

ALASKA LEGISLATURE SPECIAL COMMITTEE / SUBJECT FILES 86/2

538 SCOMM16: JOINT SPEC. COMM. ROYALTY OIL & GAS 1977-78

4. Continued.

A. This is dependent on the amount of royalty gas taken by the State and also on other factors, such as, whether LNG in addition to current deliveries to Japan is sold to the south 48 states. Based on present information, we estimate that the first unit would be installed in 1978 or 1979.

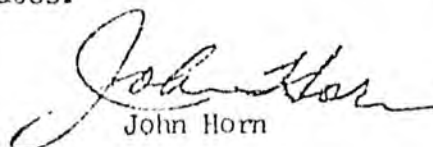
5. Q. What is your best forecast of future production from this field? Will you share with the State your future production plans so that the State may plan accordingly to utilize its royalty gas?

A. Production has averaged 43 to 45 Bcf annually over the last several years. We visualize that production could increase to 55 Bcf or more per year including royalty gas taken in kind.

6. Q. The State understands your need to maintain production of your LNG plant and that your ability to deliver royalty gas to the State will change as the field pressure changes. Would you please explain this procedure and give us your best forecast of your ability to make delivery in the future?

A. Without compression, the volume available from North Cook Inlet Field will decline rather rapidly commencing in 1979. Producing at the 43 to 45 Bcf per year rate and with the installation of compressors, these rates are estimated to continue until 1986, after which the volume declines approximately 10% per year. If the higher rate of 55 Bcf per year is maintained, the volume will commence declining in 1984 at the rate of approximately 10% per year.

You will appreciate that, due to the number of unknown factors, the information provided above is based on our best estimates of the situation as it now exists. New developments could change these estimates.


John Horn

JH:jaw

cc: R. I. Swetnam

TABLE I

PIPELINE

Estimated Present-Day Replacement Cost	at least	\$25,000,000
Estimated Present-Day Replacement Cost Depreciated to 1977		17,300,000

ESTIMATED COSTS

	<u>\$/Year</u>
Depreciation (20 Years)	\$1,100,000
Rate of Return 15% on Depreciated Investment	1,520,000
Income Tax @ 52.9% (State & Federal)	1,700,000
Operating Expense	2,750,000
TOTAL	<u>\$7,070,000</u>

Cost/Mcf @ 43 Bcf/Year = 16.4¢

Cost/Mcf @ 55 Bcf/Year = 12.9¢

TABLE II

COMPRESSORS (FIRST UNIT)

To maintain capacity in the gathering system and compressors to handle the full 12.5% royalty gas volume, it will be necessary to install compressors at an earlier date. Also, it is estimated that to maintain this capacity it will be necessary to install an additional compressor unit over and above that required for maintaining deliveries without the State taking its royalty gas in kind. Estimated differential in compressor investment is \$5,000,000.

Cost of Compression

	<u>\$/Year</u>
Depreciation (10 Years)	\$ 500,000
Rate of Return 15% on Average Investment	375,000
Income Taxes @ 52.9% (State & Federal)	420,000
Operating Expense	715,000
TOTAL	<u>\$2,010,000</u>

Minimum Annual Payment	= \$2,010,000
Royalty Gas Volume @ 43 Bcf/Year	= 5.4 Bcf
Royalty Gas Volume @ 55 Bcf/Year	= 6.9 Bcf
Cost/Mcf @ 5.4 Bcf	= 37.2¢
Cost/Mcf @ 6.9 Bcf	= 29.1¢

Phillips agreed with Alaska Pipeline Company's request to a compressor charge of 10¢/Mcf on a space-available basis and no minimum annual charge.

March 10, 1977

Memo to: File

Subject: Rationale for Accepting Gathering and Compression
Charges Proposed on North Cook Inlet Royalty Gas

By telephone March 10, 1977 Mr. Don Wold asked us to rationalize the acceptance of a 10¢/MCF charge for "gathering" and a 10¢/MCF charge for compressing royalty gas we have negotiated to purchase from the State of Alaska.

The State will escalate the price we pay for royalty gas to the highest price paid by other purchasers within 100 kilometers for similar quality and similar delivery conditions. We had offered to pay no more than the price the State would otherwise have received through the continued export of the royalty gas to Japan as LNG.

It thus is clear that the State places the State's interest above the interests of our ratepayers to the extent we have to pay more than would result from export of this gas. It does not follow that the Lessee who has made the investment required for production, gathering, and compression of royalty gas can be or should be held responsible to deliver the royalty gas at less cost than the Lessee determines to be necessary, fair, and reasonable. In fact, efforts by the State to do so will simply result in there being no agreement and no delivery of royalty gas by the Lessee.

The Lessee cannot be treated as a regulated operator under Alaska law, and the Lessee has the right to determine whether or not, and at what price, it is willing to share its facilities and install new facilities for the benefit of our ratepayers rather than for its shareholders. Clearly, the Lessee prefers not to share these facilities and will not do so if effort is made to assert that delivery of royalty gas onshore could have equal or greater priority than its contractual duty to deliver LNG to Tokyo, regardless of the revenue (price) received by Lessee.

The Lessee has provided (letter of 3-3-77) some cost estimates, reluctantly, to show the reasonableness of the prices accepted by us:

Table I: Pipeline (Gathering)

Annual cost is reported to be \$7,070,000. Assuming all this cost is carried by 43 BCF or 55 BCF, the average cost is 16.4¢ or 12.9¢. The selection of 10¢ as being appropriate for gathering

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royalty gas is less than these average costs, but clearly more than the incremental cost, as it must be. There is no way for a third party to impose a different price on the Lessee, and the price of 10¢ is far below any alternative available to us. In fact, there is no such alternative except not to take royalty gas, and we are not obliged to do so. We bear all the risk that the cost of this gas will remain competitive and will be recoverable through our revenues.

Table II: Compressors (first unit)

Annual cost is reported to be \$2,010,000. Assuming all this cost is carried by 43 BCF or 55 BCF, the average cost is 4.67¢ or 3.65¢. While the compression is not required except to deliver royalty gas (but all the gas must be compressed), the incremental cost here would be 37.2¢ or 29.1¢. However, the Lessee recognizes that during the contract term compression will be required even if royalty gas is not being delivered to us. The selection of 10¢ as being appropriate for the compression is less than the short term incremental cost but well more than the average cost. Again, there is no way for a third party to impose a different price on the Lessee, and we bear all risk that the cost of this gas will remain competitive and will be recoverable through our revenues.

If the two components are combined, the results are:

\$9,080,000 annual cost @ 43 bcfy

21.12¢ average cost

versus 20.00¢ price requested

The price requested is below the reported average cost. Assuming no incremental cost for gathering (pipeline) however, the price requested is well above the incremental cost. In fact, there is an incremental cost for gathering (as to dehydration), and other down-hole expenses which are a function of production rate. We are not equipped to quantify these costs and there is no reason to do so. The essence of this matter is that the Lessee has offered us a price below average cost and above incremental cost which is acceptable to us and that we are the only party at risk.

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There are only two beneficiaries of this contract. We do not benefit, since we will simply recover our added costs from our rate payers. We believe Phillips will not benefit since they are reluctant and clearly prefer to process and ship the gas to Japan. We believe their profits in processing and selling the royalty gas to Japan would be much greater than the amount of income from the proposed compression and transmission charges net of incremental expenses. The State takes no risks and may benefit from a higher wellhead price. Our ratepayers benefit from the increased life of our committed reserves. If the transaction is not consummated then, the losers are the State and our ratepayers, which (through power distribution) include more than half of the State's population, from Homer and Seward to Talkeetna.

There is no way to require the Lessee to deliver royalty gas (at any price) and no way to disagree with the price(s) now offered. Clearly the end objective -- obtaining of royalty gas -- is in the public interest, and the State should place that interest foremost.



dh

4/20/77

Notes—

— Contracts can be extended—that am
object and new provision from
the original 76-1 contract.

Since this was an item
which prevented APC from taking
delivery of the gas, why was it
object? (14.1, line 17 and 7.1, line 16)

The Freehold, Govt. AG, could
not provide a satisfactory answer—
other than that it is a standard
and non-controversial provision
and that any extensions would
have to be approved by legislature—
so why get rights?

My concern is that a contract
with this provision in it is a
lost leader to get extended
and kept going (as AGAS
certainly would wish— they want
the royalty gas over the life
of production) than if you
had to renegotiate it. Truly, to all used.

about that and needless concern.

If the contract between the State and Phillips gets terminated or deliveries of royalty gas (to APC) are not effectuated, the State's election to take its royalty gas in-kind is needed (14.4, lines 26-29)

Pete Enckleide assured me that we are not giving up our right to take in-kind at some future date.

The Phillips contract with the State is not being submitted for legislative approval, although it is being submitted as an exhibit to the APC/State contract.

Pete F clarified that there was no statutory authority to require leg. appt, and every thing was up front by virtue of it being part of the APC/State contract.

Exhibit "B"

AGREEMENT

This Contract, made and entered into this 11th
day of April, 1977, by and between the State of Alaska,
herein referred to as "State", and Phillips Petroleum Com-
pany, herein referred to as "Lessee",

W I T N E S S E T H

WHEREAS, Lessee is the holder of certain mineral
leases from the State in the North Cook Inlet area of Alaska,
said leases identified in Exhibit "A" to this Agreement; and

WHEREAS, the State has the right under the terms
of said leases to receive in value or in kind a 1/8 (one-
eighth) royalty share of natural gas produced from said
leases; and

WHEREAS, the State desires to receive its in kind
royalty share of natural gas at a point other than at Lessee's
production platform; and

WHEREAS, Lessee operates a gas pipeline to gather
natural gas from the said leases to the LNG facility at
Kenai, Alaska (hereinafter referred to as Kenai LNG Plant),
which Lessee operates; and

WHEREAS, Lessee is willing to deliver to the State
its in kind royalty share of the natural gas from said
leases at a point near the Kenai LNG Plant; and

WHEREAS, the State desires to receive its royalty
share of the natural gas from said leases at such a point

1 and has agreed with Alaska Pipeline Company to sell such gas
2 to Alaska Pipeline Company (herein referred to as "APC") for
3 resale and use within the State of Alaska according to the
4 terms of that certain Gas Purchase Contract attached hereto
5 as Exhibit "B".

6 NOW, THEREFORE, premises considered, the State and
7 Lessee hereby mutually agree as follows:
8

9 ARTICLE I
10 DEFINITIONS

11 The following terms when used in this Agreement
12 shall have the following meanings:

13 1.1. The term "~~day~~" shall mean a period of twenty-
14 four (24) consecutive hours beginning and ending at 7:00
15 o'clock A.M. The reference date for any day shall be the
16 date of the beginning of such day.

17 1.2 The term "month" shall mean a period begin-
18 ning at 7:00 o'clock A.M. on the first day of a calendar
19 month and ending at 7:00 o'clock A.M. on the first day of
20 the next succeeding calendar month.

21 1.3 The term "Mcf" shall mean one thousand (1,000)
22 cubic feet of natural gas measured as hereinafter provided.
23

24 ARTICLE II
25 The State's Royalty Gas

26 2.1 Within 30 days after the execution and approval
27 of this Agreement as required by the laws of the State of
28 Alaska, the State shall notify the Lessee under the leases
29

1 set forth at Exhibit A, the State's election to take its
2 royalty gas in kind. Said notice will provide that the
3 Lessee shall commence the delivery of said royalty gas to
4 the State (or to the State's designee) upon a receipt of
5 notice from the State that all facilities necessary to
6 receive and market said gas are ready; provided, however, in
7 no event shall Lessee be required to commence the delivery
8 of royalty gas to the State (or its designee) prior to six
9 (6) months following Lessee's receipt of notice of the
10 State's election to take its royalty gas in kind.

11 2.2 In order that the State give Lessee as much
12 advance notice as possible of the date it will start receiv-
13 ing its royalty gas in kind, the State shall notify Lessee
14 that all facilities necessary to receive and market said gas
15 are ready, at least sixty (60) days prior to the date on which
16 Lessee shall be required to commence delivery pursuant to
17 this Agreement.

18 ARTICLE III

19 FACILITIES

20
21 3.1 Lessee is presently operating and maintaining
22 a natural gas gathering system between the North Cook Inlet
23 Field and the Kenai LNG Plant.

24 3.2 The State or its designee shall install,
25 maintain and operate all pipeline, pressure regulators, and
26 related facilities necessary to receive gas hereunder at the
27 point of delivery hereinafter specified. Said point of
28 delivery shall be at or near the existing pipeline tap being
29 presently used to deliver gas from Lessee's pipeline to the
30

1 Tesoro refinery located in the general vicinity of the Kenai
2 LNG Plant on the North Kenai Road.

3 3.3 The State or its designee shall install,
4 operate and maintain all necessary equipment at the point of
5 delivery and at the State's or its designee's measuring
6 station(s) (hereinafter called the "point of measurement")
7 to properly control, odorize, and measure the volumes of
8 gas delivered hereunder.

9 3.4 Lessee hereby grants the State or its designee
10 ingress and egress at the point of delivery without charge
11 for all purposes necessary hereto, and the State and its
12 designee hereby agree to assure Lessee ingress and egress at
13 the point of measurement and between the point of delivery
14 and the point of measurement without charge for all purposes
15 necessary hereto.

16 ARTICLE IV

17 QUANTITY OF GAS

18
19 4.1 Subject to the availability of capacity in
20 its facilities to handle volumes in excess of its own
21 needs and to the extent of such availability, and upon
22 proper written notice from the State under Article II
23 hereof, Lessee shall gather the royalty gas in the North
24 Cook Inlet Field and deliver same to the State at the point
25 of delivery specified herein. The State is entitled to
26 receive at the wellhead 1/8 (one-eighth) of the natural gas
27 produced from the leases listed in Exhibit "A", and to the
28 extent that Lessee gathers and delivers more or less than
29 the amount of royalty gas to which the State is entitled,
30

1 that difference shall be carried in the over and short
2 account described below or Lessee shall purchase same on the
3 basis provided in Section 4.3 below.

4 It is recognized that it is impossible to deliver
5 to the State or for the State or its designee to receive the
6 exact amount of royalty gas produced from the leases listed
7 in Exhibit "A". Lessee agrees that it will carry an over
8 and short account with respect to the receipts of royalty
9 gas and the delivery of same to the State, provided, however,
10 that Lessee shall never be required to carry more than a
11 total of 60,000 Mcf over or under delivery. In the event
12 the takes by the State on a cumulative basis shall ever be
13 more than 60,000 Mcf less than the amount of royalty gas
14 available at the point of delivery, the State shall not be
15 allowed to make up for any such underdelivery, and Lessee
16 shall purchase the excess undelivered quantities of royalty
17 gas over 60,000 Mcf from the State at the wellhead on the
18 basis provided in section 4.3 below.

19 4.2 Subject to (i) the availability of royalty
20 gas at the platform and (ii) to the State's or its designee's
21 requirements, and (iii) the State's or its designee's ability
22 to take such requirement, Lessee shall use its best reasonable
23 efforts to deliver to the State or its designee at the
24 delivery point specified herein on an annual basis not less
25 than three (3) billion cubic feet of royalty gas; provided,
26 however, that in using such best reasonable efforts, Lessee
27 shall not be required to install or operate any pipeline,
28 compression or other facilities which, when operating as a
29 reasonably prudent operator, it would not otherwise install
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1 and/or operate.

2 4.3 The parties recognize that the State contem-
3 plates selling such royalty gas to Alaska Pipeline Company
4 and that such purchaser may be unable from time to time to
5 take and deliver to its customers the full volumes of gas
6 attributable to the State's royalty interest although it is
7 committed to purchase that volume from the State. In such
8 event, Lessee agrees to purchase from the State from time to
9 time those volumes which APC is unable to take. For such
10 volumes which it purchases from the State, Lessee will pay
11 the State a price equal to that amount which Lessee would
12 have otherwise paid to the State as royalty if the State had
13 not elected to receive its royalty gas in kind, and Lessee
14 will not charge the State for gathering or compressing such
15 volumes of gas or for other charges under this Agreement.

16 ARTICLE V

17 POINT OF DELIVERY AND OWNERSHIP

18
19 5.1 The point of delivery to the State for all gas
20 gathered and delivered hereunder by Lessee shall be at the
21 junction of APC's facilities and Lessee's facilities located
22 near the pipeline tap serving the Tesoro refinery as mention-
23 ed in Section 3.2 of this Agreement.

24 5.2 Lessee shall be deemed to be in control and
25 possession of the gas deliverable hereunder and responsible
26 for any damage or injury caused thereby until said gas shall
27 have been delivered to the State or its designee at the
28 point of delivery, after which delivery State or its designee
29 shall be deemed to be in exclusive control and possession of
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check
against
APC contract

1 the gas and responsible for any injury or damage caused thereby.

2 5.3 Measurement of royalty gas shall be the responsi-
3 bility of the State or its designee subject to Lessee's right
4 to verify such measurement or to install and operate check
5 metering equipment, and shall be done at a metering station(s)
6 on the North Kenai Road, called the "point of measurement".
7 The State or its designee shall be responsible for any gas
8 lost between the point of delivery and the point of measurement.

9
10 ARTICLE VI

11 QUALITY, PRESSURE, AND ODORIZATION

12 6.1 Lessee shall deliver gas hereunder at the
13 pressure existing from time to time in its facilities at the
14 point of delivery.

15 6.2 Lessee agrees that the quality of gas, when
16 delivered at the point of delivery hereunder, shall be the
17 quality of gas existing in its gathering system from time to
18 time and the State agrees to accept such gas.

19 6.3 It is understood that the gas delivered
20 hereunder will not be odorized by Lessee, and if the State
21 or its purchaser so utilizes the gas delivered hereunder for
22 purposes which require odorization of such gas, the full
23 responsibility for such use is the State's. Lessee shall
24 have no responsibility for odorizing such gas irrespective
25 of the State's disposition of same.

26
27 ARTICLE VII

28 STANDARDS OF MEASUREMENT AND TESTS

29 7.1 Except for the determination and computation
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31
32

1 of total heating value, the unit of volume of gas delivered
2 hereunder shall be one (1) cubic foot at an absolute pres-
3 sure of fourteen and sixty-five hundredths (14.65) pounds
4 per square inch and at a base temperature of sixty (60)
5 degrees Fahrenheit.

6 7.2 The volumes of gas delivered hereunder shall
7 be measured and computed by the State or its designee in
8 accordance with the methods prescribed in Gas Measurement
9 Committee Report No. 3, Natural Gas Department, American Gas
10 Association, including the Appendix thereto, dated April,
11 1965, except that the atmospheric pressure shall be assumed
12 to fourteen and seven-tenths (14.7) pounds per square inch.
13 The method used for correcting such volumes for deviation
14 from the Ideal Gas Laws shall be the procedure recommended
15 in the most current Report of the American Gas Association
16 or by any other method mutually agreeable to the parties
17 hereto.

18 7.3 The specific gravity of the gas delivered
19 hereunder shall be determined by Lessee's utilizing the
20 method prescribed in American Petroleum Institute Code No.
21 50-A at the beginning of delivery hereunder and once during
22 each month thereafter. The results of each such determina-
23 tion shall be used in computing the volume of gas delivered
24 hereunder until the effective date of the next succeeding test.

25 7.4 The flowing temperature of the gas delivered
26 hereunder shall be determined by means of a continuous
27 recording thermometer installed by the State or its designee
28 so that it will properly record the temperature of the gas
29 flowing through the meter. The arithmetical average of the
30

1 hourly temperatures recorded each day shall be used in
2 computing the volumes of gas delivered during such day.

3 7.5 If the gas delivered hereunder is solely from
4 the 16-inch pipeline serving the North Cook Inlet Field, the
5 total heating value of the gas shall be the average of that
6 recorded on the recording calorimeter for Lessee's gas at
7 the inlet to Kenai LNG Plant during the billing period
8 corrected to thirty (30) inches of Mercury and sixty (60)
9 degrees Fahrenheit dry.

10 ARTICLE VIII

11 MEASUREMENT

12
13 8.1 As agreed in Section 5.3 hereof, the State or
14 its designee shall be obligated to and be responsible for
15 all metering of gas hereunder.

16 8.2 The State or Lessee may, at their option and
17 expense, install check meters upstream or downstream of the
18 State's or its designee's meter station provided that such
19 check meters will be installed so as not to interfere with
20 the operation of the State's or its designee's facilities.
21 The calibrating and adjusting of meters and the changing of
22 charts and the reading of charts on meters shall be done by
23 the party who installed the meters.

24 8.3 The State and Lessee shall have access at all
25 times to the State's or its designee's metering equipment
26 including all other instruments used by the State or its
27 designee in determining the measurement and quality of the
28 gas delivered hereunder, but the reading, calibrating and
29 adjusting thereof, and the changing of charts shall be done
30

1 only by the employees, agents, or representatives of the
2 State or its designee. Upon request of Lessee, the State or
3 its designee shall submit to Lessee records and charts from
4 such equipment subject to return by Lessee within thirty
5 (30) days after receipt thereof.

6 8.4 At least once a month the State or its des-
7 ignee shall test its above-mentioned metering equipment or
8 cause the same to be tested and shall give Lessee or its
9 representative reasonable prior notice of the time all such
10 tests are to be made so that Lessee may, if desired, have its
11 representative present to observe such tests and any adjust-
12 ments made upon such metering equipment. Following any
13 test, any of the State's or its designee's metering equip-
14 ment found to be inaccurate to any degree shall be adjusted
15 immediately to measure accurately. If upon any test such
16 metering equipment is found to be inaccurate by two percent
17 (2%) or more, registration from said metering equipment and
18 any payments based upon such registrations shall be corrected
19 at the rate of such inaccuracy for any period of inaccuracy
20 which is definitely known or agreed upon, but in case the
21 period is not definitely known or agreed upon, then for a
22 period extending back one-half (1/2) of the time elapsed since
23 the last previous test, not exceeding, however, fifteen (15)
24 days.

25 8.5 If for any reason the State's or its designee's
26 meter is out of service or is found registering inaccurately
27 and the error is not determinable by ordinary test such that
28 the volume of gas delivered through such meter cannot be
29 ascertained or computed from the readings thereof, the
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1 volume of gas so delivered during the period the meter is
2 out of service or registering inaccurately shall be estimated
3 and agreed upon by the parties hereto upon the basis of the
4 best available data, using the first of the following methods
5 which is feasible:

- 6 (a) by correcting the error if the percentage of error
7 is ascertainable by calibration, special test, or
8 mathematical calculation;
9
10 (b) By using the registration of any check measuring
11 equipment of Lessee if installed and registering
12 accurately;
13
14 (c) By estimating the volume by comparing it with de-
15 liveries during preceding periods under similar
16 conditions when the meter was registering accurately.

17 ARTICLE IX

18 GATHERING AND COMPRESSION CHARGES AND TAXES

19 9.1 For all gas delivered by Lessee to the State
20 at the delivery point, the State or its designee shall pay
21 to Lessee a gathering charge of ten cents (10.0¢) per Mcf
22 from the date of first delivery hereunder. The above-stated
23 charge shall increase by six percent (6%) ^{per year} compounded annually,
24 on each anniversary date of the date this Agreement.
25

26 9.2 It is recognized by the parties hereto that
27 it may be necessary for Lessee to install compression facil-
28 ities during the term of this Agreement. At the time the
29 first compressor unit is installed and first used, the State
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1 or its designee shall pay Lessee in addition to the gathering
2 charge set forth in Section 9.1, a compression charge of ten
3 cents (10.0¢) per Mcf for all gas delivered by Lessee to the
4 State at the delivery point. Such charge shall increase by
5 six percent (6%) per year, compounded annually, commencing on
6 the first anniversary of the date such compression facilities
7 are installed and first used.

8 9.3 In the event that Lessee installs or causes
9 to be installed from time to time compression facilities
10 in addition to the first compressor unit mentioned in
11 Section 2, above, Lessee shall give the State and its desig-
12 nee written notice at least six (6) months prior to the time
13 Lessee anticipates placing any additional unit or units in
14 operation in order to maintain capacity in its gathering
15 system. Such notice shall also terminate this Agreement at
16 the end of such six (6) months period. If, within ninety (90)
17 days of the date of such notice the parties shall agree upon
18 a new compression charge to be applicable when such additional
19 compression facilities go into operation, then this Agreement
20 shall not terminate but shall continue in full force and effect
21 as amended to include the new compression charge.

22 9.4 Lessee shall pay all ad valorem taxes on its
23 pipelines and facilities employed in delivering gas here-
24 under. In addition to the price and payments hereinabove
25 provided, the State shall reimburse Lessee in the proportion
26 of deliveries made to the State by Lessee, an amount equal
27 to the aggregate total of any new or increased fee, impost,
28 duty, charge, excise or tax levied or imposed in addition to
29 the rates at which those, if any, are levied, assessed, or

?
Who are they?
State
and Phelps
or State, Phelps
and APC?
Since they are
signatories
of the
contract

1 fixed as of the date hereof, with respect to the gathering
2 of the royalty gas delivered hereunder (including compres-
3 sion) prior to its delivery to the State that Lessee may be
4 required to pay for directly or indirectly.

5
6 ARTICLE X
7 BILLING AND PAYMENTS

8 10.1 On or before the 15th day of each month
9 during the term hereof the State or its designee shall
10 furnish Lessee with a full and complete statement reflecting
11 all gas delivered by Lessee during the preceding month and
12 the total amount due hereunder pursuant to Article IX hereof.
13 Payment hereunder shall be made to Lessee at its office in
14 Bartlesville, Oklahoma within ten (10) days after delivery
15 of each such statement.

16 10.2 On or before the 30th day of each month
17 during the term hereof Lessee shall furnish to the State or
18 its designee a full and complete statement reflecting the
19 total amount of royalty gas produced by Lessee during the
20 preceding month. Deducting the quantity taken by the State
21 for such month, Lessee shall determine the amount of royalty
22 gas not taken by the State for such month and shall make
23 payment therefor to the State together with said statement.

24 10.3 Each party hereto shall have, at its expense,
25 the right to examine the books and records of the other
26 party to the extent necessary to verify the accuracy of any
27 statement or invoice made under or pursuant to this contract.
28 Any statement shall be final as to both parties unless
29 questioned in writing within two (2) years after payment
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1 thereof has been made.

2 ARTICLE XI

3 REPRESENTATION AND CONDITION PRECEDENT

4
5 11.1 It is expressly recognized and agreed that
6 the gas gathering system utilized for deliveries hereunder
7 is operated and maintained by Lessee for its own purpose and
8 Lessee does not, by entering into this Agreement, dedicate
9 any facilities or otherwise undertake to render any service
10 to or for the public. This Agreement is being undertaken
11 solely to effectuate the delivery of royalty gas to the
12 State, and the State makes the material representation that
13 neither this Agreement nor the State's use or disposition of
14 the gas delivered hereunder will subject Lessee to regula-
15 tion by the Federal Power Commission, the Alaska Public
16 Utilities Commission, or the Alaska Pipeline Commission.

17 11.2 In the event that any governmental agency
18 shall declare that Lessee's activities hereunder subject
19 Lessee to regulation as a utility, then either party shall
20 have the option to terminate this Agreement upon thirty (30)
21 days' notice in writing.

22 ARTICLE XII

23 ALASKA PIPELINE COMPANY

24
25 12.1 The State has entered into a Gas Purchase
26 Agreement with Alaska Pipeline Company, under the terms of
27 which APC will purchase the State's royalty gas after same
28 has been delivered by Lessee to the State. Under such
29 contract, APC has agreed to make for the State's account all
30

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payments required by Articles IX and X hereof. Lessee agrees to accept such payments by APC as satisfaction of the State's obligations under Articles IX and X hereof. In the event of default by APC in making such payments, Lessee shall promptly notify the State and if such default continues for a period of thirty (30) days after such notice, Lessee shall have the option of terminating this Agreement in its entirety.

12.2 Lessee agrees to accept the State's designation of APC as the State's designee hereunder for the performance of any other obligations which the provisions hereof place on the State.

12.3 By its execution hereof APC ratifies all of the terms, covenants, conditions, and representations hereof.

ARTICLE XIII

FORCE MAJEURE

13.1 No liability shall result to either party from delay in performance or non-performance of any obligation hereunder (except the State's obligation to make payment hereunder) caused by circumstances reasonably beyond the control of the party affected, including, but not limited to, acts of God, fire, flood, storm, war (declared or undeclared), repair of facilities, breakage or accident to machinery or lines of pipe, repair, redrilling or reworking of wells, governmental regulation, requisition or direction, or labor strikes or lockouts.

13.2 The party claiming relief under this Article XIII shall advise the other party with reasonable promptness

1 in writing giving full particulars of the cause or causes
2 relied upon and shall also give prompt notice in writing of
3 the cessation of any such cause or causes. The party claiming
4 force majeure shall exercise due diligence in undertaking to
5 remedy and overcome the cause of delay hereunder, but neither
6 party shall be required to agree to any demand of labor to
7 settle any strike or labor dispute except in the sole discre-
8 tion of the party subject to such strike or labor dispute.

9
10 ARTICLE XIV

11 TERM

12 14.1 This Agreement shall become effective upon
13 the execution hereof and the execution and approval of the
14 Alaska Royalty Oil and Gas Development Advisory Board and
15 the State Legislature of the Contract attached as Exhibit
16 "B" hereto and shall remain in effect until June 1, 1984,
17 unless terminated or extended prior to such date by mutual
18 agreement of the parties, or pursuant to this Article or
19 Article XI or XIII.

20 14.2 In the event that the Agreement attached
21 hereto as Exhibit "B" is terminated, this Agreement may be
22 terminated by either party upon thirty (30) days notice.

23 14.3 If deliveries to the State or its designee
24 hereunder have not commenced on or before June 30, 1978,
25 then this Agreement shall terminate immediately.

26 14.4 In the event of termination of this Agree-
27 ment or of deliveries of royalty gas hereunder, the parties
28 agree that such termination shall have the effect of re-
29 voking the State's election to receive its royalty gas in-kind
30

1 as of the date of termination and Lessee shall immediately
2 commence such royalty payment under the terms of the leases
3 listed in Exhibit "A" to assure the state of its full royalty
4 share on all gas produced from the leases.

5 ARTICLE XV

6 MISCELLANEOUS

7
8 15.1 Except as herein otherwise provided, any
9 notice, request, demand, statement or bill provided for in
10 this Agreement, or any notice which either party may desire
11 to give to the other, shall be in writing and shall be con-
12 sidered as duly delivered when mailed by registered mail to
13 either of the parties hereto as the case may be at the
14 following address:

15 Commissioner of Natural Resources
16 State of Alaska
17 Pouch M
Juneau, Alaska 99811

18 Phillips Petroleum Company
19 Attn: Gas and Gas Liquids Division
Bartlesville, Oklahoma 74004

20 Alaska Pipeline Company
21 P. O. Box 6288
Anchorage, Alaska 99502

22 or at such other address as either party shall designate
23 from time to time by formal written notice. Routine com-
24 munications, including monthly statements and payments,
25 shall be considered as duly delivered when mailed by either
26 registered or ordinary mail.

27 IN WITNESS WHEREOF, this Agreement is executed as
28 of the day and year first above written.

STATE OF ALASKA

By

Robert E. Leach

ATTEST:

PHILLIPS PETROLEUM COMPANY

By

R. L. Latham
Vice President
ATTORNEY IN FACT

Assistant Secretary

ATTEST:

ALASKA PIPELINE COMPANY

By

Alan L. Lusk
President

Lee P. Vahlquist
Assistant Secretary

EXHIBIT "A"

Attached to and Made a Part of a Gas Purchase and Sales Agreement dated April 11, 1977, Between PHILLIPS PETROLEUM COMPANY "~~Buyer~~" and the STATE OF ALASKA "Seller",

With Respect to Certain Royalty Gas Owned and Taken in Kind by the STATE

Under the Leases Described Herein Covering Lands in the State of Alaska.

Each of the Following described Leases reserves to the State of Alaska a one-eighth royalty interest.

<u>Lease Serial No.</u>	<u>Legal Description</u>	<u>Gross Acres</u>
ADL-17589 2/1/62	T.12N., R.9W., S.M. Sec. 31: All; Sec. 32: All. T.11N., R.9W., S.M. Sec. 5: All; Sec. 6: All; Sec. 7: All; Sec. 18: N 1/2. T.11N., R.10W., S.M. Sec. 12: All; Sec. 13: N 1/2.	5,002. 4,375.50
ADL-17590 3/1/62	T.12N., R.9W., S.M. Sec. 21: W 1/2; Sec. 28: W 1/2.	5,120. 640.00
ADL-18740 9/1/62	T.12N., R.10W., S.M. Sec. 35: SE 1/4. T.11N., R.10W., S.M. Sec. 2: E 1/2; Sec. 11: E 1/2.	5,120 800.00
ADL-18741 9/1/62	T.11N., R.9W., S.M. Sec. 9: N 1/2, SW 1/4. T.12N., R.9W., S.M. Sec. 33: NW 1/4.	5,120. 640.00

ADL-37831
9/1/62

T.12N., R.9W., S.M.

5,051.

3,326.00

Sec. 29: All;

Sec. 30: All;

Sec. 19: SE 1/4;

Sec. 20: NE 1/4, S 1/2.

T.12N., R.10W., S.M.

Sec. 36: All;

Sec. 25: SE 1/4.

T.11N., R.10W., S.M.

Sec. 1: All.

GAS PURCHASE CONTRACT

This Contract, made and entered into this 1st day of
April 1977, by and between the Alaska Pipeline Company
("APC") herein referred to as "Buyer" and the State of Alaska,
hereinafter referred to as "Seller":

WITNESSETH

WHEREAS, Buyer owns and operates a natural gas pipeline
system in areas of Alaska for the delivery of natural gas for
ultimate consumption within the State of Alaska, and

WHEREAS, Seller has the right under each of the leases,
identified in Exhibit "A" to this Contract, to be paid by Lessee
thereunder a royalty of twelve and one-half percent in-kind or
in-value of the natural gas produced and saved or used off of
the lands covered by each lease, and

WHEREAS, Seller is authorized by AS 38.05.183 to sell royalty
gas; and

WHEREAS, Buyer represents to Seller that the gas received
by Buyer under this contract will be used to meet the require-
ments of its customers within the State of Alaska; and

WHEREAS, this Gas Purchase Contract when executed will
supersede and extinguish that certain Gas Purchase Contract
executed June 4, 1976 by the parties hereto;

NOW, THEREFORE, in consideration of the representations,
covenants, and conditions herein contained, Buyer and Seller
hereby agree as follows:

ARTICLE I

DEFINITIONS

Seller's Royalty Gas

2.1 Seller hereby agrees that within 30 days after the execution and approval of this agreement as required by the laws of the State of Alaska, Seller shall notify the Lessee under the leases set forth at Exhibit "A" of Seller's election to take its royalty gas in-kind. Said notice will provide that the Lessee shall commence the delivery of said royalty gas to Seller or to Seller's designee upon a receipt of notice from Seller that all facilities necessary to enable Buyer to receive and market said gas are ready; provided, however, in no event shall Lessee be required to commence the delivery of royalty gas to Seller or its designee prior to six (6) months following Lessee's receipt of notice of Seller's election to take its royalty gas in-kind.

2.2 In order that Seller can give its Lessee as much advance notice as possible of the date it will start receiving its royalty gas in-kind, Buyer shall notify Seller, and Seller shall notify its Lessee, that all facilities necessary to receive and market said gas are ready, at least 60 days prior to the date Buyer will receive gas from Seller pursuant to this Contract.

2.3 Buyer agrees that Seller's royalty gas which is purchased and received by Buyer will be used or resold for use

Who are they?
State and
APC or
State APC
and Ph. 11/11/11

Quantity

→ approx. 81 mcf/day

ases
2 why
state?

Let Phillips do
that! Bonds
in Phillips
Contract they do do it!

1 however, that the account shall never be required to carry
2 more than a total of 60,000^MMcf over or underdelivery. In
3 the event the takes by Buyer on a cumulative basis shall ever
4 be more than 60,000^MMcf less than the amount of royalty gas
5 available to Buyer at the point of delivery, Buyer shall not
6 be allowed to make up for any such underdelivery and Seller
7 may sell the undelivered quantity of royalty gas to Lessee.

8
9 ARTICLE IV

10 Quality, Pressure, and Odorization

11 4.1 The gas to be delivered by Seller to Buyer at the
12 delivery point shall be gas of the same quality and pressure
13 as delivered to Seller by the Lessee at the point of delivery.
14 Seller shall have no obligation to improve the quality or
15 pressure of gas beyond that quality and pressure at which
16 Lessee delivers the gas to seller.

17
18 4.2 Gas delivered hereunder will not be odorized and
19 if Buyer so utilizes the gas delivered hereunder for purposes
20 which require odorization of such gas, the full responsibility
21 for such use is Buyer's and Buyer agrees to comply with all
22 laws and regulations respecting the odorization of such gas
23 and hereby indemnifies and holds Seller harmless from any
24 and all claims, injuries, expenses, penalties and damages
25 arising out of or connected with Buyer's failure to observe
26 strictly and comply with all laws, rules and regulations with
27 respect hereto.

ARTICLE V

Point of Delivery, Point of Measurement,
Ownership, and Measurement

5.1 Buyer shall install, maintain, and operate a connection into the Lessee's pipeline system at or near Lessee's pipeline tap presently being used to deliver gas from Lessee's pipeline to the Tesoro refinery located in the general vicinity of the Kenai LNG plant on the North Kenai Road, (hereinafter called "the point of delivery"). The point of delivery of all gas delivered hereunder shall be at the same point of delivery that Seller receives its royalty gas from the Lessee.

5.2 Buyer agrees to install, maintain, and operate all pipeline, pressure regulators, and related facilities necessary to receive gas hereunder at and from the point of delivery above specified, to Buyer's metering station(s) also located in the general vicinity of the Kenai LNG plant on the North Kenai Road (hereinafter called "the point of measurement").

5.3 Buyer shall be deemed to be in control and possession of the gas delivered hereunder at and from the point of delivery and responsible for any damage or injury caused thereby. Buyer shall be responsible for any gas lost between the point of delivery and the point of measurement. Buyer shall indemnify and hold Seller harmless as to any injury or damage arising out of the delivery of gas to Buyer and its measurement hereunder.

5.4 Standards of Measurements and Tests

1 5.4.1 Except for the determination and computation
2 of total heating value, the unit of volume of gas delivered here-
3 under shall be one (1) cubic foot at an absolute pressure of
4 fourteen and sixty-five hundredths (14.65) pounds per square
5 inch and at a base temperature of sixty (60) degrees Fahrenheit.
6

7 5.4.2 The volumes of gas delivered hereunder shall be
8 measured and computed by Buyer in accordance with the methods
9 prescribed in Gas Measurement Committee Report No. 3, Natural
10 Gas Department, American Gas Association, including the Appendix
11 thereto, dated April, 1955, except that the atmospheric pressure
12 shall be assumed to be fourteen and seven-tenths (14.7) pounds
13 per square inch. The method used for correcting such volumes
14 for deviation from the Ideal Gas Laws shall be the procedure
15 recommended in the most current Report of the American Gas Asso-
16 ciation or by any other method mutually agreeable to the parties
17 hereto.
18

19 5.4.3 The specific gravity of the gas delivered hereunder
20 shall be determined by Lessee utilizing the method prescribed
21 in American Petroleum Institute Code No. 50-A at the beginning
22 of delivery hereunder and once during each month thereafter. The
23 results of each such determination shall be used in computing the
24 volume of gas delivered hereunder until the effective date of
25 the next succeeding test.
26

27 5.4.4 The flowing temperature of the gas delivered here-
28 under shall be determined by means of a continuous recording
29 thermometer installed by Buyer so that it will properly record
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1 the temperature of the gas flowing through the meter. The
2 arithmetical average of the hourly temperatures recorded each day
3 shall be used in computing the volumes of gas delivered during
4 such day.

5
6 5.4.5 If the gas delivered hereunder is solely from the
7 16-inch pipeline serving the North Cook Inlet Field, the total
8 heating value of the gas shall be the average of that recorded on
9 the recording calorimeter for Lessee's gas at the inlet to
10 Kenai LNG Plant during the billing period corrected to thirty
11 (30) inches of Mercury and sixty (60) degrees Fahrenheit dry.

12
13 5.5 Measurement

14
15 5.5.1 Seller or Lessee may at their option and expense,
16 install check meters upstream or downstream of Buyer's meter
17 station provided that such check meters will be installed so
18 as not to interfere with the operation of Buyer's facilities.
19 The calibrating and adjusting of meters and the changing of
20 charts and the reading of charts on meters shall be done by the
21 party who installed the meters.

22 *Why? It's their equipment!*
23 5.5.2 Buyer, Lessee, and Seller shall have access at all
24 times to Buyer's metering equipment including all other instru-
25 ments used by Buyer in determining the measurement and quality
26 of the gas delivered hereunder, but the reading, calibrating
27 and adjusting thereof, and the changing of charts shall be done
28 only by the employees, agents, or representatives of Buyer. Upon
29
30
31
32

1 request of Lessee or Seller, Buyer shall submit to Lessee or
2 Seller records and charts from such equipment subject to return
3 by Lessee or Seller within thirty (30) days after receipt thereof.
4 Buyer hereby agrees to assure Seller and Lessee ingress and egress
5 at the point of measurement and between the point of delivery and
6 the point of measurement without charge for all purposes necessary
7 hereto.

8
9 5.5.3 At least once a month Buyer shall test ^{its} above
10 mentioned metering equipment or cause the same to be tested and
11 shall give Lessee or the representative reasonable prior notice
12 of the time all such tests are to be made so that Lessee may,
13 if desired, have its representative present to observe such tests
14 and any adjustments made upon such metering equipment. Following
15 any test, any of Buyer's metering equipment found to be inac-
16 curate to any degree shall be adjusted immediately to measure
17 accurately. If upon any test such metering equipment is found
18 to be inaccurate by two percent (2%) or more, registration from
19 said metering equipment and any payments based upon such regis-
20 trations shall be corrected at the rate of such inaccuracy for
21 any period of inaccuracy which is definitely known or agreed
22 upon, but in case the period is not definitely known or agreed
23 upon, then for a period extending back one-half of the time
24 elapsed since the last previous test, not exceeding however,
25 fifteen (15) days.

W/bs 2
is 400

26
27 5.5.4 If for any reason Buyer's meter is out of service or
28 is found registering inaccurately and the error is not determin-
29 able by ordinary test such that the volume of gas delivered
30
31
32

1 through such meter cannot be ascertained or computed from the
2 readings thereof, the volume of gas so delivered during the
3 period the meter is out of service or registering inaccurately
4 shall be estimated and agreed upon by the parties hereto upon the
5 basis of the best available data, using the first of the follow-
6 ing methods which is feasible:

7 (a) By correcting the error if the percentage of
8 error is ascertainable by calibration, special test,
9 or mathematical calculation;

10 (b) By using the registration of any check measuring
11 equipment of Lessee if installed and registering
12 accurately;

13 (c) By estimating the volume by comparing it with
14 deliveries during preceding periods under similar
15 conditions when the meter was registering accurately.

16
17 ARTICLE VI

18 Price and Billing

19 6.1 The price to be paid by Buyer to Seller for gas deliver-
20 ies shall be as follows:

21 (a) Commencing on the date of first deliveries here-
22 under assuming that this date occurs prior to July 1,
23 1978 and continuing until the first day of July, 1978,
24 the price shall be 64.65 cents per MCF.

25
26 (b) Commencing on the first day of July, 1978 and
27 continuing until the first day of July, 1979 the
28 price shall be the higher of (i) 66.65 cents per
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1 MCF, (ii) the price Seller would have received from
2 Lessee had it not elected to receive its royalty gas
3 in kind, (iii) the highest price paid by any purchaser
4 in the upper Cook Inlet area for gas of similar quality
5 and similar conditions of delivery; with due regard
6 to appropriate factors including, but not limited to,
7 difference of BTU content, delivery pressure, term of
8 the contract and connection charges.

what
does
that
include?
Previously
100km
radius!

9
10 (c) For each succeeding 12 month period commencing
11 July 1, 1979 the price shall be increased to the higher
12 of (i) the previous year's price plus 2 cents per Mcf,
13 (ii) the price Seller would have received had it not
14 elected to take its royalty in-kind, (iii) the highest
15 price paid by any purchaser in the upper Cook Inlet
16 area for gas of similar quality and conditions of delivery;
17 with due regard to appropriate factors including, but
18 not limited to, difference of BTU content, delivery
19 pressure, term of contract and connection charges.

20
21 (d) In addition to the price otherwise payable herein-
22 above, for gas delivered to Buyer at the delivery point
23 Buyer shall pay to Lessee, for the account of Seller,
24 a gathering charge of ten cents (10.0¢) per Mcf from the
25 date of first delivery hereunder. The above stated
26 charge shall increase six percent (6%) compounded annually
27 on each anniversary of the date of this contract.

28
29 (e) It is recognized by the parties hereto that it will
30 be necessary for Lessee to install compression facilities
31
32

1 during the term of this Agreement. At the time the
2 first compressor unit is installed and first used, Buyer
3 shall pay to Lessee, for the account of Seller, in addition
4 to the price and gathering charge otherwise payable
5 hereinabove, a compression charge of ten cents (10.0¢)
6 per Mcf for all gas delivered to Buyer at the delivery
7 point. Such charge shall increase by six percent (6%)
8 per year compounded annually, commencing on the
9 first anniversary of the date such compression facilities
10 are installed and ready for operation. Nothing
11 herein shall be construed by either party as an
12 obligation on Lessee to install any compression
13 facilities whatever or to operate any compression
14 facilities already installed. See 4.2

15 (f) In addition to the price provisions stated herein,
16 Buyer hereby agrees to pay Seller as part of the total
17 purchase price of the royalty gas any costs not other-
18 wise stated herein incurred by Seller in transporting
19 that gas to the point of delivery specified in section 4.1
20 of this agreement including but not limited to any
21 amount which Seller is obligated to reimburse Lessee
22 for a proportion of new or increased fees, imposts,
23 duties, charges or taxes. What about "use"?

24
25 *not correct! Defers to the delivered amount not the taxes!*
26 6.2 Thirty days prior to the date of each annual price change,
27 Seller, at its option, may determine the price which it would have
28 received from its Lessee had it not elected to take its royalty
29
30
31
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1 gas in-kind and the highest price being paid for gas of similar
2 quality and similar conditions of delivery; with due regard
3 to appropriate factors including, but not limited to, difference
4 of BTU content, delivery pressure, term of the contract and
5 connection charges in the upper Cook Inlet area and submit
6 the same to Buyer along with suitable supporting evidence
7 as to such prices. Buyer shall have the right to submit other
8 evidence within the 30 day period.

9
10 6.3 On or before the 15th day of each month after the
11 delivery of gas hereunder has commenced Buyer shall furnish
12 Seller and Lessee with a full and complete statement reflecting
13 the quantity of gas delivered at the delivery point during
14 the preceding month and the total amounts due hereunder.
15 Payment under sections 6.1(d), 6.1(e) and 6.1(f) of this Contract
16 shall be made to Lessee on account of Seller at Lessee's office
17 in Bartlesville, Oklahoma within ten (10) days after delivery
18 of each such statement. Payment under sections 6.1(a), 6.1(b)
19 and 6.1(c) of this Contract shall be made to Seller on the
20 day of delivery of each such statement by direct wire transfer
21 of federal reserve funds through the Federal Reserve Bank
22 wire transfer system to the following address:

23 BANK OF AMERICA, NA + SA

24 San Francisco, California

25 Securities Department 3255

26 Credit to: State of Alaska Investment Account

27 or to such other address as the Commissioner of Revenue may designate.

28
29 6.4 Each party hereto shall have, at its expense, the right
30 to examine the books and records of the other party to the extent
31

1 necessary to verify the accuracy of any statement, charge, com-
2 putation, or demand made under or pursuant to this contract. Any
3 statement shall be final as to both parties unless questioned in
4 writing within two (2) years after payment thereof has been made.

5
6 6.5 The terms "upper Cook Inlet area" as used herein
7 shall mean the area encompassed in a radius of 100 kilometers
8 from the Lessee's North Cook Inlet platform.

10 ARTICLE VII

11 Termination

12 7.1 This contract shall become effective upon the execution
13 hereof and the approval of the Alaska Royalty Oil and Gas Devel-
14 opment Advisory Board and the State Legislature and shall continue
15 and remain in effect until June 1, 1984 unless terminated or
16 extended prior to such date by mutual agreement of the parties, or
17 pursuant to this Article or Article VIII.

18
19 7.2 Seller's obligations hereunder are contingent upon
20 Seller arranging with Lessee for satisfactory transportation of
21 royalty gas sold hereunder to the point of delivery specified in
22 section 4.1 of this agreement. If, after exercising Seller's
23 best efforts, Seller is unable to arrange such transportation on
24 terms satisfactory to Seller, Seller shall give notice to Buyer
25 and this agreement shall terminate 30 days after said notice.

26
27 7.3 The parties hereby agree that in the event that any
28 governmental agency declares that Lessee's activities hereunder
29 subject Lessee to regulation as a utility, then either party shall
30 have the option to give notice to the other and this agreement shall
31 terminate 30 days after said notice.

*not correct
it is mentioned
incorrectly
showing*

*Who is
that?
APC/State
Attorneys*

1 7.4 In the event of default by Buyer in making the payments
2 required by this Contract, Seller shall give notice to Buyer
3 and if the default continues for a period of 30 days after such
4 notice, Seller shall have the option of terminating this Contract.
5

6 7.5 In the event that Lessee installs or causes to be
7 installed compression facilities in addition to the first
8 compressor unit mentioned in section 6.1(e) of this contract,
9 Seller shall give Buyer written notice at least six (6) months
10 prior to the time Lessee anticipates placing such additional
11 facilities in operation to maintain capacity in its gathering
12 system. Such notice shall also terminate this agreement at the
13 end of the six (6) month period unless within ninety (90) days
14 of the date of such notice a new compression charge is agreed
15 upon by the two parties to be applicable when the additional
16 facilities go into operation. If a new compression charge
17 is agreed upon, this agreement shall not terminate but shall
18 continue in full force and effect as amended to include the
19 new compression charge.
20

21 7.6 If the agreement between Seller and Lessee attached
22 hereto as Exhibit "B" is terminated for any reason, this
23 agreement may be terminated by either party upon thirty (30)
24 days notice.
25

26 7.7 If deliveries to Buyer hereunder have not commenced
27 on or before June 30, 1978, then this Contract shall immediately
28 terminate.
29
30
31
32

Who are
they?
State/Phil
State/APC
APC/Phil

ARTICLE VIII

Representation, Condition Precedent and Force Majeure

8.1 It is expressly recognized and agreed that the gas gathering system utilized for deliveries hereunder is operated and maintained by Lessee for its own purpose and that Lessee will not dedicate any facilities or otherwise undertake to render any service to or for the public. This Agreement is being undertaken solely to effectuate the delivery of royalty gas which Buyer is purchasing from the State of Alaska, and the parties hereto make the material representation that neither this Agreement nor Buyer's use or disposition of the gas delivered hereunder will subject Lessee to regulation by the Federal Power Commission or the Alaska Public Utilities Commission or the Alaska Pipeline Commission.

8.2 Force Majeure

8.2.1 No liability shall result to either party from delay in performance or non-performance of any obligation hereunder (except Buyer's obligation to make payment hereunder) caused by circumstances reasonably beyond the control of the party affected, including, but not limited to, acts of God, fire, flood, storm, war (declared or undeclared), repair of facilities, breakage or accident to machinery or lines of pipe, repair, redrilling or reworking of wells, governmental regulation, requisition or direction, labor strikes or lockouts or breach of contract by Lessee.

8.2.2 The party claiming relief under this Article VIII shall advise the other party with reasonable promptness in writing

1 giving full particulars of the cause or causes relied upon
2 and shall also give prompt notice in writing of the cessation
3 of any such cause or causes. The party claiming force majeure
4 shall exercise due diligence in undertaking to remedy and
5 overcome the cause of delay hereunder, but neither party shall
6 be required to agree to any demand of labor to settle any
7 strike or labor dispute except in the sole discretion of the
8 party subject to such strike or labor dispute.

10 ARTICLE IX

11 Miscellaneous

12 9.1 The terms and provisions of this Agreement shall
13 extend to and be binding upon the parties hereto, their assigns
14 and successors in interest. It is understood, however, that
15 Buyer may not assign its rights and interest in this Agreement
16 without the written consent of Seller, except as may be necessary
17 to Buyer to conform with its various financing documents or
18 as may be desirable to Buyer as to its commonly owned affiliate
19 or subsidiary. No assignment shall relieve any assignor of
20 this Agreement of its obligations hereunder without the written
21 consent of Seller.

22
23 9.2 In the event Buyer does not receive or purchase
24 all of said royalty gas which is available to Buyer, then
25 Seller may receive and dispose of that portion not taken by
26 Buyer provided Seller does not burden Buyer with any cost
27 therefor including Lessee's charges for gathering and compression
28 on the gas not taken by Buyer.

Who are they?
State / APC / Phillips

Whose
What
does
that
mean?

Who all
is covered
under that?

Who would pay these
charges if Phillips
assesses them

Why
is this
all
rec.
since

Phillips
would take excess
gas in value
4.3

ARTICLE X

Notices

10.1 Except as herein otherwise provided, any notice, request, demand, statement or bill provided for in this Contract, or any notice which either party may desire to give to the other, shall be in writing and shall be considered as duly delivered when mailed by registered mail to either of the parties hereto as the case may be at the following address:

Commissioner of Natural Resources
State of Alaska
Pouch M
Juneau, Alaska 99811

Alaska Pipeline Company
P. O. Box 6288
Anchorage, Alaska 99502

or at such other address as either party shall designate from time to time by formal written notice. Routine communications, including monthly statements and payments, shall be considered as duly delivered when mailed by either registered or ordinary mail except payments for royalty gas from Buyer to Seller which must be made by wire transfer under section 6.3 of this Contract.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed in two (2) original counterparts on this day and year first above written.

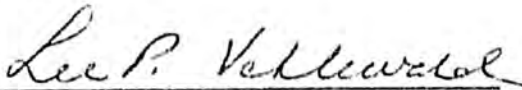
BUYER

STATE OF ALASKA



ATTEST:

ATTEST:



Gas Purchase Contract

This Contract, made and entered into this 4th day of June 1976, by and between the Alaska Pipeline Company ("APC") herein referred to as "Buyer" and the State of Alaska, hereinafter referred to as "Seller" :

WITNESSED

WHEREAS, Buyer owns and operates a natural gas pipeline system in areas of Alaska for the delivery of natural gas for ultimate consumption within the State of Alaska, and

WHEREAS, Seller has the right under each of the leases identified at Exhibit "A" attached hereto to be paid by the lessee thereunder a royalty of twelve and one-half percent in kind or in value of the natural gas produced and saved and used off of the lands covered by each such lease, and

WHEREAS, Seller is authorized by AS 38.05.183 to sell royalty gas; and

WHEREAS, Buyer represents to Seller that all gas purchased under this contract will be used to meet the requirements of its customers within the State of Alaska;

NOW, THEREFORE, in consideration of the representations, covenants, and conditions herein contained, Buyer and Seller hereby agree as follows:

which are
11 1 ?
7526 17529
5590
18740
18741
37821

ARTICLE 1

Seller's Royalty Gas

1.1 Seller hereby agrees that within 30 days after the execution and approval of this agreement as required by the laws of the State of Alaska, Seller shall notify the lessee under the leases set forth at Exhibit "A" of this agreement of Seller's election to take its royalty gas in kind. Said notice will provide that the lessee shall commence the delivery of said royalty gas to Seller (or to Seller's designee) upon a receipt of notice from Seller that all facilities necessary to enable Buyer to receive and market said gas are ready; provided, however, in no event shall lessee be required to commence the delivery of royalty gas to Seller (or its designee) prior to six (6) months following lessee's receipt of notice of Seller's election to take its royalty gas in kind.

1.2 In order that Seller can give its lessee as much advance notice as possible of the date it will start receiving its royalty gas in kind, Buyer shall notify Seller, and Seller shall notify its lessee, at least 60 days prior to the date Buyer will receive gas from Seller pursuant to this contract.

ARTICLE II

Quantity

2.1 It is understood and agreed by the parties that the volume of gas available to Seller from the leases covered by this contract depends upon the production from the leases over which Seller has no control. Buyer hereby agrees to purchase on each day commencing with the date of first delivery

hereunder and continuing during the term of this contract all of Seller's royalty gas available at the point of delivery described in Article III hereof.

ARTICLE III

Delivery Point and Delivery Pressure

3.1 The point of delivery of all gas delivered hereunder shall be at the same point of delivery that Seller receives delivery of its royalty gas from its lessee in the North Cook Inlet Field.

3.2 Buyer, at its own expense, shall arrange to accept Seller's gas at the point of delivery.

3.3 Seller will deliver gas received by Seller from lessee at the pressure at which the gas is received by Seller from its lessee.

ARTICLE IV

Quality

4.1 The gas to be delivered by Seller to Buyer at the delivery point shall be gas of the same quality as is delivered to Seller by the lessee at the point of delivery.

ARTICLE V

Price and Billing

5.1 The price to be paid by Buyer to Seller for gas delivered shall be as follows:

- a. Commencing on the date of first deliveries hereunder, assuming that this date occurs prior to July 1, 1977 and continuing until the first day of July 1977, the price shall be 55.5 cents per MCF.
- b. Commencing on the first day of July 1977 and continuing until the first day of July 1978 the price shall be the higher of (i) 60.36 cents per MCF, (ii) the price Seller would have received from Phillips Petroleum Company had it not elected to receive its royalty gas in kind, (iii) the highest price paid by any purchaser in the upper Cook Inlet area for gas of similar quality and similar conditions of delivery; with due regard to appropriate factors including, but not limited to, difference of BTU content, delivery pressure, term of the contract and connection charges.
- c. For each succeeding 12 month period commencing July 1, 1978 the price shall be increased to the higher of (i) the previous year's price plus 2 cents per MCF, (ii) the price Seller would have received had it not elected to take its

royalty in kind, (iii) the highest price paid by any purchaser in the upper Cook Inlet area for gas of similar quality and conditions of delivery; with due regard to appropriate factors including, but not limited to, difference of BTU content, delivery pressure, term of the contract and connection charges.

5.2 Thirty days prior to the date of each annual price change, Seller, at its option, may determine the price which it would have received from its lessee had it not elected to take its royalty gas in kind and the highest price being paid for gas of similar quality and similar conditions of delivery; with due regard to appropriate factors including, but not limited to, difference of BTU content, delivery pressure, term of the contract and connection charges in the upper Cook Inlet area and submit the same to Buyer along with suitable supporting evidence as to such prices. Buyer shall have the right to submit other evidence within the 30 day period.

5.3 After the delivery of gas has commenced Buyer shall, on or before the 20th day following the end of each month, render to Seller a statement showing the quantity of gas delivered during that month and shall therewith pay Seller the amount due for all such gas.

5.4 Each party hereto shall have, at its expense, the right to examine the books and records of the other party to the extent necessary to verify the accuracy of any statement, charge, computation, or demand made under or pursuant to this

contract. Any statement shall be final as to both parties unless questioned in writing within two (2) years after payment thereof has been made.

5.5 The terms "upper Cook Inlet area" as used here in shall mean the area encompassed in a radius of 100 kilometers from the Phillips Petroleum North Cook Inlet platform.

ARTICLE VI

Term

6.1 This contract shall become effective upon the execution hereof and the approval of the Alaska Royalty Oil and Gas Development Advisory Board and the State Legislature and shall continue and remain in effect until July 1, 1984, unless terminated prior to such date by mutual agreement of the parties, or pursuant to Article VII.

ARTICLE VII

Conditions Precedent

7.1 Buyer shall have the right to terminate this contract upon 30 days written notice to Seller if Buyer is unable to make satisfactory arrangements to take delivery of the gas. Buyer shall exercise this right to terminate on or before January 31, 1978, thereafter Buyer may not exercise this right to terminate.

ARTICLE VIII

Notices

8.1 Notices required to be given under this contract shall be deemed sufficiently given and served when and if

deposited in the United States mail postage prepaid and certified
or registered addressed to Seller at:

Commissioner

Department of Natural Resources

Pouch M, Juneau, Alaska 99811

or to Buyer at:

Alaska Pipeline Company

P. O. Box 6288

Anchorage, Alaska 99502

IN WITNESS WHEREOF, the parties hereto have caused
this Agreement to be executed in four (4) original counterparts
on this day and year first above written.

"BUYER"

STATE OF ALASKA

Harold E. Schmidt

Gary R. Martin

ATTEST:

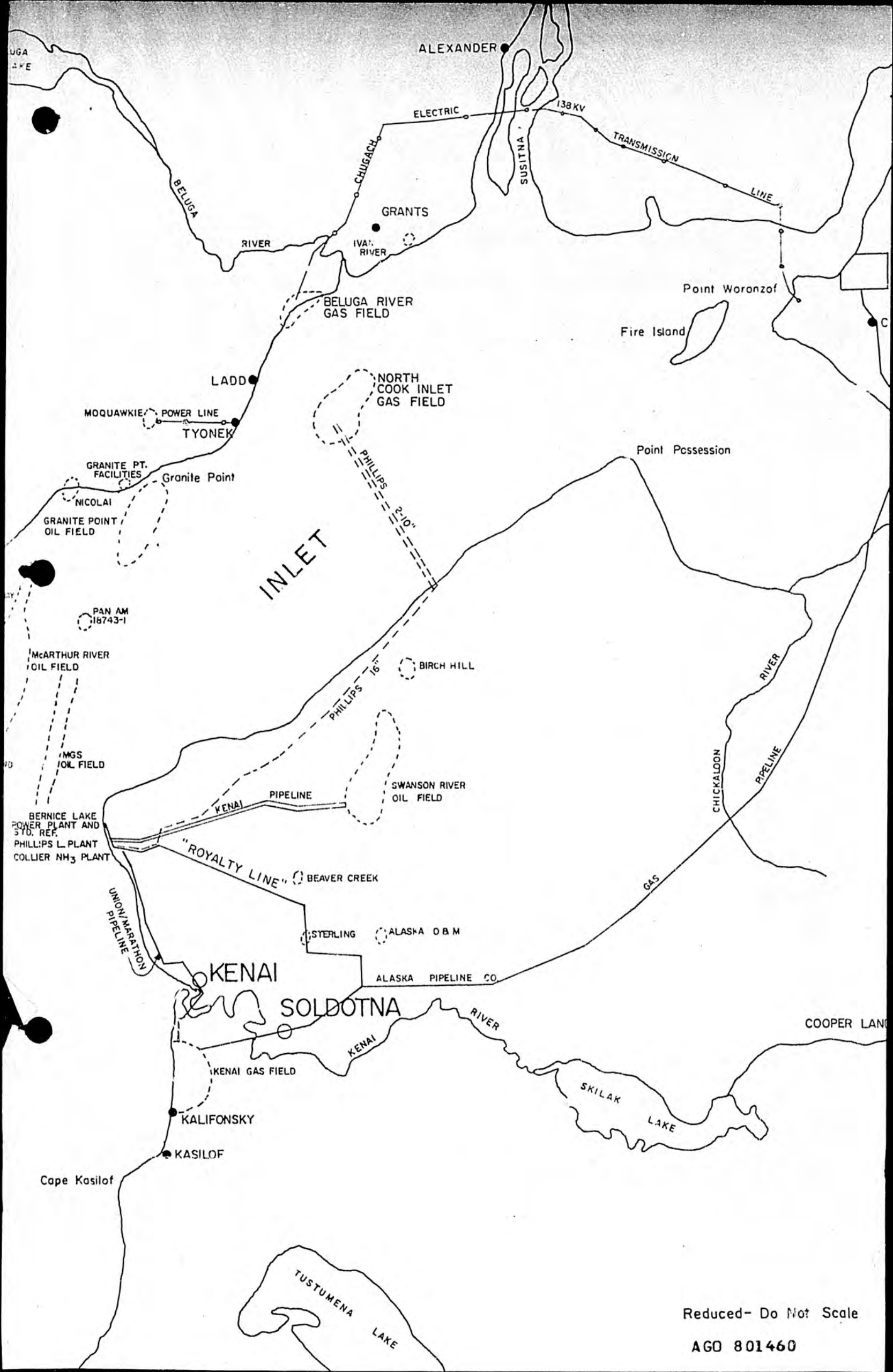
Richard F. Barner

ATTEST:

William J. Fisher

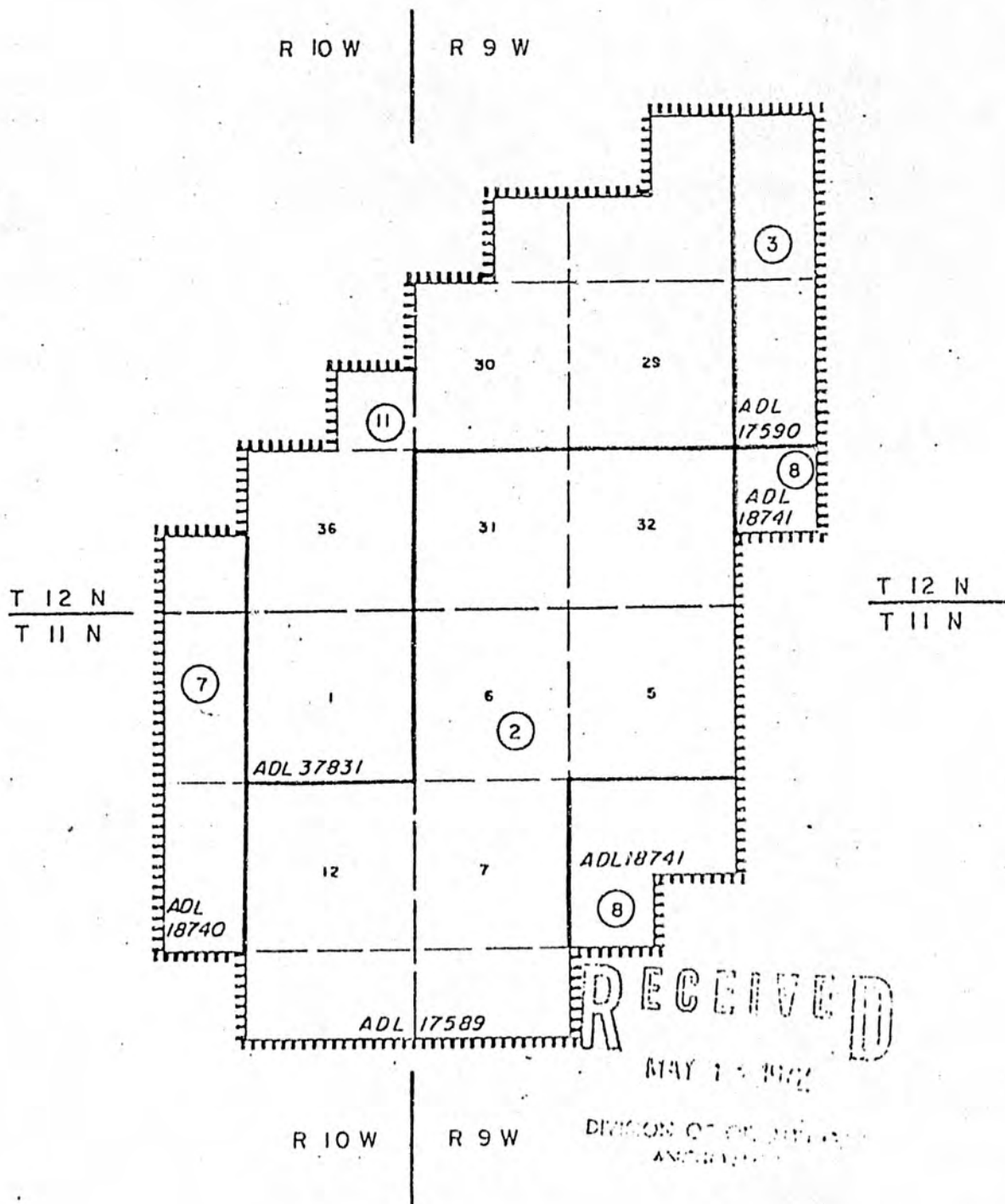


MAPS



Reduced- Do Not Scale

AGO 801460



(Contracted 2-1-72)

ADL 17589
ADL 17590
ADL 18740
ADL 18741
ADL 37831

LEGEND

- Unit Boundary
- Tract Boundary
- (3) Tract Number

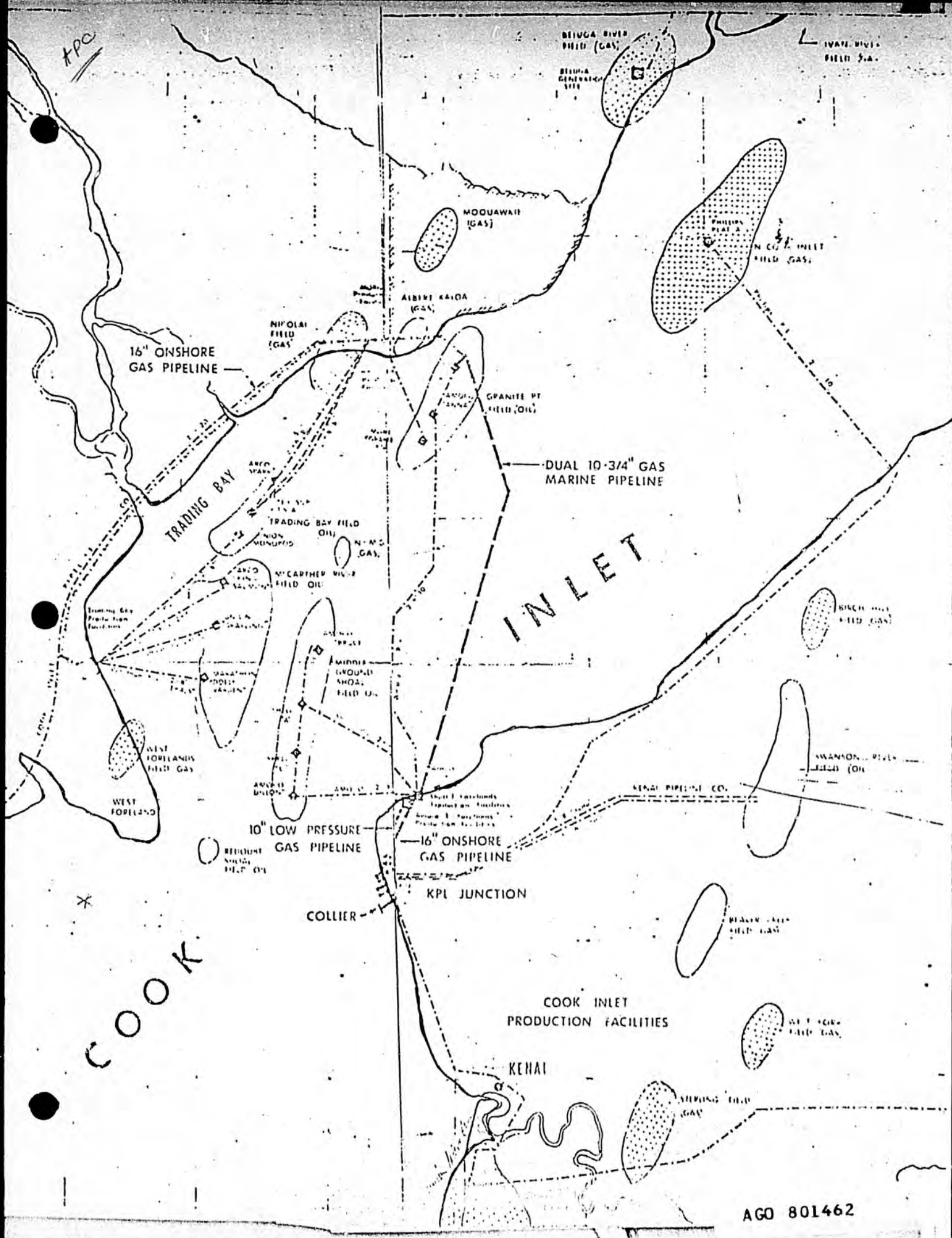
EXHIBIT "A"
TO ACCOMPANY

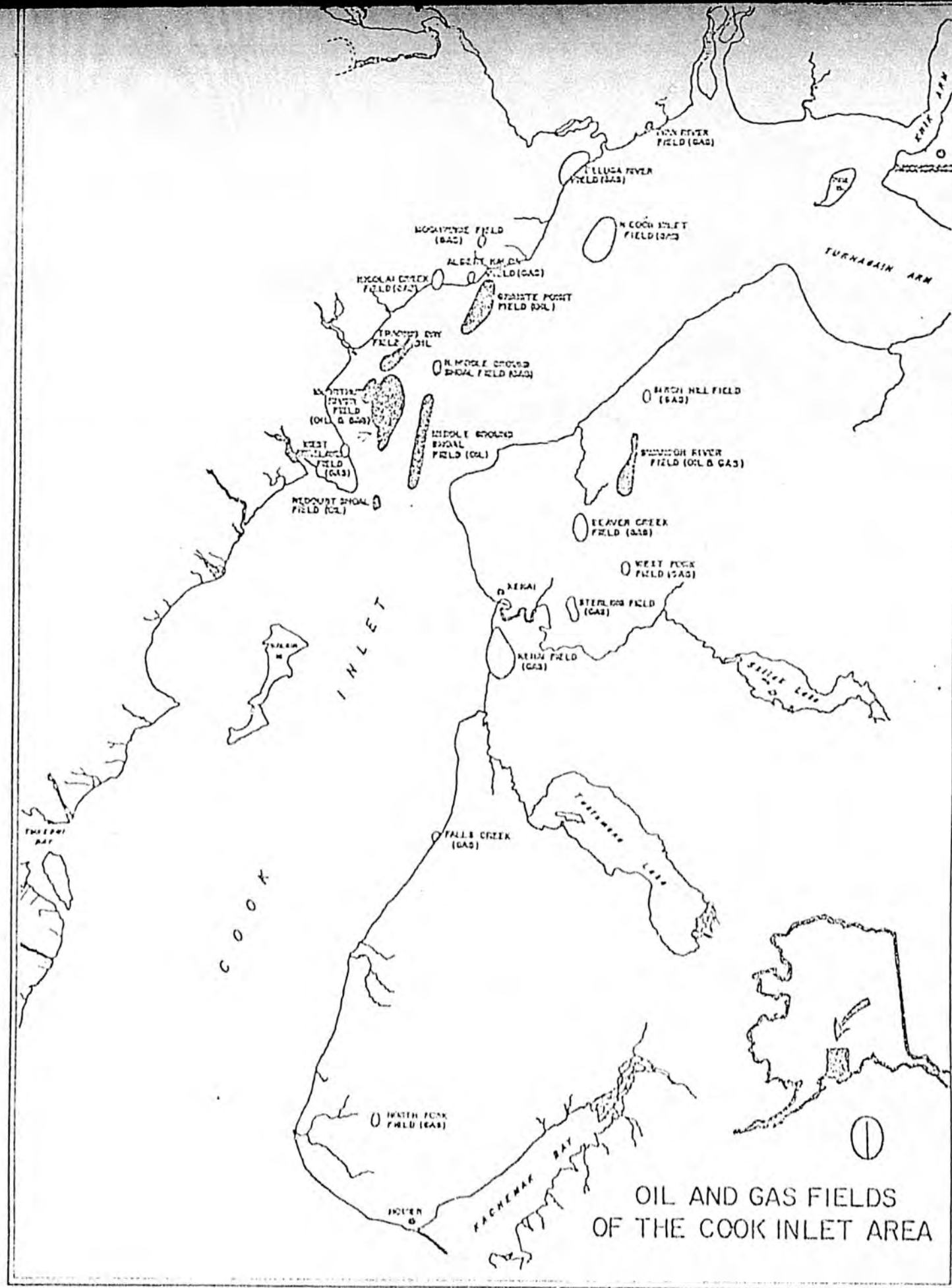
CONTRACTED
NORTH COOK INLET
UNIT AGREEMENT
COOK INLET BASIN, ALASKA

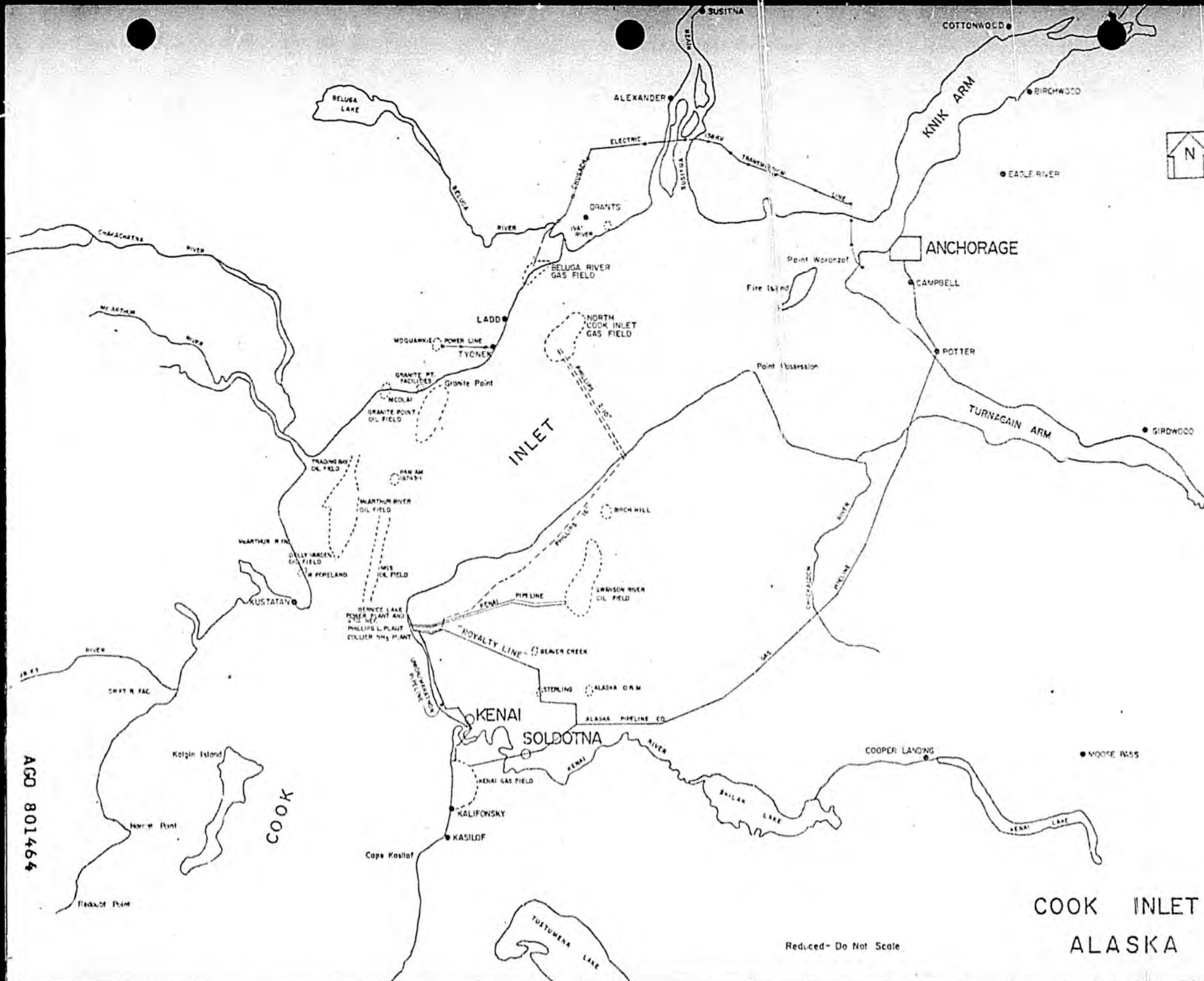
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Feb: '72

AGO 801461







AGD 801464

COOK INLET ALASKA

Reduced- Do Not Scale

LEGAL OPNS

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APC + APUC

JURIS

LEGAL OPINIONS

APC AND APUC JURISDICTION

Don Wold
Executive Director
Alaska Royalty Oil and Gas
Development Advisory Board

DATE: March 29, 1977

FILE NO:

TELEPHONE NO:

FROM: Wilson Condon
Deputy Attorney General

SUBJECT: Jurisdiction of the
Alaska Pipeline Commission
Over Phillips East Cook
Inlet Gas Line

This is in response to your memorandum of March 11, 1977 in which you ask if the Alaska Pipeline Commission (APC) would have jurisdiction over a pipeline operated by Phillips Petroleum if State-owned royalty gas is transported over that pipeline to North Kenai Road, where it would be sold by the State to Alaska Pipeline Company, a wholly owned subsidiary of Alaska Gas and Service. My conclusion is that the APC would not have jurisdiction over the Phillips Petroleum Company pipeline.

The Alaska Pipeline Commission has jurisdiction over "pipelines", "pipeline facilities" and "pipeline carriers". AS 42.06.630(10) defines "pipeline carrier" as:

. . . the owner, including corporations
. . . of any pipeline, as the term is
defined in this section, or any interest
in it;

AS 42.06.630(9) defines "pipeline" or "pipeline facility" as:

. . . all the facilities of a total system
of pipe . . . in this state used by a
pipeline carrier for transportation, ^{and} for
hire and as a common carrier, of oil or
gas for delivery, storage, or further
transportation, and including all
pipe, pump and compressor stations,
station equipment, and all other facilities
used or necessary for an integral line of
pipe to effectuate the transportation from
point to point, excluding, however, gas
processing plant, heaters and separators;

→ processing

? also not loc?

What do they do

March 29, 1977

The salient portion of the above definition is written in the conjunctive, i.e., to be a "pipeline" or "pipeline facility" under the Alaska Pipeline Commission Act, AS 42.06 et seq., a pipeline facility must be used ". . . for transportation, for hire and as a common carrier . . ." (emphasis added).

Of course Phillips, in the arrangement described at the outset of this memorandum, will be using its pipeline for "transportation" of gas. However, since the subject pipeline is neither operated by Phillips "as a common carrier" nor is it subject to the "common carrier" covenant requirement of AS 38.35.120 due to the fact that the lease of state lands for the subject pipeline pre-dates the enactment of that statute, the subject pipeline would not fall within the jurisdiction of the APC were the proposed arrangement to be entered into by Phillips.

WLC:RMB:jec

TO: [

DATE: March 7, 1977

Guy Martin, Commissioner
Dept. of Natural Resources

FILE NO:

FROM:

Wilson Condon
Deputy Attorney General

TELEPHONE NO:

SUBJECT:

Jurisdiction of the APUC
over Phillips Petroleum
Pipeline

This is in response to your memorandum of February 24, 1977, in which you ask if the Alaska Public Utilities Commission would have jurisdiction over a pipeline operated by Phillips Petroleum if State-owned royalty gas is transported over that pipeline to North Kenai Road, where it would be sold by the State to Alaska Pipeline Company, a wholly owned subsidiary of Alaska Gas and Service. My conclusion is that the APUC would not have jurisdiction over the Phillips Petroleum Company pipeline.

The Alaska Public Utilities Commission has jurisdiction over "public utilities" which are defined by AS 42.05.70(2) as follows:

"public utility" or "utility" includes every corporation (whether public, cooperative, or otherwise), company, individual, or association of individuals, their lessees, trustees, or receivers appointed by a court, that owns, operates, manages or controls any plant, pipeline or system for

* * *

(D) furnishing by transmission or distribution of natural or manufactured gas to the Alaska public for compensation;

* * *

"Public" is defined by AS 42.05.701(5) as follows:

"public" or "general public" means

(A) any group of 10 or more customers that purchase the service or commodity furnished by a public utility as defined in (2) of this section; and

(B) any utility purchasing the product or service or paying for the transmission of electric energy, natural or manufactured gas, or petroleum products which are re-sold to a group included in (A) of this paragraph or which are used to produce the service or commodity sold to the public by the utility.

If Phillips delivers royalty natural gas to the State at the wellhead, and the State contracts with Phillips for transportation of that gas to North Kenai Road, Phillips will be rendering a utility-type service because it will be engaged in the transmission of natural gas. Phillips, however, will be neither a "utility" nor "public utility" within the meaning of the Public Utilities statute because it will not be furnishing transmission service to the "public" or the "Alaska public." Phillips would be furnishing transmission service to the State. This would make it a public utility if 1) the State is the 10th customer to purchase transmission service (our assumption is there are less than 10 purchasers of transmission service), or 2) if the State is a "utility. . . paying for the transmission of. . . natural. . . gas. . . which is resold to [any group of 10 or more customers that purchase the service or commodity furnished by a public utility. . .]." The State would not be a utility (because it does not fit within the definition of AS 42.05.701(2)), thus Phillips could not be a public utility subject to the jurisdiction of the APUC when it furnishes transmission service to the State.

WLC:FHB:bvd

cc: Frederick H. Boness
Assistant Attorney General

Robert E. Stoller
Assistant Attorney General

Board Meeting Called to Order 10:10 A.M. Dec. 11, 1975,
Chairman Martin brought the board back into session.

Mr. Martin:

We are at the point on the agenda where we take up discussions and reports. Fred I wonder if, Fred Boness from the Attorney General's Office could just briefly outline the report that he filed on the Ann G-Phillips situation regard to public utilities.

Fred Boness:

unsubstantial
question
At the last royalty board meeting Phillips raised the possibility that a sale of, or the state taking its gas in-kind might have the effect of subjecting the Phillips pipeline to either FPC or APUC jurisdiction depending on where the gas was sold. Specifically APUC jurisdiction if it was sold to Anchorage Natural Gas Company. I reviewed that possibility and filed a memorandum with the commissioner which indicates that it was my conclusion that there was indeed a possibility that at least limited jurisdiction by the Public Utilities Commission and cited the situation which took place in the Marathon, the Union Marathon Pipeline which exists from the Kenai field to the ING plant. It does have sales off that to the City of Kenai and Anchorage Natural Gas and there is limited jurisdiction exercised by the PUC in that pipeline. I believe the situation would likely be an analog to the Phillips Pipeline.

Mr. Martin:

distinct
Fred, is it your view that, if jurisdiction applied, and you considered that a likelihood or at least the ~~distinct~~ possibility, could that jurisdiction be waived as a precedent.

Mr. Boness:

The Public Utility Commission does have the authority to grant exemptions under one of its provisions and that could be exercised. The exact, the exact determinance of whether it would be or not specified in the law and it would require a ruling by the APUC.

Mr. Martin:

Do you have any idea, or does anybody have any idea, what might be the time consideration on a waiver at that time?

Mr. Boness:

No, I'm afraid I don't. I haven't talked to the APUC. I would think it would be perhaps two, three-maybe not-I would not think more than six months. Certainly the APUC acts much faster and swifter than the FPC. I think we have that kind of comparison.

End discussion this topic.

guy Martin

-4-

until all transportation or exchange arrangements have been completed to the satisfaction of the parties involved. Now detailing all aspects of that, I would like to point out some points. First: with regard to the termination date of the contract it is related to the termination of the Phillips contract and the possible implications of a failure Phillips to produce beyond that point. Second; the price is in fact, the highest price in the area and it is my feeling that this is an important aspect of the agreement for the reason that the board may very well, the board and the state may very well, wish from time to time to be in the position of doing something which is unpalatable, as it is in this case, to remove royalty gas from the user that has served an important public purpose in the state. But the board I think and the state will not want to be in position of attempting to set prices from time to time and place to place and to choose from among consumers in the state. The safest and most consistent standard therefore should be the highest price and we intend that this term will bear that out. We have also indicated that the point of delivery will be the wellhead, and, while we believe that will substantially alter the nature of the original offer made by Alaska Pipeline Company, we believe it is quite important that the state not be responsible for that transportation to shore. That is to be a negotiated item between Phillips and the purchaser. The state I should say at that point, that after having made this decision, fully intends that the decision be carried out and we think it is in the best public policy that this be carried out. I am requesting now and I think we will be requesting later that some terms of agreement, some measure of agreement, some point of agreement be found between Phillips and A N G for the delivery of this gas. I think that terminates my discussion with the exception of one point and that is that the PUC problem has not been one that has escaped our attention. It's our belief that this is a separate function, not one that the board can control as was suggested in the A N G offer. It was suggested in the A N G offer that the state would be capable of somehow dictating the outcome of that regulatory procedure. This, of course, is not the case, we will not attempt to do so. Now, I will indicate that it will be my intention to communicate the sentiments I just communicated with regard to our desire for success of this sale to the PUC with the request that they formulate the necessary procedures to protect Phillips from regulation in order to make this sale successful. So let me terminate my remarks at this time and ask for the comments and response of the board.

John Horn:

Mr. Chairman, let me make one small comment, the expiration date of our contract with the Japanese is June 1, 1984 rather than May 1.

Mr. Martin:

Thank you, John, very much. I will amend that.

Essentially duplicates
APUC Act 42.05.

Xerox 42.06.010 (1)

(2)

42.06.020

attorney general is legal counsel to APC

* 42.06.140 (1) + 42.06.630 (9)

(2) -

(3)

// (8)

(9)

42.06.230

340(b)

370(a) + (b)

420

630

① What are "the performance of obligations under and compliance with the terms of the leases issued by the State" ?
(42.06.140 (2)).

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3 ch 76 SLA 1973)

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(70)

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mittee report. — For
A 1970 (SCSCSHB 202
the Journal, p. 549, and
1970

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42.06.130)

1972 Senate Journal, p.
Journal, p. 1420.

The transportation
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oil and gas pipeline
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(2) promote and insure, in conjunction with the Alaska Public Utilities Commission within its jurisdiction, nondiscriminatory, efficient, and economical oil and gas pipeline transportation at reasonable rates. (§ 1 ch 139 SLA 1972)

Article 2. Establishment of Alaska Pipeline Commission.

Section	Section
20. Alaska Pipeline Commission created	90. Compensation of members of the Alaska Pipeline Commission
30. Composition of Alaska Pipeline Commission	100. Principal office; seal
40. Term of office; vacancy	110. Legal counsel
50. Removal of commissioners	120. Employment of commission personnel
60. Qualifications of commissioners	130. Restrictions on commissioners and employees
70. Quorum	
80. Oath of office	

Sec. 42.06.020. Alaska Pipeline Commission created. There is created within the Department of Commerce and Economic Development the Alaska Pipeline Commission, to regulate pipeline facilities and pipeline carriers, to regulate the access of information concerning pipeline facilities and carriers to this state, and to represent the interests of the state in any proceedings relating to them as provided for in this chapter. (§ 1 ch 139 SLA 1972; am § 85 ch 218 SLA 1976)

Effect of amendment. — The 1976 Commerce and Economic Development" amendment substituted "Department of for "Department of Commerce."

Sec. 42.06.030. Composition of Alaska Pipeline Commission. (a) The Alaska Pipeline Commission consists of three members, appointed by the governor and confirmed by a majority of the members of the legislature in joint session.

(b) The governor shall designate one member of the commission as chairman of the commission. This member shall serve as chairman for a term of two years, and may be appointed for successive terms. (§ 1 ch 139 SLA 1972)

Editor's note. — Section 2, ch. 139, SLA 1972, provides: "Notwithstanding the provisions of AS 42.06.030 — 42.06.040, until July 1, 1973 the duties and functions of the Alaska Pipeline Commission under AS 42.06 may, by executive order of the governor, be carried out by a single commissioner appointed and paid under the provisions of AS 42.06 and two temporary commissioners who shall be appointed for terms expiring July 1, 1973. Temporary commissioners shall receive no compensation except per diem and travel authorized by law for other state boards and commissions and are not subject to the provisions of AS 42.06.060."

Sec. 42.06.040. Term of office; vacancy. (a) The members of the commission shall be appointed for terms of six years, except that of the members first appointed to the commission, one shall be appointed for a term of two years, one for a term of four years, and one for a term

regulation hereunder unless 25 per cent of the subscribers petition the commission for regulation. (§ 6 ch 113 SLA 1970; am § 3 ch 76 SLA 1973)

Effect of amendment. — The 1973 amendment inserted the language beginning "excepting" and ending "waste material" in the first sentence of sub-section (b), substituted "the" for "such an" in that sentence, and added the second sentence of that sub-section.

Sec. 42.05.721. Short title. This chapter may be cited as the Alaska Public Utilities Commission Act. (§ 6 ch 113 SLA 1970)

Editor's note.—Section 7, ch. 113, SLA 1970, provides: "All litigations, hearings, investigations, and other proceedings whatsoever, pending under any law repealed by this Act, shall continue and remain in full force and effect, and may be continued and completed under the provisions of this act. All certificates, orders, rules, regulations, or tariffs, made, issued, or filed under any law repealed by this Act, and in full force and effect on July 1, 1970, shall remain in full force and effect for the term issued, or until revoked, vacated, or modified under the provisions of this Act. All existing contracts and obligations of the commission, entered into

or created under any law repealed by this Act, and in force and effect on July 1, 1970, shall remain in full force and effect and shall continue to be performed by the commission. The existing rates, charges, tariffs, rules, regulations, service and service area of the municipally owned utility shall continue and remain in full force and effect unless otherwise ordered by the commission under the provisions of this Act."

Legislative committee report. — For report on ch. 113, SLA 1970 (SCSCSHB 202 am S), see 1969 House Journal, p. 549, and Supplement No. 4 (4/9/69).

Chapter 06. Alaska Pipeline Commission Act.

Article

1. Declaration of Policy (§ 42.06.010)
2. Establishment of Alaska Pipeline Commission (§§ 42.06.020 — 42.06.130)
3. Powers and Duties of Commission (§ 42.06.140 — 42.06.610)

Legislative committee report. — For report on ch. 139, SLA 1972 (FCCS HCS CSSB 314), see 1972 Senate Journal, p. 1072; 1972 House Journal, p. 1420.

Article 1. Declaration of Policy.

Section

10. Legislative declaration of policy

Sec. 42.06.010. Legislative declaration of policy. The transportation of oil or gas by pipeline in the state is a business involved with the public interest. It is the purpose of this chapter to

- (1) promote and oversee the development of an oil and gas pipeline transportation system in the state properly adapted to the present and future needs of the domestic commerce of the state and of the interstate and foreign commerce of the United States;

(2) promote and insure, in conjunction with the Alaska Public Utilities Commission within its jurisdiction, nondiscriminatory, efficient, and economical oil and gas pipeline transportation at reasonable rates. (§ 1 ch 139 SLA 1972)

Article 2. Establishment of Alaska Pipeline Commission.

Section

- 20. Alaska Pipeline Commission created
- 30. Composition of Alaska Pipeline Commission
- 40. Term of office; vacancy
- 50. Removal of commissioners
- 60. Qualifications of commissioners
- 70. Quorum
- 80. Oath of office

Section

- 90. Compensation of members of the Alaska Pipeline Commission
- 100. Principal office; seal
- 110. Legal counsel
- 120. Employment of commission personnel
- 130. Restrictions on commissioners and employees

Sec. 42.06.020. Alaska Pipeline Commission created. There is created within the Department of Commerce and Economic Development the Alaska Pipeline Commission, to regulate pipeline facilities and pipeline carriers, to regulate the access of information concerning pipeline facilities and carriers to this state, and to represent the interests of the state in any proceedings relating to them as provided for in this chapter. (§ 1 ch 139 SLA 1972; am § 85 ch 218 SLA 1976)

Effect of amendment. — The 1976 Commerce and Economic Development" amendment substituted "Department of for "Department of Commerce."

Sec. 42.06.030. Composition of Alaska Pipeline Commission. (a) The Alaska Pipeline Commission consists of three members, appointed by the governor and confirmed by a majority of the members of the legislature in joint session.

(b) The governor shall designate one member of the commission as chairman of the commission. This member shall serve as chairman for a term of two years, and may be appointed for successive terms. (§ 1 ch 139 SLA 1972)

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provisions of AS 42.06 and two temporary commissioners who shall be appointed for terms expiring July 1, 1973. Temporary commissioners shall receive no compensation except per diem and travel authorized by law for other state boards and commissions and are not subject to the provisions of AS 42.06.060."

Sec. 42.06.040. Term of office; vacancy. (a) The members of the commission shall be appointed for terms of six years, except that of the members first appointed to the commission, one shall be appointed for a term of two years, one for a term of four years, and one for a term

Sec. 42.06.130. Restrictions on commissioners and employees. No member or employee of the commission may have an official connection with, or hold stock or securities in, or have a pecuniary interest in, a corporation, company or association engaged in the production or the transportation of oil or gas. No member or employee may act upon a matter in which his relationship with any person creates a conflict of interest. (§ 1 ch 139 SLA 1972)

Article 3. Powers and Duties of Commission.

Section	Section
140. Powers and duties of the commission	370. Rates to be just and reasonable
150. Powers and duties with respect to federally regulated carriers	380. Discrimination in rates
160. Administrative authority of commission; regulations and hearing procedures	390. New or revised tariffs
170. Application of Administrative Procedure Act	400. Suspension of tariff filing
180. Formal hearings	410. Power of commission to fix rates
190. Final orders of the commission	420. Valuation of property of a pipeline carrier
200. Format of orders	430. General provisions as to accounts, records and reports
210. Publication of reports, orders, decisions and regulations	440. Inspection of records
220. Annual report	450. Investigation of management practices
230. Jurisdiction of commission	460. Designation of service agents
240. Certificate required	470. Effect of regulations
245. Federally regulated carriers	480. Review and enforcement
250. Application	490. Complaint against pipeline carrier
260. Public hearings	500. Adjudication by commission under Administrative Procedure Act
270. Grant or denial of application	510. Public records
280. Insurance and security	520. Application fees
290. Abandonment	530. Injunctive and monetary sanctions
300. Modification, suspension or revocation of certificates	540. Civil penalties
305. Transfer of certificate	550. Each violation a separate offense
310. Standards of service and facilities	560. Actions to recover damages and penalties; disposition
320. Discrimination in service	570. Penalties cumulative
330. Power of commission to allocate usage	580. Joinder of actions
340. Order for joint use or connection	590. Private cause of action
350. Tariffs, contracts, filing and public inspection	600. Regulation by municipality
360. Adherence to tariffs	610. Expenses of investigation or hearing
	620. Classification
	630. Definitions
	640. Short title

Sec. 42.06.140. Powers and duties of the commission. The commission

- (1) shall regulate pipelines and pipeline carriers in the state;
- (2) may investigate upon complaint or its own motion, the rates, classifications, rules, regulations, prices, services, practices and facilities of pipeline carriers, and the performance of obligations under and compliance with the terms of leases issued by the state;
- (3) may make, prescribe or require just, fair and reasonable rates, classifications, regulations, practices, services and facilities for pipeline carriers;

(4) may require pipeline carriers to file with the commission reports and other information and data required or permitted to be required by other provisions of this chapter;

(5) may adopt regulations that are necessary and proper to the performance of its duties under this chapter, including regulations governing practices and procedures of the commission, which regulations shall not be inconsistent with state law;

(6) shall during normal business hours have access to and may designate any of its employees, agents or consultants to inspect and examine, the accounts, financial and property records, books, maps, inventories, appraisals, valuations, and related reports kept by a pipeline carrier, or kept for it by others, which directly affect the interests of the state and directly relate to pipelines located in the state;

(7) may initiate, intervene in, and appear personally or by counsel and offer evidence in and participate in, any proceedings involving a pipeline carrier, and affecting the interests of the state, before any officer, department, board, commission or court of this state;

(8) shall require permits for the construction, enlargement in size or operating capacity, extension, operation or abandonment of any oil or gas pipeline facility, subject to necessary and reasonable terms, conditions and limitations;

(9) may prescribe the system of accounts and regulate the service of an oil or gas pipeline facility;

(10) shall provide all reasonable assistance to the Department of Law in intervening in, offering evidence in, and participating in proceedings involving a pipeline carrier and affecting the interests of the state, before an officer, department, board, commission or court of another state or the United States. (§ 1 ch 139 SLA 1972; am §§ 1, 2 ch 201 SLA 1976)

Effect of amendment. — The 1976 of the United States" from the end of amendment deleted "or of another state or paragraph (7) and added paragraph (10).

Sec. 42.06.150. Powers and duties with respect to federally regulated carriers. Section 140 of this chapter applies to oil and gas pipeline carriers regulated under the Interstate Commerce Act of 1906, or the Natural Gas Act of 1938, only to the extent not preempted under those federal Acts. (§ 1 ch 139 SLA 1972)

Sec. 42.06.160. Administrative authority of commission; regulations and hearing procedures. (a) The commission may adopt regulations, not inconsistent with law, necessary or proper to exercise its powers and to perform its duties under this chapter.

(b) The commission shall adopt regulations governing practice and procedure, consistent with due process of law, including the conduct of formal and informal investigations, prehearing conferences, hearings and proceedings, and the handling of procedural motions by a single

Sec. 42.06.210. Publication of reports, orders, decisions and regulations. All reports, orders, decisions and regulations of the commission shall be in writing. The commission shall apprise all affected operators of oil or gas pipeline facilities and interested parties of these reports, orders, decisions, and regulations as they are issued and adopted, and, when appropriate to do so, publish them in a manner that will reasonably inform the public or the affected consumers of the services of any oil or gas pipeline facility. The commission may set charges for costs of printing or reproducing and furnishing copies of its reports, orders, decisions and regulations. The publication requirement, as it pertains to regulations, does not supersede the requirements of the Administrative Procedure Act (AS 44.62). (§ 1 ch 139 SLA 1972)

Sec. 42.06.220. Annual report. The commission shall publish an annual report reviewing its work and submit it to the legislature by February 15 of each year. The report shall contain information and data which bear a significant relationship to the development and regulation of oil or gas pipeline facilities in the state and include an outline of the commission's program for the development and regulation of oil or gas pipeline facilities in the forthcoming year. (§ 1 ch 139 SLA 1972)

Sec. 42.06.230. Jurisdiction of commission. Except as otherwise provided in this chapter or hereafter otherwise expressly provided by law, except as to any concurrent jurisdiction with the Alaska Public Utilities Commission under ch. 5 of this title as to a public utility described in AS 42.05.701(2)(D) and (E), and except as to jurisdiction of the Department of Law as provided by § 140(10) of this chapter, the jurisdiction and authority over the subject matter of this chapter is exclusively in the commission. To the extent that the performance of any duties of the commission affect a pipeline carrier or a pipeline subject to the Interstate Commerce Act or the Natural Gas Act, the performance of its duties shall not, as to that pipeline carrier or pipeline, conflict with applicable federal laws, regulations, rules, orders, or other requirements. (§ 1 ch 139 SLA 1972; am § 3 ch 201 SLA 1976)

Effect of amendment. — The 1976 amendment, in the first sentence, deleted "and" preceding "except as to any concurrent jurisdiction" and inserted "and

except as to jurisdiction of the Department of Law as provided by § 140(10) of this chapter."

Sec. 42.06.240. Certificate required. (a) After January 1, 1974 no pipeline carrier, or person which will be a pipeline carrier upon completion of any proposed construction or extension, shall engage in the transportation of oil or gas by pipeline subject to the jurisdiction of the commission, or undertake the construction or extension of any pipeline facilities for that purpose, or acquire or operate any pipeline facilities or extension, unless there is in force with respect to that pipeline carrier a certificate of public convenience and necessity issued

(b) If the commission, upon its own motion or upon complaint, after providing reasonable notice and opportunity for hearing, finds that the service or facilities of an oil or gas pipeline facility are unreasonable, unsafe, inadequate, insufficient, or unreasonably discriminatory, or otherwise in violation of this chapter, the commission shall prescribe by regulation or order, the reasonable, safe, adequate, sufficient service or facilities to be observed, furnished, enforced, or employed, including all repairs, changes, alterations, extensions, substitutions, or improvements in facilities that are reasonably necessary and proper for the safety, accommodation, and convenience of the public and the users. Regulations or orders issued under this subsection shall conform to accepted industry standards and practices.

(c) Every common carrier shall, when order by the Alaska Pipeline Commission, extend or enlarge its pipeline or storage facilities provided the extension or enlargement shall be found to be reasonable and required in the public interest and that the expense involved will not impair the ability of the common carrier or public utility to perform its duty to the public. (§ 1 ch 139 SLA 1972; am § 29 ch 3 FSSLA 1973)

Effect of amendment. — The 1973 amendment added subsection (c).

Sec. 42.06.320. Discrimination in service. No oil or gas pipeline carrier may, as to service, make or grant an unreasonable preference or advantage to any person or subject any person to an unreasonable prejudice or disadvantage. No oil or gas pipeline facility which is owned by more than one owner may require that users make separate requests of each separate owner in order to obtain a reasonable share of the service provided by the oil or gas pipeline facility. (§ 1 ch 139 SLA 1972)

Sec. 42.06.330. Power of commission to allocate usage. If the commission, upon its own motion or upon complaint, after providing reasonable notice and opportunity for hearing, finds that an oil or gas pipeline facility is making or granting an unreasonable preference or advantage to any person or subjecting any person to an unreasonable prejudice or discrimination, the commission may prescribe rules to end the discrimination or the commission may itself prescribe the allocation of the service until it determines the discrimination can be avoided by appropriate rule or agreement. (§ 1 ch 139 SLA 1972)

Sec. 42.06.340. Order for joint use or connection. (a) When there is failure to agree upon the joint use or interconnection of oil or gas pipeline facilities or the conditions or compensation for joint use or interconnections, any interested person may apply to the commission for an order requiring the interconnection. If, after investigation and opportunity for hearing, the commission finds that public convenience and necessity require the joint use or connection, and that the use or

connection will not result in substantial injury to the oil or gas pipeline facility or its customers, or in substantial detriment to the services furnished by the oil or gas pipeline facility, or in the creation of safety hazards, it shall

- (1) order that the use be permitted;
- (2) prescribe reasonable conditions and compensation for the joint use;
- (3) order the interconnection to be made;
- (4) determine the time and manner of the interconnection;
- (5) determine the apportionment of costs and responsibility for operation and maintenance of the interconnection.

(b) During construction of a pipeline the commission, after investigation and opportunity for hearing and findings as required in (a) of this section, may order the inclusion within the pipeline at points that it designates, special fittings including but not limited to tees, wyes, spools, reducers, enlargers, flanges, flange plates, valves and valve boxes, to reduce the time and cost of future connections for the injection and removal of gas and oil from the main pipeline, and to maintain and facilitate intrastate commerce. A request for special fittings may be made by the commissioner of natural resources for the state. A request for special fittings and valves may be made to the commission by a local government, person, company or corporation. The cost of furnishing and installing the special fittings shall be paid by the state. However, if the special fittings are used by a person for a commercial enterprise or by a municipality for the operation of a utility, the commission shall require that the using person or municipality reimburse the state for the cost of furnishing and installing. (§ 1 ch 139 SLA 1972; am § 1 ch 5 SSSLA 1974)

Effect of amendment. — The 1974 amendment added subsection (b).

Sec. 42.06.350. Tariffs, contracts, filing and public inspection. (a) Under such regulations as the commission shall prescribe, every intrastate oil or gas pipeline carrier shall file with the commission, within the time and in the form designated by the commission, all rates, tariffs, charges, classifications, rules, regulations, terms, and conditions pertaining to service provided under the certificate, and shall maintain copies on file at its principal business office and at places designated by the commission, available to, and subject to inspection by, the general public on demand.

(b) The commission may reject the filing of all or part of a tariff which does not comply with the form or filing regulations of the commission or which is not consistent with this chapter or the regulations of the commission. A tariff or provision so rejected is void. (§ 1 ch 139 SLA 1972)

Sec. 42.06.360. Adherence to tariffs. The terms and conditions under which a pipeline carrier offers its services and facilities to the public

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shall be governed strictly by the provisions of its currently effective tariffs. No legally filed and effective tariff rate, charge, rule, regulation or condition of service may be changed except in the manner provided in this chapter. If more than one tariff rate or charge can reasonably be applied for billing purposes the one most advantageous to the customer shall be used. (§ 1 ch 139 SLA 1972)

✓ Sec. 42.06.370. Rates to be just and reasonable. (a) All rates demanded or received by a pipeline carrier, or by any two or more pipeline carriers jointly, for a service furnished or to be furnished shall be just and reasonable.

✓ (b) Additional regulations and rules governing determination of a reasonable tariff shall be published by the commission. (§ 1 ch 139 SLA 1972)

Sec. 42.06.380. Discrimination in rates. (a) No pipeline carrier may, as to rates, grant a preference or advantage to any customer or subject a customer to an unreasonable prejudice or disadvantage. No pipeline carrier may establish or maintain an unreasonable difference as to rates, either as between localities served or between classes of service provided under the certificate.

(b) No pipeline carrier may directly or indirectly refund, rebate or remit in any manner, or by any device, any portion of the rates and charges or charge, demand or receive a greater or lesser compensation for service than is specified in its effective tariff nor extend to any customer served under the certificate any form of contract, agreement, inducement, privilege or facility, or apply any rule, regulation or condition of service except as are extended or applied to all customers under like circumstances. (§ 1 ch 139 SLA 1972)

Sec. 42.06.390. New or revised tariffs. (a) No pipeline carrier may establish or place in effect any new or revised rates, charges, rules, regulations, conditions of service or practices except after 30 days notice to the commission and to the public. Notice shall be given by filing with the commission and keeping open for public inspection the revised tariff provisions which shall plainly indicate the changes to be made in the schedules then in force and the time when the changes will go into effect. The commission may prescribe additional means of giving notice. The commission, for good cause shown, may allow changes to take effect on less than 30 days notice under conditions the commission prescribes.

(b) New and revised tariffs shall be filed in the manner provided in § 350 of this chapter. (§ 1 ch 139 SLA 1972)

Sec. 42.06.400. Suspension of tariff filing. (a) When a tariff filing is made containing a new or revised rate, classification, rule, regulation, practice, or condition of service the commission may, either upon written complaint or upon its own motion, after reasonable notice, conduct a hearing to determine the reasonableness and propriety of the filing.

Pending a hearing the commission may, by order stating the reasons for its action, suspend the operation of the tariff filing for an initial period not longer than six months beyond the time when it would otherwise go into effect.

(b) An order suspending a tariff filing may be vacated if, after investigation, the commission finds that it is in all respects proper. Otherwise the commission shall hold a hearing on the suspended filing and issue its order, before the end of the suspension period, granting, denying or modifying the suspended tariff in whole or in part.

(c) In the case of a proposed increased rate, the commission may by order require the interested pipeline carrier to place in escrow in a financial institution approved by the commission, and keep accurate account of, all amounts received by reason of the increase, specifying by whom and in whose behalf the amounts are paid. Upon completion of the hearing and decision the commission may by order require the pipeline carrier to refund to the persons in whose behalf the amounts were paid, that portion of the increase in rates which was found to be unreasonable or unlawful. No funds may be released from escrow without the commission's prior written consent and the escrow agent shall be so instructed by the pipeline carrier, in writing, with a copy to the commission. The pipeline carrier, at its expense, may substitute a bond in lieu of the escrow requirement.

(d) One who initiates a change in existing tariffs bears the burden of proving the reasonableness of the change. (§ 1 ch 139 SLA 1972)

Sec. 42.06.410. Power of commission to fix rates. When the commission, after an investigation and hearing, finds that a rate demanded, observed, charged or collected by a pipeline carrier for a service, subject to the jurisdiction of the commission, or that a classification, rule, regulation, practice, or contract affecting the rate, is unjust, unreasonable, unduly discriminatory or preferential, the commission shall determine a just and reasonable rate, classification, rule, regulation, practice, or contract to be observed or allowed and shall establish it by order. (§ 1 ch 139 SLA 1972)

Sec. 42.06.420. Valuation of property of a pipeline carrier. The commission may, after providing reasonable notice and opportunity to be heard, ascertain and set the fair value of the whole or any part of the property of a pipeline carrier, insofar as it is material to the exercise of the jurisdiction of the commission. The commission may make revaluations from time to time and ascertain the fair value of all new construction, extensions, and additions to the property of a pipeline carrier. (§ 1 ch 139 SLA 1972)

Sec. 42.06.430. General provisions as to accounts, records and reports. To the extent necessary to the performance of the duties of the commission as provided in this chapter:

Sec. 42.06.600. Regulation by municipality. The commission's jurisdiction and authority extend to an oil or gas pipeline facility operating in a city or borough, whether home rule or otherwise. If a conflict between a certificate, order, decision or regulation of the commission and a charter, permit, franchise, ordinance, rule or regulation of such a local governmental entity occurs, the certificate, order, decision or regulation of the commission prevails. (§ 1 ch 139 SLA 1972)

Sec. 42.06.610. Expenses of investigation or hearing. After completion of a hearing or investigation held under this chapter, the commission shall allocate the costs of the hearing or investigation among the parties, including the commission, as is just under the circumstances. The costs allocated may include the costs of any time devoted to the investigation or hearing by hired consultants, whether or not the consultants appear as witnesses or participants. The commission shall provide an opportunity for any person objecting to an allocation to be heard before the allocation becomes final. (§ 1 ch 139 SLA 1972)

Sec. 42.06.620. Classification. The commission may by regulation provide for the classification of oil or gas pipeline facilities based upon differences in annual revenue, assets, nature of ownership and other appropriate distinctions and as between these classifications, by regulation, provide for different reporting, accounting and other regulatory requirements. (§ 1 ch 139 SLA 1972)

Sec. 42.06.630. Definitions. In this chapter

- (1) "commission" means the Alaska Pipeline Commission;
- (2) "commissioner" means a member of the commission;
- (3) "duties" means duties, powers, obligations and functions;
- (4) "gas" includes all natural gas and hydrocarbons produced at the wellhead and not defined as oil;
- (5) "Interstate Commerce Act" means the Interstate Commerce Act of 1906, 34 Stat. 584, as amended;
- (6) "municipality" means an organized borough or incorporated city;
- (7) "Natural Gas Act" means the Natural Gas Act of 1938, 52 Stat. 821, as amended;
- (8) "oil" includes crude oil, and other hydrocarbons regardless of gravity which are produced at the wellhead in liquid form, its products and liquid hydrocarbons, including the liquid hydrocarbons known as distillate or condensate recovered or extracted from gas, other than gas produced in association with oil and commonly known as casinghead gas;
- (9) "pipeline" or "pipeline facility" means all the facilities of a total system of pipe (whether owned or operated by a pipeline carrier under a contract, agreement, or lease) in this state used by a pipeline carrier for transportation, for hire and as a common carrier, of oil or gas for delivery, storage, or further transportation, and including all pipe, pump and compressor stations, station equipment, and all other facilities used

or necessary for an integral line of pipe to effectuate the transportation from point to point, excluding, however, gas processing plants, treaters and separators;

(10) "pipeline carrier" means the owner, including corporations organized under the laws of the United States or of other states, of any pipeline, as the term is defined in this section, or any interest in it;

(11) "regulation" includes rules;

(12) "tariff" means a rate, charge, toll, rule or regulation of an oil or gas pipeline facility relating to services furnished by the facility to the general public or other users for compensation. (§ 1 ch 139 SLA 1972; am §§ 7, 8 ch 6 FSSLA 1973)

Effect of amendment. — The 1973 amendment rewrote paragraphs (4) and (8).

Sec. 42.06.640. Short title. This chapter may be cited as the Alaska Pipeline Commission Act. (§ 1 ch 139 SLA 1972)

Chapter 07. Alaska Transportation Commission Act.

Article

1. Establishment of Transportation Commission (§§ 42.07.011 -- 42.07.111)
2. Powers and Duties of Commission (§§ 42.07.121 -- 42.07.161)

Repeal of former chapter. — Section 1, ch. 104, SLA 1969, repealed former Chapter 07, entitled "Alaska Transportation Commission." The former chapter consisted of §§ 42.07.010 -- 42.07.159, and derived from § 1, ch. 139, SLA 1966.

Article 1. Establishment of Transportation Commission.

Section

11. Creation and composition
21. Term of office; vacancy
31. Quorum
41. Qualifications
51. Oath of office
61. Restrictions
71. Compensation of members of the Alaska Transportation Commission

Section

81. Principal office and seal
91. Legal counsel
101. Employment and compensation of personnel
111. Annual report

Sec. 42.07.011. Creation and composition. (a) There is created the Alaska Transportation Commission within the Department of Commerce and Economic Development. The commission consists of three members appointed by the governor and confirmed by the legislature in joint session.

(b) The governor shall designate one member of the commission as chairman of the commission. This member shall serve as chairman for

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to comply with its terms, conditions, and obligations. Only upon proper acceptance of offered lease by the applicant within 30 days after its having been presented is the grant of the application consummated. (§ 1 ch 72 SLA 1972; am § 9 ch 3 FSSLA 1973)

Effect of amendment. — The 1973 amendment rewrote this section.

Sec. 38.35.110. Term of lease. Each lease of state land for pipeline right-of-way purposes shall contain a provision that the lease shall run for a specified term of not greater than 30 years, and shall be renewable for additional periods of up to 10 years each, so long as the lessee is in commercial operation and is in full compliance with all state law, including but not limited to state law pertaining to regulation and taxation of the pipeline facility, and is in compliance with all terms of the lease. In making this determination he shall take into consideration the cost of the proposed pipeline, its useful life, and the probable financing requirement for the proposed pipeline. (§ 1 ch 72 SLA 1972; am § 10 ch 3 FSSLA 1973)

Effect of amendment. — The 1973 amendment substituted "30 years" for "25 years" and inserted "is in commercial operation and" in the first sentence and added the second sentence.

*R-0-111
Leasing Act*

Sec. 38.35.120. Covenants required to be included in lease. (a) A noncompetitive lease of state land for a right-of-way for an oil or natural gas pipeline valued at \$1,000,000 or more may be granted only upon the condition that the lessee expressly covenants in the lease, in consideration of the rights acquired by it under the lease, that

(1) it assumes the status of and will perform all of its functions undertaken under the lease as a common carrier and will accept, convey, and transport without discrimination crude oil or natural gas, depending on the kind of pipeline involved, delivered to it for transportation from fields in the vicinity of the pipeline subject to the lease throughout its route both on state land obtained under the lease and on other land; however, a lessee who owns or operates a natural gas pipeline subject to regulation either (A) under the Natural Gas Act (15 U.S.C. 717 et seq.) of the United States, or (B) by the state or political subdivisions with respect to rates and charges for the sale of natural gas, is, to the extent of that regulation, exempt from the common carrier requirement in this paragraph; it will accept, convey, and transport crude oil or natural gas without unjust or unreasonable discrimination in favor of one producer or person, including itself, as against another but will take the crude oil or natural gas, depending on the kind of pipeline involved, delivered or offered, without unreasonable discrimination, that the Alaska Pipeline Commission shall, after a full hearing with due notice to the interested parties and a proper finding of facts, determine to be reasonable in the performance of its duties as a common carrier;

(2) it will interchange crude oil or natural gas, depending on the kind of pipeline involved, with each like common carrier and provide connections and facilities for the interchange of crude oil or natural gas at every locality reached by both pipelines when the necessity exists, subject to rates and regulations made by the appropriate state or federal regulatory agency;

(3) it will maintain and preserve books, accounts, and records and will make those reports that the state may prescribe by regulation or law as necessary and appropriate for purposes of administration of this chapter;

(4) it will accord at all reasonable times to the state and its authorized agents and auditors the right of access to its property and records, of inspection of its property, and of examination and copying of records;

(5) it will provide connections, as determined by the Alaska Pipeline Commission under AS 42.06.340, to facilities on the pipeline subject to the lease, both on state land and other land in the state, for the purpose of delivering crude oil or natural gas, depending on the kind of pipeline involved, to persons (including the state and its political subdivisions) contracting for the purchase at wholesale of crude oil or natural gas transported by the pipeline when required by the public interest;

(6) it shall, notwithstanding any other provision, provide connections and interchange facilities at state expense at such places the state considers necessary if the state determines to take a portion of its royalty or taxes in oil or natural gas;

(7) it will construct and operate the pipeline in accordance with applicable state laws and lawful regulations and orders of the Alaska Pipeline Commission;

(8) it will, at its own expense, during the term of the lease

(A) maintain the leasehold and pipeline in good repair;

(B) promptly repair or remedy any damage to the leasehold;

(C) promptly compensate for any damage to or destruction of property for which the lessee is liable resulting from damage to or destruction of the leasehold or pipeline;

(9) it will not transfer, assign, or dispose of in any manner, directly or indirectly, or by transfer of control of the carrier corporation, its interest in a right-of-way lease, or any rights under the lease or any pipeline subject to the lease to any person other than another owner of the pipeline (including subsidiaries, parents and affiliates of the owners), except to the extent that the commissioner, after consideration of the protection of the public interest (including whether the proposed transferee is fit, willing and able to perform the transportation or other acts proposed in a manner that will reasonably protect the lives, property and general welfare of the people of Alaska), authorizes; the commissioner shall not unreasonably withhold his consent to the transfer, assignment or disposal;

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(10) it will file with the commissioner a written appointment of a named permanent resident of the state to be its registered agent in the state and to receive service of notices, regulations, decisions and orders of the commissioner; if it fails to appoint an agent for service, service may be made by posting a copy in the office of the commissioner and filing a copy of it in the office of the lieutenant governor and by mailing a copy to the lessee's last known address;

(11) the applicable law of this state will be used in resolving questions of interpretation of the lease;

(12) the granting of the right-of-way lease is subject to the express condition that the exercise of the rights and privileges granted under the lease will not unduly interfere with the management, administration, or disposal by the state of the land affected by the lease, and that the lessee agrees and consents to the occupancy and use by the state, its grantees, permittees, or other lessees of any part of the right-of-way not actually occupied or required by the pipeline for the full and safe utilization of the pipeline, for necessary operations incident to land management, administration, or disposal;

(13) it will be liable to the state for damages or injury incurred by the state caused by the construction, operation or maintenance of the pipeline and it will indemnify the state for the liabilities or damages;

(14) it will procure and furnish liability and property damage insurance from a company licensed to do business in the state or furnish other security or undertaking upon the terms and conditions the commissioner considers necessary if the commissioner finds that the net assets of the lessee are insufficient to protect the public from damage for which the lessee may be liable arising out of the construction or operation of the pipeline.

(b) For a right-of-way lease granted under this chapter for an oil or natural gas pipeline valued at \$1,000,000 or more to be valid and of legal effect, it must contain the terms required to be inserted under the provisions of §§ 110 — 140 of this chapter. An oil or natural gas pipeline right-of-way lease granted under this chapter that does not contain the required terms is null and void and without legal effect and does not vest any interest in state land or any authority in the carrier granted the lease.

(c) The commissioner may insert in any right-of-way lease other reasonable provisions and conditions that he determines the public interest requires.

(d) The lease will also contain terms and conditions that are reasonably necessary to obligate the lessee, to the extent reasonably practicable, to

(1) prevent conflicts with other existing uses of the land involving a superior public interest;

(2) protect state and private property interests;

(3) prevent any significant adverse environmental impact, including but not limited to the erosion of the surface of the land, and damage to fish and wildlife and their habitat;

(4) restore and revegetate during the term and at termination of the lease; and

(5) protect the interests of individuals living in the general area of the right-of-way who rely on the fish, wildlife, and biotic resources of the area for subsistence purposes.

(e) In the event the commissioner proposes to offer a lease or leases to two or more lessees for the same pipeline, the commissioner may include terms in the lease or leases which establish the limit of the obligations and liabilities of each lessee arising under this chapter or under the lease or leases.

(f) The commissioner may, at his discretion, include any or all of the terms set out in this section in leases of state land for products pipeline right-of-way purposes. (§ 1 ch 72 SLA 1972; am § 11 ch 3 FSSLA 1973)

Effect of amendment. — The 1973 amendment rewrote this section.

Sec. 38.35.130. Right-of-way easements or leases acquired from others. (a) The lessee may, if the commissioner delegates the function to it, condemn, by declaration of taking, under AS 09.55.420 — 09.55.450, real property and acquire leases of or easements or rights-of-way on lands in the state required for right-of-way purposes for a pipeline subject to the lease on behalf of and as agent for the state in which title to or interest in the land shall vest.

(b) The lease shall contain a covenant that the land, right-of-way, or easement acquired under this section is or will form part of the land leased to the lessee. (§ 1 ch 72 SLA 1972; am § 12 ch 3 FSSLA 1973)

Effect of amendment. — The 1973 amendment rewrote subsection (a), deleting the paragraph designations and deleting the provisions of former paragraphs (1) and (2). The amendment also, in subsection (b), substituted "The lease shall contain a covenant" for "The

lease covenant required by this section shall be accompanied by a provision" and deleted "carrier" following "lessee."

Quoted in *Arco Pipeline Co. v. 3.60 Acres, More or Less*, Sup. Ct. Op. No. 1177 (File No. 2419), 539 P.2d 64 (1975).

Sec. 38.35.140. Payment of rental and costs. (a) The lease price for a right-of-way lease shall be the annual fair market rental of the state lands included in the right-of-way based on the appraised fair market value of the land. The lease price is payable annually in advance on or before the anniversary of the lease. The appraised fair market rental value shall be adjusted periodically under the provisions of AS 38.05.015. Rental may not be charged for any land acquired by the lessee under § 130(b) of this chapter and conveyed without cost to the state.

(b) The lessee shall reimburse the state for all reasonable costs incurred in monitoring the construction of the pipeline on the right-of-way. (§ 1 ch 72 SLA 1972; am § 13 ch 3 FSSLA 1973)

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Sec. 42.05.141. General powers and duties of the commission. The Alaska Public Utilities Commission may

(1) regulate every public utility engaged or proposing to engage in such a business inside the state, except to the extent exempted by § 711 of this chapter and the powers of the commission shall be liberally construed to accomplish its stated purposes;

(2) investigate, upon complaint or upon its own motion, the rates, classifications, rules, regulations, practices, services and facilities of a public utility and hold hearings on them;

(3) make or require just, fair and reasonable rates, classifications, regulations, practices, services and facilities for a public utility;

(4) prescribe the system of accounts and regulate the service and safety of operations of a public utility;

(5) require a public utility to file reports and other information and data;

(6) appear personally or by counsel and represent the interests and welfare of the state in all matters and proceedings involving a public utility pending before an officer, department, board, commission or court of the state or of another state or the United States and to intervene in, protest, resist, or advocate the granting, denial or modification of any petition, application, complaint or other proceeding;

(7) examine witnesses and offer evidence in any proceeding affecting the state and initiate or participate in judicial proceedings to the extent necessary to protect and promote the interests of the state. (§ 6 ch 113 SLA 1970; am § 1 ch 33 SLA 1971)

The general powers and duties of the Public Utilities Commission are set forth in this section. *Greater Anchorage Area Borough v. City of Anchorage*, Sup. Ct. Op. No. 856 (File No. 1569), 504 P.2d 1027 (1972).

The essence of the administrative power conferred upon the Public Utilities Commission is regulatory; the commission is empowered to set rates, promulgate regulations, collect information, process complaints against utilities and the like. *Greater Anchorage Area Borough v. City of Anchorage*, Sup. Ct. Op. No. 856 (File No. 1569), 504 P.2d 1027 (1972).

The statutory framework does not grant unlimited adjudicatory authority to the Public Utilities Commission. *Greater Anchorage Area Borough v. City of Anchorage*, Sup. Ct. Op. No. 856 (File No. 1569), 504 P.2d 1027 (1972).

This chapter simply does not contemplate the establishment of an administrative body with the authority to adjudicate disputes over the authority of boroughs to

control construction along their rights of way. *Greater Anchorage Area Borough v. City of Anchorage*, Sup. Ct. Op. No. 856 (File No. 1569), 504 P.2d 1027 (1972).

The Public Utilities Commission is not empowered to decide disputes between municipalities over the control of construction activities within rights of way belonging to one of the disputants. *Greater Anchorage Area Borough v. City of Anchorage*, Sup. Ct. Op. No. 856 (File No. 1569), 504 P.2d 1027 (1972).

There is no "right" to have the commission act. *Jager v. State*, Sup. Ct. Op. No. 1161 (File No. 2057), 537 P.2d 1100 (1975).

The matter of rate discrimination and investigation is such that the commission must be free to weigh the charges and data presented and the costs to the public and the utility, against which a complaint has been brought, to determine whether further proceedings are in the public interest. *Jager v. State*, Sup. Ct. Op. No. 1161 (File No. 2057), 527 P.2d 1100 (1975).