account *not only* the transportation capacity needs of North Slope producers who want to begin marketing and monetizing existing gas reserves from Prudhoe Bay, Point Thompson and other declining oil fields, *but also* the needs of companies holding access to acreage that is prospective for natural gas exploration and development in the future.

It is in the best interests of – and the stated policy goal of – the state of Alaska to encourage greater competition among a larger number of companies exploring for new reserves in Alaska.

In light of these issues and economic concerns that impact both the state of Alaska and companies exploring for “new” gas in Alaska, any bill enacted to enable expedited construction of an Alaska natural gas pipeline should contain certain provisions to ensure those interests and concerns are addressed fairly. These provisions should ensure that companies who are exploring for yet-to-be-discovered gas fields are not denied access to the proposed pipeline by its owners, or granted access under terms that would render their development projects uneconomic.

Summary of Shippers’ Concerns and Potential Competitive Barriers

Following is a brief summary of some of the most significant concerns about competitive barriers:

Access

As both the owners of 90 percent of the existing proved natural gas reserves on the North Slope and of the proposed pipeline, the three-company pipeline ownership group could use this de facto monopoly power to:

- greatly restrict pipeline access to non-owner producer/shippers through capacity “hold backs”;
- make transportation capacity either completely unavailable or unreasonably expensive to shippers who are not able to secure firm capacity under the initial “open season” bidding;
- force shippers who are unable to obtain transportation capacity at reasonable prices to sell their “stranded” gas at distressed prices to those that control the firm transportation; and
- delay or completely forestall a pipeline expansion that would provide needed pipeline capacity for competing producers who have made major new gas discoveries.

Contract Tariffs

Shippers who are not part of the ownership group risk paying unreasonably high tariffs due to a number of conditions, including:

- the potential inclusion of accelerated depreciation by the pipeline ownership group;
- the “bundling” of unnecessary ancillary services such as CO₂ conditioning into the standard tariff rate;
- charging full fare to those shippers who inject gas downstream of the pipeline’s origination point near Prudhoe Bay or offload it to local markets in Alaska, rather than charging a lower, mileage-based tariff; and
- computing tariff rates on a volumetric basis rather than a heating value basis, which would result in leaner “new” gas subsidizing richer gas with a higher Btu content found at existing fields.

Other Tariff Terms and Conditions

Pipeline owners could put non-owner producer/shippers at a commercial disadvantage – or keep their gas off the pipeline entirely, by:

- requiring non-owner producer/shippers to forfeit their rights to natural gas liquids extracted from their gas streams; and
- setting strict pipeline quality standards that would prevent lower-Btu gas from entering the pipeline.

These issues and others are more fully discussed in the following pages in Section II:

SECTION II – DISCUSSION OF CONCERNS OF AND COMPETITIVE BARRIERS TO SHIPPERS WHO ARE NOT PIPELINE OWNERS

Background / Alaska Gas Pipeline Project Scope

The natural gas pipeline required to deliver Alaska natural gas reserves to Western Canada and the U.S. Lower 48 States is a massive undertaking. It is anticipated that a 1,800-mile, large-diameter pipeline with an initial capacity of about 4 billion cubic feet a day (Bcf/d) will need to be constructed to Alberta, Canada. In addition, it is assumed that another 1,800 miles of new pipeline of somewhat smaller diameter will have to be installed from Western Canada to markets in Eastern Canada, the U.S. Midwest and U.S. Pacific Coast, because existing pipelines will not have sufficient excess capacity to transport all of this new Arctic gas supply to market centers.

Including the cost of a gas conditioning plant and the anticipated need for new pipeline facilities all the way to U.S. market centers (e.g. Chicago), recent estimates set the total costs for this Alaska gas pipeline project in the \$15 billion to \$20 billion range.

The 1,800-mile Alaska-to-Alberta portion of the pipeline alone will be the largest, most expensive pipeline project ever undertaken. Cost estimates for this portion of the project, excluding ancillary services such as gas conditioning, run in the \$7 billion to \$10 billion range.

Nature of the Pipeline Ownership Group

The existing North Slope reserves anchoring the proposed pipeline are predominately held by three major integrated oil companies – BP, Exxon-Mobil and Phillips – the same group that likely would construct and own the gas pipeline. These three majors own more than 98 percent of the gas reserves in the giant Prudhoe Bay Unit and nearly 80 percent of the gas reserves in the second-largest North Slope gas accumulation, the Point Thomson Unit. Together, these two fields represent more than 30 trillion cubic feet (Tcf) of the 35 Tcf of proved ANS gas reserves.

In addition, BP, Exxon-Mobil and Phillips own the overwhelming majority of the remaining ~ 5 Tcf of proven gas reserves attributable to the other North Slope oil and gas fields. These three companies control more than 90 percent of the proven North Slope gas reserves.

Competitive Concerns of Shippers Outside the Pipeline Owners' Group

This dominant market position held by BP, Exxon-Mobil and Phillips poses a competitive concern to other natural gas explorers in northern Alaska. As owners of practically all of the

proved Alaska gas reserves – and as sponsors of the proposed Alaska gas pipeline – these three companies have the power to control future exploration for and development of new gas resources in Alaska. If other explorers cannot be assured of fair access to a pipeline to carry their production to market, they will not explore, because their potential discoveries would be stranded in Alaska.

Exxon-Mobil, BP and Phillips have undertaken a detailed, \$100 million study to determine the economic feasibility and appropriate routing for the Alaska gas pipeline. The feasibility study is scheduled to be completed by the end of 2001.

Market Concentration Issues

With more than 90 percent of the natural gas reserves concentrated among three producing companies, these companies have the opportunity to wield de facto monopolistic market power through their ownership and control of the proposed pipeline. This puts companies exploring for “new,” yet-to-be-discovered reserves of North Slope natural gas at a decided disadvantage.

Access to the Alaska gas pipeline is of paramount importance to explorers, because without access to a pipeline to carry gas to markets, their gas discoveries will be virtually worthless. If Exxon-Mobil, BP and Phillips are able to secure all of the pipeline capacity in the proposed Alaska gas pipeline, explorers who are shut out of the pipeline initially will have three alternatives, none of which are commercially advantageous or attractive to them.

They may (1) wait for spare capacity to open up after Prudhoe Bay and Point Thomson have declined; (2) seek released capacity from the shippers that secured the initial capacity; or (3) sell gas from their discoveries at distressed prices to the holders of the pipeline capacity.

In the first case, gas reserves and expected production rates from the Prudhoe Bay and Point Thomson units will likely keep a 4 Bcf/d pipeline full for approximately 20 years. In addition, BP and Phillips each hold huge acreage positions from which they are expected to be able to replace Prudhoe Bay and Point Thomson production declines with new discoveries. Therefore, if the three dominant gas reserve holders secure all of the initial pipeline capacity, it is likely that they will be able to keep the pipeline full with their own equity production for decades, and new gas explorers will be shut out indefinitely.

Gaining access to the pipeline at a future date by securing capacity from existing shippers poses a commercial risk to new gas explorers. FERC Order 637 allows shippers who release capacity to others to charge tariffs that are higher than the maximum allowed by FERC as part of the

initial contract process. Similarly, capacity holders could offer to buy the other explorers' "stranded" gas at distressed prices.

Explorers need look no further than a recent episode in Western Canada for an example of how holders of transportation capacity can drive down wellhead prices during periods when pipeline capacity is in short supply.

During 1996, Western Canadian gas prices averaged just \$1.03 per million Btu (MMBtu), while U.S. gas prices averaged \$2.51 per MMBtu (at Henry Hub, Louisiana). Western Canada prices should have averaged closer to \$1.80 per MMBtu, based solely upon transportation differentials. However, pipeline capacity out of Western Canada was constrained and, as a result, Western Canadian gas prices were more than 40 percent lower than they should have been based on transportation cost differentials. Companies holding the scarce pipeline capacity reaped a nearly 75-cent per MMBtu windfall. This windfall represents 70-75 percent of the wellhead prices realized. In other words, holders of the pipeline capacity required to market the gas realized almost as much for transporting this Canadian gas as the producers who explored for and developed the gas realized.

The same three major integrated oil companies structured and operated the Trans-Alaskan Oil Pipeline (TAPS) to the detriment of second-tier companies, effectively driving several companies out of Alaska during the '80s and '90s. Conoco openly cited this as the reason it decided to halt exploration and production in Alaska. The company sold its properties at distressed prices and exited Alaska entirely.

The remote location of the Alaskan North Slope effectively creates a natural monopoly for the pipeline owners and firm capacity holders. The magnitude and cost of the project represent very real barriers to entry. In all likelihood, there will never be another gas pipeline built from Alaska to Western Canada and the Lower 48 states. To justify another pipeline, an additional 30 Tcf of reserves would have to be discovered and proven up.

In reality, it is extremely unlikely that petroleum companies would spend the money to prove up another 30 Tcf to justify a second, competing pipeline. It has taken more than 20 years for sufficient economic momentum to develop to drive the probable construction of the first pipeline.

Therefore, the dominant producers – BP, Exxon-Mobil and Phillips – are in a position to enjoy not only monopolistic power over the Alaska gas pipeline, but by extension, to limit future exploration and production by other companies.

The "Open Season" Process and Oversight

FERC requires that any one who wants to construct an interstate natural gas pipeline must first file an application for a "certificate of public convenience and necessity." This certificate is to ensure that there will be sufficient demand by potential shippers to justify the public disruption of laying a pipeline and to ensure that the organization building the pipeline, or the "sponsor," will have enough volume from paying shippers to be economically successful.

To gauge initial shipper interest, a sponsor will first make a public announcement about its plans to construct a new natural gas pipeline. The announcement will include details on the location, length and capacity of the project, and when the open season will occur. If shipper response to this initial announcement is strong, the sponsor will take the next step of conducting an "open season" and signing up shippers for transportation service through "precedent agreements." The sponsor will then present these precedent agreements to FERC as evidence of sufficient market demand for its project.

"Non Discriminatory, Open Access" Is a Misnomer

There is a common misconception that, as an interstate natural gas pipeline governed by the Federal Energy Regulatory Commission's non-discriminatory, open-access mandate, access to the pipeline by all comers is guaranteed. In the case of the proposed Alaska pipeline, it is not.

FERC-regulated natural gas pipelines are generally known as "contract carriage" pipelines. Under such a regime, shippers contract for capacity to the pipeline. In areas with little or no direct competition, most, if not all of the capacity, is contracted for on a firm basis for extended periods, such as 10 or 20 years. Once the capacity has been fully subscribed, only interruptible capacity, or capacity that is sublet by firm shippers, is available to parties unable to secure firm capacity at the outset. The firm capacity holders are allowed to charge whatever tariff the market will bear for released capacity.

This "contract carriage" system of capacity allocation differs greatly from the standard "common carrier" method generally used for oil pipelines. Capacity on a common carrier pipeline is always allocated on a pro rata basis. If shippers tender more oil to the pipeline than there is capacity, then all shippers, both existing and new, are prorated, giving each shipper a proportionate share of the pipeline capacity.

If explorers for new gas don't reserve capacity on the Alaska gas pipeline during the initial open season, they run the risk of not being able to secure any transportation capacity once they do make a discovery, because the existing gas reserves from Prudhoe Bay and Point Thompson could theoretically keep a 4 Bcf pipeline full for 20 years. Or if they could gain access to the line after the initial open season from a holder that sublets his firm transportation rights, they risk having to pay excessive tariffs – or having to sell their stranded gas at depressed prices to the companies that hold the firm pipeline capacity.

On the other hand, if new entrants into Alaska do reserve space on the pipeline before they make any discoveries – and if they are not successful in finding new gas reserves to put into the pipeline quickly – they would be forced to pay potentially tens or even hundreds of millions of dollars a year for unneeded capacity.

Generally, the open season process is either lightly regulated or not regulated at all. Two concerns of new gas explorers is that the pipeline sponsors will not give potential shippers and other stakeholders enough information on the operational and commercial characteristics of the pipeline, and shippers will not receive this information far enough in advance of the brief open season, to determine an appropriate bid. This could limit the number and effectiveness of shippers interested in bidding in the open season.

One way to address these concerns is to require at least a 90-day notice period prior to the start of the open season and further require disclosure of all critical information needed to make an informed and competitive bid.

Another major concern is the potential for the project sponsors to “hold back” capacity from the open season process. Recently, in a number of FERC-regulated natural gas pipelines, sponsors have held back up to 50 percent of the pipeline's capacity. This would put potential non-owner producer/shippers on the Alaska gas pipeline at an obvious disadvantage. Given that this is the only gas pipeline likely to be constructed from the Alaskan North Slope to the Lower 48 states, none of its capacity should be withheld.

Tariff Issues

One of the major concerns of potential non-owner producer/shippers on the Alaska gas pipeline is the amortization period used in the tariff calculation for the recovery and return on capital investments. A short amortization period would result in an excessively high tariff, which would reduce the netback gas price received by gas producers. Given the remote location and seasonal limitations on drilling in Northern Alaskan, new natural gas developments will be quite

expensive. If the tariff is too high, the netback price after transportation costs are deducted could render natural gas development uneconomic.

This is not an issue for major North Slope producers who also would be major equity owners in the pipeline, but it is a major concern to non-owner producers as they evaluate the economics of new, high-cost gas exploration and development projects.

Another major issue is to ensure that the pipeline tariff is "unbundled" as to ancillary services. Unbundling has been FERC policy for the past decade. However, there is concern that the producer/sponsors of the Alaska gas pipeline intend to include in the tariff the costs of a gas conditioning plant that would extract CO₂ from Prudhoe Bay gas prior to injection into the pipeline.

CO₂ is a corrosive gas that must be reduced to minimal levels prior to delivery into the pipeline. Cost estimates for the CO₂ plant have been estimated at \$1 billion or more – which could amount to 50 cents per MMBtu or more.

By including ancillary service costs in the overall pipeline tariff, the producer/sponsors would effectively require producers of other smaller, less profitable gas fields to subsidize the largest untapped natural gas field in North America. It should be noted that the gas found in many of the new Northern Alaska gas fields is expected to be of pipeline quality and would not require CO₂ conditioning.

If gas from some new field discoveries did require conditioning – and these discoveries were located in areas "downstream" of the Prudhoe Bay CO₂ conditioning plant, such as the Brooks Range – operators would have to install their own CO₂ conditioning plants, while subsidizing the Prudhoe Bay CO₂ conditioning plant.

There are concerns that a tariff process could be structured to disadvantage non-owner shippers in a number of other ways, too. If the pipeline sponsors set the minimum Btu content at higher than normal levels, for example, this could deny capacity to producers of leaner natural gas fields – fields whose gas does not contain a high concentration of associated natural gas liquids (NGLs) such as ethane, propane and butanes.

Another concern is the potential for the sponsors to require shippers to forfeit their rights to valuable NGLs entrained in their gas streams. This is purported to be the case on the recently completed Alliance Pipeline. This would allow pipeline sponsors to reap a windfall by keeping

NGLs from shippers' gas. NGLs typically hold a higher value when extracted and sold separately than they do when sold as part of a high-Btu gas stream.

Yet another concern is that sponsors may choose to compute tariff rates on a volumetric (Mcf) basis rather than on a heating value (MMBtu) basis. Natural gas is now bought and sold on an MMBtu basis; computing the tariff on an Mcf basis would result in leaner gas subsidizing richer gas streams.

One final concern is to ensure that the pipeline has multiple connection points and multiple delivery options. New natural gas fields discovered along the pipeline route should be afforded interconnection to the pipeline if capacity exists. Also, if new markets develop along the pipeline route, new delivery points should be set up to serve these markets.

Accordingly, the tariffs charged for shorter rides on the pipeline should be computed on an actual mileage basis and should not be charged at full fare.

Pipeline Expansions

FERC does not have the authority to order pipeline expansion to accommodate development of new natural gas reserves in Alaska. To discourage new competition in Alaska, pipeline producer/sponsors may find it to their advantage to refuse to expand or to delay expansions.

Because of this, any bill enacted to allow expedited construction of an Alaska gas pipeline should give FERC the authority to require expansion of the pipeline when credible shippers are willing to enter into long-term transportation arrangements to support and justify an expansion.

For example, a third-party exploration company might make a major gas discovery, petition the pipeline for an expansion and indicate a willingness to commit to long-term transportation contracts to justify the expansion costs. If this were to occur a few years before the owners of the Prudhoe Bay Unit were ready to increase gas production from their field, they may delay the requested expansion so that they could be better positioned to secure pipeline capacity for themselves at expansion.

Owners of Prudhoe Bay have an incentive to reinject a significant portion of the produced gas until some time after 2010 in order to maximize oil production. However, once gas injection no longer has an appreciable impact on the recovery of oil, the owners will likely seek to greatly increase natural gas production.

This access to and timing of pipeline expansions is a critical issue, inasmuch as there are physical limitations to how much the pipeline can be expanded. Current thinking is that the maximum the pipeline can be expanded is from 4 Bcf per day to 6 Bcf per day.

Analysis of proposed
Alaska Natural Gas Pipeline Act of 2001
By Mike Macy

279-8247

Summary

No need to expedite; companies have been stalling for years and are still
Will create federal Energy Czar
Severely limits public's right to challenge
Emasculates regulatory agencies
Sets terrible precedent in bypassing NEPA
Allows companies to decide when and how our gas goes to market (if at all)
(instead of legislature)
(In violation of Alaska's constitution)
Murkowski should be embarrassed that the companies even think he might be
willing to introduce it.
It allows companies to circumvent existing permit holders
It should be called the Alaska Gas Stranding and/or Giveaway Act of 2001s
If this passes, Alaska becomes another Louisiana. It gives the companies a
stranglehold on the state for the next century.

Line by line comments

Title: There isn't going to be more than one project. There isn't enough gas or capital.

Sec.2. (2) Proven North Slope reserves have been reduced to 29 TCF as a result in the course of providing fuel and Miscible Injectant for North Slope operations.

Sec. 2. (6) This is also erroneous and misleading. Parties seeking to develop the Alaska to Alberta section on ANGTS secured every regulatory approval they sought. They never sought financing because before they got to that point they determined that their project was uneconomic. There is no evidence that the present regulatory scheme would hinder the expeditious review, permitting, and finance of a project.

Sec. 2. (7) Exceedingly vague. The truth is that ANGTA requires a 2.4 BCF/day project that fails to meet economies of scale. The 4.0 bcf/day minimum size project required to achieve economies of scale will according to Cambridge Energy Research Associates depress the minimum price needed to make the Alcan project economic.

Sec. 2. (8) This ignores the LNG option as does the entire legislation.

Sec. 2 (9) Economic viability has much more to do with demand, supply, and volume than with expeditious permitting and EISs.

Sec. 3.

(a) Competitive market forces aren't keeping Alaska's gas out of Asia or the West Coast. Warehousing is. Competitive supply forces may keep Alaska's gas out of the lower 48 for years.

(b) Expedited review and approval is just a euphemism for giving BP, Exxon, and Phillips a way to bypass existing permit holders and dictate how, when, and even if our gas will go to market.

(c) This is right out of George Orwell's 1984 "full consideration consistent with the need to expedite" is a complete oxymoron. This gives the Office of The Federal Pipeline Director unlimited discretion.

(d) This strips citizens, interested parties, of a host of legal protections and recourses.

Sec. 4.

(6) This part of the definitions section specifically excludes LNG or the LNG approach to moving gas to the West Coast. If moving gas to the lower '48 is so important, why would we preclude the only option that is free of interference by the Canadians?

Sec. 5. (a)(14) Anybody can be a shipper. Antitrust considerations argue for precluding any major North Slope gas leaseholder from owning any part of the pipeline.

(15) "Alaska Facilities Gas Project" definition again precludes the LNG option.

Sec. 5. (b) (3) By requiring the Commission to issue a certificate of public convenience and necessity to any person, the Act greases the wheel for allowing BP, Exxon, and Phillips to go around the existing permit holders, YPC and Foothills rendering hundreds of million of dollars of investment and environmental review that was not rushed worthless.

(b) (4) The rules by which the commission may issues a certificate of public convenience are supposed to be set forth in subsection (e) which is missing.

Sec. 6. (a) (1) Replaces NEPA with a non-NEPA process. This is a terrible precedent for which no coherent justification has been presented.

(a) (2) Hamstrings federal regulatory agencies.

(b) and (c) Creates a new lead agencies for federal review, one with an expedite as opposed to an environmental or public interest mandate.

(c) Requires expedited review whether it is needed or justifiable or not.

(e) Seems to arbitrarily limit the scope of the environmental review so that it doesn't have to consider other alternatives such as existing, permitted projects.

Sect. 7. (a) Creates a new Pipeline Czar in the President's office. How responsive to the environment or the public interest do you think such a person appointed by the current Administration would be?

(b) Empowers the Czar to bring the full weight of the White House to bear on any federal agency that tries to assert its authority to protect the environment or the public interest. Furthermore, allows the regulatory agencies to duck their responsibilities by delegating them to the Federal Pipeline Director. .

(c) Gives the Director/Czar authority to drive/expedite the agency review process.

Sec. 8. (a) Requires every action by any federal officer or agency to be expedited.

(c) Gives the Czar unlimited discretion in rejecting stipulations which might otherwise make the project safer or more environmentally sound.

(d) Strips agencies of their ability to require stipulations, unless the Czar agrees.

Sec. 9. Limits challenge of the Act to the first 60 days after passage. Violates citizens rights to due process and access to the courts as if there was some sort of national emergency.

(c) Forces all challenges to the Court of Appeals for the District of Columbia. This puts an onerous burden on Alaska citizens and basically violates our civil rights.

Sec. 10. Confers eternal life on Act. No matter how many parts the courts throw out, the Act keeps on ticking.



Foothills Pipe Lines Alaska, Inc.

September 11, 2001

Senator John Torgerson
Alaska State Legislature
35477 Kenai Spur Highway, Suite 101 B
Soldotna, Alaska 99669

Dear Senator Torgerson:

I am in receipt of your letter dated September 5, 2001, raising several questions relating to the Producer sponsored legislation and what, if any, federal legislation is either necessary or desirable to expedite the construction and operation of the Alaska Natural Gas Transportation System. In your letter, you also request that I testify on behalf of the Alaska Northwest Natural Gas Transportation Company (ANNGTC) as the holder of the certificates to build and operate the Alaskan portion of the Alaska Natural Gas Transportation System (ANGTS). These certificates were, as you know, issued pursuant to the substantive provisions of the Natural Gas Act (NGA) and the procedural regime established by the Alaska Natural Gas Transportation Act (ANGTA) of 1976.

First, I understand that the Joint Committee will be meeting in Anchorage on September 19, 2001. I confirm that I will be available to testify before the committee on that date.

Second, with respect to an analysis of the Producers' proposed legislation, I provided one to the Committee by letter dated September 5, 2001. I trust you have received this analysis.

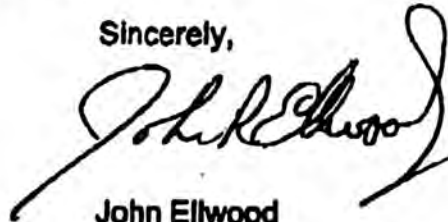
With respect to your question regarding possible alternative federal legislation as a legal matter, the ANNGTC does not believe any federal legislation is necessary in order to construct and operate a modern Alaska Natural Gas Transportation System. The ANNGTC has provided representatives of the Committee with our detailed analysis of the entire "ANGTA Regime" including ANGTA, the President's Decision, the President's Report in support of his decision, the Agreement on Principles between Canada and the United States, the Northern Pipeline Act in Canada as well as the certificates granted by Parliament to Foothills to own, construct and operate the Canadian portion of the ANGTS. We fundamentally believe that this regime taken as a whole is sufficiently flexible and provides the legal framework to bring the ANGTS to modern standards of pipeline design, construction and operation. In addition, we believe the regime

provides the statutory and regulatory framework to modernize the tariff to reflect current market conditions. Therefore, the ANNGTC and Foothills do not believe that any federal legislation is necessary to permit construction and operation of a modern ANGTS.

You also asked whether any federal legislation would be "useful." If federal legislation could be enacted to confirm Congressional intent with respect to questions which have arisen regarding the scope and flexibility of the ANGTA regime to accommodate the modernization of the design and tariff of the ANGTS, then such legislation may be useful to reduce uncertainty and to focus stakeholders on building the ANGTS.

The ANNGTC and Foothills are aware that numerous stakeholders are considering proposing legislation. Foothills welcomes the efforts to assist in achieving ANNGTC's shared goal to build and operate the ANGTS. We have offered to assist those drafting legislation to consider objectives and language so "no harm will be done" to the ANGTS Regime. We continue to be ready to work with stakeholders sharing a common goal to develop a consensus alternative to the Producer sponsored legislation. A consensus legislative approach that confirms the ANGTS decision and framework and clarifies questions which have arisen as stakeholders focus on modernizing the design, construction, operation and tariff for a thoroughly modern ANGTS could be useful.

Sincerely,

A handwritten signature in black ink, appearing to read "John Ellwood", with a stylized flourish extending from the end.

John Ellwood

JRE:js

**VanNess
Feldman**
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Facsimile

TO

NAME Senator John Tongren

DATE 9/4/01

FIRM Alaska Senate

TIME 2:50

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NAME CURT MOFFATT

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August 2, 2001

Honorable Frank H. Murkowski
United States Senate
Washington, D.C. 20510-0202

Dear Senator Murkowski:

This letter responds to your request for the views of Foothills Pipe Lines, Ltd. on the draft Alaska Natural Gas Pipeline Act (ANGPA) recently submitted by the Alaska North Slope natural gas producers.

Foothills has analyzed ANGPA and has reached the conclusion that legislation of this type is not needed to provide a legal and regulatory framework to expedite the construction and initial operation of an Alaska natural gas pipeline. That legal and regulatory framework already exists in the Alaska Natural Gas Transportation Act (ANGTA). The producers' proposed legislation contradicts the very purposes that ANGTA has achieved. If enacted, it would create a confusing and chaotic parallel procedure for authorization of an Alaska natural gas pipeline.

Foothills believes that enactment of the ANGPA is justified only if the Congress desires to accomplish the following objectives:

1. To revisit the previous careful and deliberative selection of the Alaska Highway route as the most economically and environmentally sound route and allow consideration of other route options, including the "over the top" route.
2. To authorize the filing of new producer sanctioned applications that could exclude any independent pipeline company participation in the ownership and governance of the Alaska pipeline.

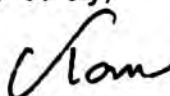
Evidence supporting these conclusions can be found in the proposed legislation itself in that each major provision designed to expedite construction and operation of the pipeline is copied almost directly from existing law - ANGTA.

As you are aware, ANGTA engaged the regulatory expertise of the federal agencies, the international expertise and jurisdiction of the President, and the public decision making process of the Congress before selecting a route and project to deliver Alaska natural gas to lower 48 markets. In contrast, ANGPA would appear to place responsibility for those critical judgments in the hands of the North Slope gas producers. This raises profound public policy issues, not only for the Congress, but also for natural gas consumers and, most importantly, for Alaskans.

Finally, the proposed legislation is not needed because the parties already authorized to construct and operate the Alaska Natural Gas Transportation System, Foothills, TransCanada and Westcoast, are ready, willing and able to build that pipeline as soon as the producers decide to market their gas. In this regard, Foothills continues to explore avenues to establish a collaborative dialogue with the ANS producer group. We would greatly appreciate any efforts on your part to encourage the producers to join in such a dialogue.

We look forward to continuing to work with you on this very important matter. Please call me if you have any questions.

Sincerely,



Tom Roberts
On behalf of Foothills Pipe Lines, Ltd.

ANNGTC Partners Listing

(Successor or parent company shown in brackets)

Withdrawn

**American Natural Alaskan Company (El Paso)
Calaska Energy Company (PG&E)
Columbia Atlantic Trading Company (Williams)
Northern Arctic Gas Company (Enron)
Northwest Alaskan Pipeline Company (Williams)
Pacific Interstate Transmission Company (Sempra)
Pan Alaskan Gas Company (Duke)
Tetco Four, Inc. (Duke)
Texas Gas Alaska Corporation (Williams)**

Active

**TransCanada Pipelines USA (TransCanada)
United Alaska Fuels (Foothills)**

Share Control

Under the terms of the Partnership Agreement all active partners contributed equally to the capital requirements of the Partnership.

ENERGY POLICY -- (Senate - September 06, 2001)

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Mr. BINGAMAN. Mr. President, I will take this opportunity to speak for a few minutes on the work that is currently underway in the Energy and Natural Resources Committee on which the Presiding Officer serves with great distinction. We are making an effort in that committee to develop a comprehensive and balanced energy policy. I want to inform my colleagues about the likely steps we will be following in the near future.

As I see it, Congress has a real opportunity this fall to set an energy policy that will sustain our economic prosperity as we move into this new 21st century. The Senate has a key role to play in seeing this opportunity does not slip through our grasp.

A great deal has changed since 1992, which is the last time Congress enacted major energy legislation. We have seen energy markets become more competitive and more dynamic. But we have also seen some significant bumps along the way.

First of all, consumers are more vulnerable to the vagaries of the energy markets than they ever were before. I think the evidence we have of what happened in California with electricity prices is one example.

Second, gasoline supplies are increasingly subject to local crises and price spikes due to the proliferation of inflexible local fuel specifications.

Third, we rely more heavily each year on natural gas--natural gas to heat our homes and to produce electricity. But our system for producing and transporting that natural gas is showing signs that it is reaching its limits.

Fourth, the need to address the fundamental connection between energy and global warming is something that is becoming a major concern of many of us, and I think rightly so.

So I am pleased most of my colleagues in the Senate recognize these challenges. I believe there is a bipartisan consensus in favor of a sensible energy policy that will smooth out the bumps in the market by increasing energy efficiency, by boosting our energy supplies, by modernizing our energy infrastructure.

Technology and policy innovations will be key to achieving this balanced outcome so Americans can have reliable and affordable energy choices that are sustainable over the long term. Our energy problems cannot be effectively addressed by packaging up a collection of tired old wish lists and passing that through the Senate floor in a day or two. Energy consumers and producers, and several committees here in the Senate, will need to focus on new energy approaches if we are to protect our national economic prosperity and do so through smarter ways to produce and use energy.

For this reason, as the Senate takes up and considers energy legislation this fall, we will be talking about the need for proactive policies, about the need for technology-driven approaches to our energy problems. We have made a good start already in the Committee on Energy and Natural Resources. We began our markup in July, before the August recess--a markup of comprehensive energy legislation.

The first part of the bill that we have substantially completed at this point is a comprehensive revitalization of the

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national capabilities for energy research and development. Putting research and development first reflects a broad consensus that new science and new technology are at the core of any solution to our national energy challenges. Despite the importance of energy R&D, our recent commitment to it leaves a great deal to be desired. The level of effort we are making

today in Federal energy technology research and development is equivalent in constant dollars to what we were making in 1966. Yet our economy is three times larger today than it was in 1966. It is very hard to see how we can build a 21st century energy system on a 1960s level of effort in the research and development budgets.

- The committee will begin its deliberations beginning this next week and its effort to mark up a bill this next week. Major topic areas before the committee as we move forward in this markup will include policy proposals to improve energy efficiency, to improve our ability to produce energy from a great diversity of sources, and to tackle the tough issues related to electricity restructuring.

Today I am releasing a detailed description of the proposed chairman's mark in these various areas. I am also releasing the text of the major portions of the bill we will be working on in committee--the next major portion of the bill. This part of the bill will deal with electricity, and it will provide a framework to integrate new technologies into electricity markets to provide high-quality, efficient electricity generation in every community and to give consumers new ways to manage and control energy use and energy costs.

I would like to take an opportunity to describe some of the key proposals in the mark that we will be considering in a little more detail. With respect to energy efficiency, the chairman's mark that we will be considering for the energy policy bill will contain provisions that will improve energy efficiency in household appliances--also provisions that will improve energy efficiency in Federal and other facilities and industry itself.

Let me state my belief, though, that increasing vehicle fuel efficiency is one of the highest legislative priorities that the Senate should have in energy legislation. In addition to our growing dependence on foreign imported oil, we have reached the limits of our current infrastructure to refine and distribute fuels. A policy of simply continuing to increase the demand for gasoline is not sustainable. Fortunately, advanced technology in a variety of areas to improve automotive fuel efficiency offers a better answer, and we need to move in that direction.

The National Academy of Sciences has given us some very useful ways of thinking how to reformulate the CAFE program. Clearly, consumers want the option to choose the type of vehicle that suits their needs and preferences. They also want to be able to count on reliable and affordable fuel supplies.

While CAFE standards are not in the Energy Committee's jurisdiction, a number of other mechanisms to encourage greater fuel efficiency in cars and trucks are in our jurisdiction. The mark will contain purchase requirements for Federal fleets that will provide greater incentive to automobile and truck manufacturers to produce more highly efficient vehicles.

A topic closely allied to vehicle fuel efficiency is the question of the fuels that we will need in the future to power cars and trucks. Here, the Congress has a clear duty to address the growing multiplicity of fuel specifications around the country. Part of the solution to this problem will be provided by a bill in the Committee on Environment and Public Works, sponsored by Senators SMITH and REID. I hope that these provisions find their way into our overall energy bill in the Senate.

The Chairman's mark will include a number of energy efficiency provisions relating to appliances. Perhaps the most visible proposal in this regard will be one that enacts a 13 Seasonal Energy Efficiency Rating for central air-conditioning units. Such a standard was finalized earlier this year, but since then the Bush Administration has attempted to withdraw it and substitute a lesser standard. The Committee on Energy and Natural Resources held hearings on this topic and the record before the committee has persuaded me that the administration based its decision on economic information that was outdated and inaccurate.

A 13 SEER rating for central air-conditioning units can do a lot to help avoid summer blackouts and brownouts when high temperatures send electricity demand soaring. During the intense heat wave we had in early August, which was felt nationwide, peak demand from air-conditioning did, in fact, lead to problems in electricity availability in some parts of the country, while others were uncomfortably close to the margin. We need to build more efficiency into this part of our system over the long term, and a higher standard for these large air-conditioning units will help.

The Chairman's mark will also require the Federal government to purchase Energy Star or other efficient products designated by the Federal Energy Management Program. This is a requirement that, again, makes eminent sense. Taxpayers save money, and the cost of energy-efficient appliances to consumers comes down, when the Federal government takes a leadership role in purchasing highly energy efficient computers, office machines, and other appliances.

The mark also authorizes a grant program to help build energy-efficient schools. School districts can ill afford to waste taxpayer funds on excessive energy bills because of the inefficiency of school buildings.

With respect to new energy sources, it is important that the Senate look to policies that will truly improve our supplies of domestic energy security, including measures to improve our supply of natural gas and to diversify our energy mix to include a greater reliance on domestic renewable resources. These are the types of provisions that I will include in the Chairman's mark.

I will not be including in the mark any provisions relating to drilling for oil in the Arctic National Wildlife Refuge. The debate over oil drilling in the Arctic National Wildlife Refuge--a long-standing bone of contention in energy policy--is in many ways a distraction from more important opportunities to bolster our domestic energy security. Oil produced from the arctic refuge is not likely to influence the world price of oil, or the prices that U.S. consumers pay for gasoline. I plan to focus attention in the Energy Committee mark-up on a number of issues that will have a greater impact on our domestic production of oil and gas and a larger near-term impact than drilling in the Arctic.

The first such issue is another Arctic resource that could be brought to U.S. markets--natural gas. The exploration for oil in the Prudhoe Bay region of Alaska has resulted in the discovery of abundant supplies of natural gas, but there is now no way to bring that gas to markets in the lower 48 States that could benefit from it. The projection of growing demand for natural gas has re-awakened interest in building a pipeline from Prudhoe Bay to Alberta, Canada, where it would join with existing gas pipelines that serve the United States. That pipeline would be an enormous construction project on the part of the private sector, requiring perhaps 2,000 miles of steel pipe and costing \$20 billion. A lot of spurious job numbers have been floated about drilling in the Arctic Refuge. The gas pipeline would be the real thing as far as job creation is concerned.

If we do not act while there is substantial private-sector interest in building the Arctic gas pipeline, we will lose an important opportunity to bolster our national energy security in natural gas. If we do not bring the Alaska gas to market, then our growing demand for gas will be met by large-scale import of liquefied natural gas. At \$3 or less per million BTU, imported LNG will be cheaper than Alaska gas. But it would be foolhardy to look at the issue solely through the prism of short-term economics. We are already more than 50 percent dependent on foreign oil. If we do nothing about the Arctic gas, we could wind up being similarly dependent on foreign natural gas, from many of the same OPEC countries from which we import oil. That is an economic and national security issue.

We face a clear moment of decision. The Chairman's mark that I will bring before the Committee will contain authorizing provisions to streamline the

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regulatory approval process to move forward with the pipeline. We may find a mechanism to ensure that the domestic option for a pipeline route is chosen. I hope to be able to work with my colleague from Alaska during the mark-up to help make that happen.

The second key initiative for domestic production is to undertake a top-to-bottom review of both federal and State royalty and tax policy on domestic oil and gas production. Our current policies were put in place when the U.S. had abundant and easily accessible reserves. We have fewer such reserves now, and while technology for finding oil has continued to improve, we should consider whether the financial structure we have in place should change to one that enhances the economics of exploring for oil and gas in more challenging geological formations. It should also take into account the boom-and-bust nature of the industry, and provide incentives to maintain domestic production when prices are low.

The third proposal is to provide adequate funding for the federal programs that actually make new leases for oil and gas available to domestic producers. For all the rhetoric from the administration about the need to boost production, it has not asked for enough money in order to bring this about.

The result is likely to be further delays and frustration on the part of U.S. oil and gas producers. In the mark that I will present to the committee, we will authorize a higher level of funding for the necessary personnel to make the decisions and to process applications for domestic production.

The area of electricity, as I mentioned earlier in these remarks, is the next major topic that we will take up in the markup. We do need to provide for reliable and diverse electric power generation and distribution sources in the country. Electricity is a central part of modern life. Yet our electric system largely operates on a design that is nearly a century old. There are many problems in our electricity markets that need to be addressed. The problems faced by California and the West earlier this year should be a wakeup call to all of us.

What the electricity crisis in California showed is that the institutions that developed in the last century have not evolved enough to ensure reliable and affordable supplies of electricity. We face a crucial turning point. During the next few years, billions of dollars of investment will be planned and committed to electric generation and transmission. Those investments will have a 30- to 50-year lifespan. Will we put in place a structure to maximize the chances that investments will go to new technologies that will give consumers real choices over their energy use or will Congress, by its inaction, perpetuate obsolete frameworks for managing electricity markets, with the result that we wind up with little improvement in the status quo?

I believe that we in Congress and the President have a great opportunity to be visionary about the future of electricity. A transmission grid that is open to a wide variety of generation options, including distributed generation, will ensure the power quality and efficiency that our 21st century society will need in order to sustain our economic prosperity.

That opportunity creates a great duty on the part of Congress and the President to focus on electricity as a major part of comprehensive energy legislation. Our task must be to build a regulatory structure that has adequate authority to resolve market defects, without interfering unduly in those markets.

I believe we need to move forward now with a legislative solution to these problems. To leave electricity legislation for another day would be to perpetuate an obsolete system that will not provide the reliability, quality, affordability, and choice that consumers will want and need.

The changes that I believe are needed, and that we are going to be trying to address in the chairman's mark, include the following:

First, we will try to clarify who has jurisdiction over regulating electricity transmission in interstate commerce. That is a key part of what the legislation will do.

That role is assigned to the Federal energy Regulatory Commission, or FERC. FERC will be given authority to ensure that all electric transmitting organizations in interstate commerce play by a consistent set of fair rules.

Second, the chairman's mark will give FERC the responsibility for taking the current voluntary system for promoting reliability in electric transmission and making adherence to reliability rules mandatory.

Third, the chairman's mark will give the FERC the tools to ensure that competitive markets work well to provide customers with affordable electricity.

Fourth, the chairman's mark will address the tough issue of siting new transmission facilities. This is something the President has indicated his support for. A national transmission grid is a necessity, but cannot occur without a new approach to transmission planning, expansion, and siting. Federal eminent domain, by itself, is not likely to lead to an effective approach to meeting this need. What is needed is to use federal eminent domain as a backstop to a more cooperative, regionally based approach to transmission and siting issues. Thus, the chairman's mark will rely on regional transmission organizations to do the bulk of transmission planning, expansion and siting. Only if those regional entities are stymied will a federal eminent domain authority be invoked, and that authority will be used only to implement the decisions taken regionally.

The chairman's mark will include a repeal of the 1935 Public Utility Holding Company Act, or PUHCA, but the protections in that act will be replaced by giving FERC jurisdiction over mergers of holding companies that own utilities and over acquisitions of generation assets.

Finally, the chairman's mark will ensure that there is transparent information on market transactions.

As part of a balanced and comprehensive legislative solution, the chairman's mark also includes numerous benefits and protections for consumers, so that we don't repeat the mistakes of telecommunications deregulation. These include an emphasis on ensuring future access by rural, remote, and Indian communities to electricity; protection of consumers from unfair trade practices; and a Public Benefits Fund to ensure that there is a way to fund electricity programs in the public interest.

The chairman's mark also includes a series of provisions to ensure that we have a greater role in our electricity generating system of the future for renewables and distributed generation, while maintaining the contribution made by existing sources

of baseload generation, such as hydropower and nuclear. Among the important tools for making sure we have diversity in our sources of electricity is a renewable portfolio standard, uniform interconnection standards to the electric grid, greater flexibility and predictability to the process of relicensing hydroelectric dams, and a reauthorization of parts of the Price-Anderson Act.

Finally, a common thread among many of the provisions that I have mentioned in this chamber today and that we will be considering in the bill is perhaps the most important public policy challenges of the 21st century, and that is climate change. Climate change policy and energy policy are inseparably linked, because energy production and the use of energy are leading sources of greenhouse gases that affect the atmosphere. The Senate must ensure that the energy legislation it passes makes a meaningful, positive contribution to dealing with this issue. Many of the provisions that I have already discussed--energy efficiency, the focus on more renewables--make a contribution to this goal. The mark that we will be considering in committee will contain some additional provisions to promote better information and policy on greenhouse gas emissions.

Energy policy is a difficult and complex topic. Getting to a solution that gives America a vibrant energy infrastructure and the right policies for the 21st century will require careful work on complicated issues. Our Nation's future economic prosperity, and the jobs of millions of Americans, are at stake. I hope that the approach taken in the Senate combines a thoughtful analysis of our current energy challenges with a willingness to take some bold policy steps to address those challenges. That certainly is the spirit in which I will be making proposals before the committee.

I look forward to working with all my colleagues in the Senate to produce constructive legislation for the future of our country.

Mr. President, I yield the floor.



*Alaska Gas Producers Pipeline Team
601 W. 5th Ave. Suite 500
Anchorage, Alaska 99501
907-770-8000*

September 12, 2001

Senator John Torgerson
35477 Kenai Spur Highway, Suite 101B
Soldotna, Alaska 99669

Dear Senator Torgerson,

In response to your September 5, 2001 letter, we would like to confirm the participation of the Alaska Gas Producers Pipeline Team in your upcoming September 19, 2001 hearing. Additionally, we would like to take this opportunity to correct some apparent misconceptions in the background portion of your letter, and respond to the questions you outlined at the end of the letter.

In the third paragraph of your letter, describing the four significant concepts of the proposed legislation, you note in the second item that "it requires a thorough environmental review and a single environmental impact statement (EIS) for two separate segments..." It was perhaps unclear, but our intent in the proposed legislation is to have two distinct EISs for the two segments. We believe that the timing of the commercial work for the Alberta to market segment would be such that it would be advantageous to the overall project timing to separate the two segments for EIS purposes. We do not wish to create a situation where the time consuming commercial discussions which will accompany the Alberta to market segment hold up or delay the completion of the EIS for the North Slope to Alberta segment.

Much of the commentary you cite in the background of the letter seems to focus on a perception of the producers "control" of the project. This is perhaps most clearly articulated in the fourth paragraph of the letter which concludes that only the producers can receive a certificate under this proposed legislation. This is not true.

The proposed legislation cites three requirements for certification, the relevant one of which states "such person has reached agreement with a Shipper of Alaska Natural Gas for the transportation of natural gas through an Alaska Facilities Gas Project..."



ExxonMobil



Senator John Torgerson
Re: Response to September 5, 2001 letter

September 12, 2001
Page 2

That language, if you read the definitions in section 5 (a) (14) of the proposed legislation, refers to anyone who is willing to sign a shipping commitment with the potential certificate holder. Entities who could be in a position to do that, over and above the three producers currently studying the project, would include other current or potential gas producers, the State of Alaska (wishing to market its royalty share), or gas marketing companies, such as Duke, Williams or Enron, to name a few. The requirement for certification is to have a shipping commitment, not to have ownership of gas reserves, and we believe this needs to be clear.

With respect to your questions, let us begin by confirming that, from our perspective, enabling federal regulatory legislation is essential to our moving forward on our joint producer study. We proposed this legislation because we believe it is necessary to reduce the current regulatory uncertainty surrounding this project.

That being said, we recognize that there may be legitimate issues which may come forward as people review and consider the proposed legislation. As we have repeatedly stated, we stand prepared to work constructively on any proposed changes which help to address legitimate concerns. To facilitate the upcoming discussions, we have attached the sectional analysis of our proposed legislation.

Thank you for your invitation to the upcoming hearing. We will be prepared to discuss the proposed legislation at that time and respond to any questions you or your committee may have.

Sincerely,

Ken Konrad
BP Exploration (Alaska) Inc.

Robbie Schilhab
ExxonMobil Production Company, a division of Exxon Mobil Corporation

Joe Marushack
Phillips Alaska, Inc.

Att

MJH:mb

Sectional Analysis

Section 1 — Short Title

- "Alaska Gas Pipeline Act of 2001"

Section 2 — Congressional Findings

- This section sets forth findings that support the need for the legislation.
- The findings note the existence of substantial natural gas resources on the North Slope, the importance of those resources to the nation's long-term energy needs, the 1976 enactment of special legislation to facilitate the approval and construction of a transportation system to move Alaska gas to the Lower 48, the failure of that legislative effort, the outdated features of the previously approved system, and the current renewed interest in constructing a transportation system to move the gas to the Lower 48.
- The findings explain that it is in the national interest to encourage the development of one or more environmentally sound transportation systems through sensible expedited regulatory procedures and to rely to the extent possible on competitive market forces to determine the future development of North Slope gas.

Section 3 — Congressional Statement of Purpose

- This section explains that the legislation seeks to expedite the approval, construction, and operation of one or more transportation systems for delivering North Slope gas to the Lower 48 by relying on market forces to determine which projects are economically viable; expediting the certification and permitting processes; ensuring compliance with environmental laws; establishing a Federal Pipeline Director to coordinate and move the process forward; and expediting, and narrowing the scope of, judicial review.

Section 4 — Definitions

- This section defines various terms used throughout the Act.
- Definition of "Alaska Natural Gas" is identical to that used in ANGTA.
- Uses "Alaska Facilities Gas Project" and "Lower 48 Facilities Gas Project" to differentiate between A-to-B and B-to-C segments, respectively.

Section 5 — Expedited Approval Process

- Adds a new Section 7(c)(3) to the Natural Gas Act requiring FERC to grant any and all applications to build the Alaskan part of A-to-B facilities if three criteria are satisfied:
 - (1) The applicant must have reached an agreement with a "Shipper" of Alaska Natural Gas for the transportation of that gas with the intent that all or a portion of the gas ultimately will be delivered to the Lower 48 States.
 - ◊ A "Shipper" essentially is any person that has entered into an agreement with the applicant for the transportation of Alaska Natural Gas; anyone who, through contract or otherwise, controls Alaska Natural Gas may be a Shipper.
 - ◊ This provision reflects a market-based approach, not unlike that reflected in Section 311 of the Natural Gas Policy Act
 - (2) FERC must be satisfied that "rates and charges for, and terms and conditions of" such transportation services can be established in accordance FERC's usual procedure.
 - (3) FERC must be satisfied that terms and conditions for compliance with all applicable environmental laws can be established in accordance with FERC's usual procedure.
 - ◊ The latter two requirements assure that certain key aspects of traditional pipeline regulation under Section 7 of the Natural Gas Act, including protection of ratepayers and protection of the environment, will be followed with respect to any Alaska Gas Facilities Project.
- To provide for expedition, FERC is directed to act on any Alaska Gas Facilities application within 18 months.
- Adds a new Section 7(c)(4) to the NGA under which the Commission may issue a certificate authorizing construction of facilities to transport Alaska Natural Gas from the Canadian border to markets in the Lower 48 States. Such applications will be considered pursuant to the Commission's normal Section 7 procedures.

Section 6 — Environmental Reviews

- Requires a *single* EIS for each proposed "Alaska Gas Project." This means that:
 - ✓ EISs for A-to-B projects will be prepared separately from EISs for B-to-C projects
 - ✓ Each proposed project will be studied in a separate EIS
 - ✓ Agencies must work together to prepare a single EIS for each project

- Requires each EIS to be prepared pursuant to the lead agency's regulations and procedures.
- Designates the lead agency for each EIS as follows:
 - ✓ FERC will be the lead agency for all EISs for A-to-B projects
 - ✓ FERC will be the lead agency for all EISs for B-to-C projects.
- Sets deadlines for completing the EISs:
 - ✓ Draft EIS within 12 months after filing of complete FERC certificate application
 - ✓ Final EIS within 6 months after DEIS (i.e., 18 months total for EIS preparation)
 - ✓ Deadlines may be extended by FERC for good cause
- Requires consistency between the *scope* of the EIS and the *scope* of FERC certificate application. This means:
 - ✓ EIS focuses on project within FERC jurisdiction (Canadian portions are reviewed by Canadian agencies, not by FERC; this is consistent with current FERC practice)

Section 7 — Federal Pipeline Director

- Creates the Office of the Federal Pipeline Director in the Executive Office of the President. The Director would be appointed by the President and confirmed by the Senate.
- Overall responsibilities of the Director include "coordinating the expeditious discharge" of all federal agencies' activities on Alaska gas projects (A-to-B and B-to-C). Gives agencies *discretion* to delegate decision-making authority to the Director, but does not require them to do so. (Similar to ANGTA provision for non-enforcement regulatory responsibilities).
- Specifically charges the Director with responsibilities for "coordinating the expeditious completion" of all environmental and other studies for Alaska gas projects. This role includes coordination with federal, state, local, and tribal agencies, as well as coordination with Canadian agencies (via the State Department).
- Requires the Director to report semi-annually to Congress on the status of all pending applications for Alaska gas projects.
- Authorizes the appropriation of funds for the Director's Office.

Section 8 — Agency Reviews and Decisions

- Directs federal agencies to expedite their handling of all Alaska gas project actions.
- Requires the federal agencies involved in Alaska gas projects to cooperate and coordinate with one another to expedite the decision-making process – through MOUs, joint documents, joint meetings, etc.
- Prevents federal agencies from including discretionary terms in permits if the Federal Pipeline Director finds that such terms would "prevent or impair in any significant respect the expeditious construction and initial operation of an economically viable and environmentally sound system."

Section 9 — Judicial Review

- Time limits: challenges to this Act's validity must be brought within 60 days of its enactment; challenges to actions by federal agencies or officers under the Act must be brought within 60 days of such action.
- Jurisdictional Limits: judicial review is limited to claims of constitutional violation or agency action in excess of statutory authority. Precludes claims that federal agency actions are "arbitrary and capricious."
- Exclusive Jurisdiction of Special Court: challenges to this Act or actions taken thereunder must be brought directly in the U.S. Court of Appeals for the D.C. Circuit.
- Expedited Procedures: does not impose specific deadline but directs the D.C. Circuit to provide expedited consideration.
- Similar limitations on judicial review are contained in ANGTA.

Section 10 — Separability

- Provides that, if any provision of this Act, or application thereof, is held invalid, the remainder of the Act is unaffected.



**YUKON
PACIFIC
CORPORATION**
TRANS-ALASKA GAS SYSTEM

JEFF B. LOWENFELS
PRESIDENT AND CHIEF EXECUTIVE OFFICER

September 12, 2001

Senator Torgerson
State Capitol
Room 427
Juneau, AK 99801

Dear Senator Torgerson,

You asked Yukon Pacific to respond to two questions.

1. Please provide section by section comments of the Producers' Proposed Act. Does the Act benefit your project? Do you support the Proposed Act? Why or why not?

Answer: The proffered Alaska Natural Gas Pipeline Act of 2001 does not apply to the TransAlaska Gas System. This LNG project does not meet the definition of the term "Alaska Facilities Gas Project" and therefore any benefits derived from the Act would not apply to the Alaskan LNG project sponsored by Yukon Pacific Corporation.

2. If you do not support the Producer's Proposed Act, are any changes to federal law necessary or useful to expedite the construction and operation of your project to get Alaska natural gas to market? If so, please describe those changes and propose suggested language.

Answer: Yukon Pacific Corporation does not support the legislation proposed by the producers. This legislation attempts to tilt the playing field in their favor to the detriment of other efforts to commercialize North Slope natural gas.

Yukon Pacific followed the requirements of the Alaska Natural Gas Transportation Act and other existing Federal Acts to obtain its permits and authorizations. These are in hand and no further federal action is necessary to loosen environmental procedures and otherwise expedite TAGS.

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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