97TH CONGRESS
1st Session

HOUSE OF REPRESENTATIVES

REPORT No.
97-350, Part 2

WAIVERS FOR ALASKA GAS PIPELINE

DECEMBER 3, 1981.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. DINGELL, from the Committee on Energy and Commerce, submitted the following

REPORT

together with

CONCURRING, SUPPLEMENTAL, DISSENTING, SEPARATE, AND ADDITIONAL VIEWS

[To accompany H.J. Res. 341 which on October 19, 1981, was referred jointly to the Committee on Energy and Commerce and the Committee on Interior and Insular Affairs]

[Including cost estimate of the Congressional Budget Office]

The Committee on Energy and Commerce, to whom was referred the joint resolution (H.J. Res. 341) providing for a waiver of law pursuant to the Alaska Natural Gas Transportation Act, having considered the same, report favorably thereon without amendment and recommend that the joint resolution do pass.

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Discharge of National Obligation to Canada.—The Committee has recognized in its favorable action on H.J. Res. 341 that the United States and Canada have been mutually obligated by treaty and understanding to the removal of legal and regulatory obstacles to the private financing of the Alaska natural gas pipeline project. The Committee notes that the authorization by the Canadian government of the construction of Canada's portion of the prebuild segment of the project, and the authorization of additional exports of Canadian natural gas through that prebuild section, were granted in reliance on the commitment of the United States Government to remove obstacles to private financing of the project.

It is the sense of the Committee that the passage of H.J. Res. 341 is a complete and sufficient discharge of our national commitment to Canada, in that the waiver proposal removes all remaining legal obstacles to private financing. Should the sponsors of the pipeline fail to secure private funds for its construction, despite passage of the waiver proposal, then it is the judgment of the Committee that a basic precondition of all agreements concerning the project with Canada, that is that the project be privately financed, will have failed through no fault of the United States, but through the exercise of the free judgment of private investors; and that no obligations of the Congress to consider further means of promoting or assuring construction of the project will remain.

The Committee desires to express its fervent hopes that private financing will be forthcoming for the project, and to communicate to the government and people of Canada its appreciation of the constructive cooperation they have demonstrated with regard to it. The Committee notes the substantial benefits that a completed pipeline project would bestow on Canada as well as the United States from better access to domestic energy sources, jobs and economic activity, use of domestic materials such as steel, and tax revenues, and hopes that the project will be looked upon with enough favor by private investors that these benefits may be realized.

As mutual beneficiaries the United States and Canada have participated in two agreements on this pipeline: (1) The Transit Pipeline Treaty and (2) The Agreement on Principles. Explicit in these documents is the Canadian commitment to nondiscriminatory taxation of the project. The Committee notes that the Federal government of Canada has yet to reach agreements with all of the Provinces affected. However, the Committee has supported the waiver proposal with the understanding that the Federal government of Canada would compensate the project for any unfair Provincial taxes.

The initial price of Alaskan gas may far exceed the price of imported crude oil, which is the basis for pricing Canadian natural gas exports to the United States. There was a concern that since Canadian gas would be flowing through the same system as Alaskan gas, that the Canadian gas export price might be pegged to the higher Alaskan gas price in the initial years of Alaskan gas delivery. However, the Canadians have stated that they have no intention of changing their current natural gas export pricing policy nor of pegging the price of Canadian gas to the price of Alaskan gas.

The Levelization of the Project Tariff.—Many witnesses in the Committee's hearings suggested that a major problem confronting the pipeline project would be t
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the pipeline project would be the high cost of service borne by the natural gas delivered to U.S. companies, particularly in the early years of the project before the debt burden of the project is substantially paid off or the depreciation of the investment has significantly reduced project costs. The stated fear was that Alaskan gas would be priced too high to be sold in the market. The financing agents and advisors and potential lenders to the project testified that any such problems with marketability of the natural gas to be delivered would be analyzed and constitute a significant factor in their initial deliberations as to whether private financing could be secured. In addition, Mr. Charles M. Butler, the Chairman of the Federal Energy Regulatory Commission testified that the Commission in its independent regulatory review of the merits of the project prior to granting a final certificate would also examine any potential problems of marketing the natural gas, and would be unable to certificate the project "unless the project sponsors can make a convincing case to the Commission that the gas is going to be marketable under all of the foreseeable range of probabilities."

One means of dealing with such a potential problem would be for the tariff applying to the project to provide for deferred collection of some of the project costs, bringing the first-year gas costs closer to the average gas cost over the life of the project. The Commission on its own initiative can consider such measures and order them either in approving the project tariff or in dealing with any later changes requested in the tariff by the project sponsors. It is the judgment of the Committee that such levelization mechanisms are an appropriate means for matching the true cost of the natural gas delivery system to the unit of delivered gas without unduly favoring those consumers receiving gas in the later years of the project at the expense of those receiving gas in its initial years, as well as an appropriate means of helping to assure the commercial viability of the project when it is completed. The Committee encourages FERC to all available means of levelizing the project tariff, both in the initial tariff and in later years at its own initiative (subject to the regulatory certainty waiver) and to incorporate in the tariff those that are otherwise compatible with the standards of the law and the needs of all parties involved with the project, including the eventual consumers of the gas.

A second means suggested in testimony for reduction of the first-year costs of gas delivered from the pipeline project is the acceptance by the producers of Prudhoe Bay gas of wellhead prices lower than the ceiling price amounts allowed in section 109 of the Natural Gas Policy Act. Any diminishment of expected revenues from such production acquiesced in by producers would appear to go far toward making economic the transportation system that makes possible any revenues at all from such production. Production of Prudhoe Bay Unit gas in later years would very likely command the ceiling price, and other gas produced in the area and shipped through the Alaskan Natural Gas Transportation System would not be subject to such ceilings, so there is great potential that any initial losses to producers would be more than made up. Finally, any future legislative consideration of removing the ceiling prices applying to gas from the Prudhoe Bay Unit would obviously take into account the responsiveness or lack of responsiveness to actual market conditions demonstrated by North Slope producers in their

pricing practices while controls were in place. For these reasons, the Committee encourages the participants in the project, and particularly the producers, to make clear in the proceedings before FERC their willingness to allow wellhead price reductions in initial years to assist with achieving a levelized tariff, and urges FERC to weigh this possibility carefully in reviewing gas purchase contracts for Prudhoe Bay Unit gas and in assessing the potential solutions to marketability problems prior to the issuance of the final certificate for the project.

Participation of the State of Alaska.—The State of Alaska and its citizens would clearly be among the major beneficiaries of a completed Alaska Natural Gas Transportation System. The economic benefits that would result from pipeline construction, access to natural gas, and encouragement of additional exploration for natural gas in Alaska would vastly outweigh, in the judgment of the Committee, the socio-economic and environmental costs the pipeline may exact. In addition, the benefit of State royalties and severance taxes on the natural gas produced for the pipeline, as well as State taxes on the project and its related employees and service industries, would yield a multi-billion dollar increase in the revenues of a State that is already in much better fiscal shape than its sister states due primarily to the current income from Alaskan oil production and related activities.

The State of Alaska has contemplated active participation in the natural gas pipeline project, perhaps using some part of its current revenue stream or financial capacity, or the creditworthiness that results from that financial capacity, to become an active participant in the natural gas project that will provide such benefits. Governor Hammond testified before the Committee that a conclusion to such consideration would depend in part on the financing plan submitted by the sponsors. The Committee recognizes the difficulty confronting a State government or other public entity in deciding whether or not to commit public revenues to a commercial venture or to use them to underwrite such a venture. Indeed, the Committee elsewhere finds that general U.S. government revenues should not be so dedicated. Nonetheless, the direct interest already present in the State of Alaska's ownership of the land from which the gas is to be produced, the other direct benefits which will accrue to the State, and the high probability of an excellent return on such an investment, lead the Committee to the conclusion that such a decision on the part of the State of Alaska may well be appropriate. The Committee encourages the State of Alaska to examine the benefits of this project to its citizens as well as to the rest of the Nation, to recognize the enormous positive effect that any contribution of capital or of credit security would have on the chances of the project to be financed, and to act as promptly as possible in accordance with the conclusions of such an investigation. The Committee further urges FERC to weigh the deliberations and actions of the State of Alaska very carefully in its own examination of the commercial worthiness and economic viability of this project, conceivably to draw a positive or a negative inference about the project from the decisions taken by a potential beneficiary and contributor of such magnitude and degree of intimate connection with the project.

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The Deregulation of Natural Gas.—The Committee notes that there has been substantial concern with regard to the effect of potential changes in Federal law or policy concerning the regulation of the wellhead price of natural gas on the Alaska Natural Gas Transportation System. Two types of potential changes have raised these concerns.

The first involves potential changes of Federal law or policy with regard to lower-48 wellhead prices for natural gas. The concern has been expressed that deregulation of such gas, whether pursuant to the continued application of the Natural Gas Policy Act or by amendment to, or revision of, that Act, would cause Alaskan natural gas when delivered to be unmarketable. Many witnesses in the hearings focused on this concern or responded to it in questions. Witnesses representing the Administration, the project sponsors, the producers, and other Federal agencies, among others, testified that there is no direct or currently observable connection between this project and the issues associated with changes in such law or policy. In addition, the Chairman of the Federal Energy Regulatory Commission testified that the Commission would specifically examine the range of future probabilities in such policies as they would affect the economic viability of the project prior to issuing a final certificate, and that the Commission, the sponsors, and public intervenors appearing before the Commission are not deprived by the waiver proposal of future options for dealing with problems that may arise, some of which are noted above in the discussion of levelized tariffs.

The Committee, in approving the degree of consumer risk-taking and financial involvement in connection with this project that these waivers permit, has stated its intention not to approve any additional shifts of risk or financial burdens on consumers with respect to this project. The Committee intends to keep this commitment fully in mind when considering later legislation affecting natural gas, and not to include in such legislation provisions which would violate this commitment directly or indirectly. Any economic difficulties for the project caused by changes in wellhead regulation of lower-48 natural gas are intended to be dealt with, and their costs absorbed, by other involved parties than the consumers of gas delivered through the project.

Second, concerns have been raised with regard to changes in the wellhead price regulation of Alaskan natural gas in the Prudhoe Bay Unit. Underlying the Committee approval of the waiver is the understanding that consumers will, over the life of the project and if possible initially, receive Alaskan gas at a price which is lower than the prices of alternate fuels. Testimony from the Administration, the sponsors, producers, and others emphasized the benefit to consumers of the low 20-year average price for delivered Alaskan gas which would occur because of the declining real cost of the project. Any initial prices which were above market levels would be more than offset by later prices which were substantially below market levels. If, however, any participant in the chain of gas sale and delivery from Alaska had the freedom to price that gas at the level the market would command, he would similarly have the power to capture for his own benefit the economic benefit intended for consumers and paid for by consumers through their assumption of financing risks and waiver of regulatory protections. It is the

intent of the Committee that such benefits of the project be preserved for consumers and not be redirected for the benefit of others as a result of later policy changes. Secretary Edwards, speaking on behalf of the Administration in testimony, expressed agreement with this general principle.

Asked whether the Administration would oppose any efforts that would deprive the consumer of making gains when the economic benefit of the project begins to appear, and whether the Administration policy was to protect the consumer to make sure that the consumer gets the benefit that was argued to be available, Secretary Edwards replied:

> Mr. Chairman, I think that it is only fair to say that certainly if they have taken the risk, they should have the benefit. I cannot imagine any situation where we would try to take away their benefit at some future date.

The Committee concurs with this position. It is the judgment of the Committee that the deregulation of Prudhoe Bay natural gas at the wellhead would deprive consumers of these benefits.

Under procedures provided for under ANGTA the Congress has 60 calendar days, excluding recesses of three or more days, to pass H.J. Res. 341 approving the waiver package. As of the date of this report the Joint Resolution must pass by December 21, 1981, to be effective. ANGTA also provides that the waiver of law is unamendable and unseparable and that Floor debate on the Joint Resolution is limited to one hour, evenly divided between those supporting and opposing the Joint Resolution.

COMMITTEE OVERSIGHT FINDINGS

Pursuant to clause 2(1)(3)(A) of Rule XI of the Rules of the House of Representatives, no oversight findings or recommendations have been made by the Committee.

COMMITTEE ON GOVERNMENT OPERATIONS

Pursuant to clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, no oversight findings have been submitted to the Committee by the Committee on Government Operations.

COMMITTEE COST ESTIMATE

In compliance with clause 7(a) of rule XIII of the Rules of the House of Representatives, the Committee believes that the bill will have no budget effect for fiscal year 1981.

CONGRESSIONAL BUDGET OFFICE ESTIMATE

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, D.C., November 30, 1981.

Hon. JOHN D. DINGELL,
Chairman, Committee on Energy and Co[illegible]erce,
U.S. House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed H.J. Res. 341, a joint resolution providing for a waiver of law pursuant to the Alaska
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Sincerely,

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Problems began for the American steel industry last year when the Canadian government, for purely protectionist purposes, chose to build the Canadian segment with 54-inch pipe. No American companies can produce this pipe.

With respect to the Alaskan segment, the situation is no better. The 48-inch Arctic pipe is currently capable of being produced by just one American company, and according to Mr. McMillian's (the project sponsor's) testimony:

> We rated over 12 steel companies in the world that could produce 48-inch diameter pipes. Unfortunately, our steel mill that can produce 48-inch diameter pipes was at the bottom of this list and they just don't have the automation and the quality control and assurances that some other countries have.

The Congressional Steel Caucus has worked long and hard to eliminate the anti-U.S. aspects of this project, but has so far been unsuccessful. The only way the situation could be improved is to reject these waivers and to include a "Buy American" provision in a statutory package.

As Rep. Adam Benjamin, Executive Committee Chairman of the Congressional Steel Caucus, testified:

> I would like to add a personal note. My colleague [Mr. Gaydos] is extremely fair and statesmanlike in his presentation. Personally, I would not grant one waiver or recommend the granting of one waiver unless a Buy-American provision was placed as a contingent under which the waiver would be granted.

THE STATE OF ALASKA WILL RECEIVE OVER $20 BILLION FROM THE SALE OF NATURAL GAS—EQUALLING OVER $40,000 PER ALASKAN—WHILE IT HAS FAILED TO COMMIT ONE CENT TO THE PROJECT

The ANGTS will be heavily debt financed. At the current time, the project is nonetheless still lack[illegible] approximately $10 billion in equity. Unless further offers of eq[illegible] come forward, the project will fail.

The most likely candidate to invest is the State of Alaska which owns 12½ percent of the natural gas which will be produced. So far, the State has committed nothing.

Alaskan gas is currently under price controls. The price was $1.45 per mcf in 1977 and it increases with inflation. The State of Alaska, therefore, stands to earn $20 billion over the life of the project ($4 billion in 1982 dollars) based upon the proved reserves. This could increase if more gas is found or the gas is decontrolled.

To put the vastness of this transfer of income to Alaskan residents in perspective, Alaskans stand to gain a minimum of $40,000 per person over the project's 20-year life. These revenues will be paid by natural gas consumers in virtually every State of the Union.

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Proponents of the waivers r[illegible] reasons. First, they suggest that [illegible] fact, the delays will be caused [illegible] failure to find adequate capital[illegible]

Although one cannot force Alaska to invest in this project, one can certainly condition the granting of these waivers on such an investment. The American consumer is asked to put $37 billion at risk for gas which may never be received. The State of Alaska, which stands to gain $20 billion over the project life, is asked to put up nothing. One compromise would be to limit consumer liability to the amount of any Alaskan investment.

THERE HAS NEVER BEEN A COMMITMENT TO CANADA TO ACCEPT THIS PACKAGE OF WAIVERS

Some proponents of the set of waviers have at various times suggested that the Congress must enact these waivers because of previous commitments to the Canadian government made by President Carter. The suggestion is totally without foundation.

To date, there has been not one single sheet of paper indicting commitments with respect to these waivers. The closest one that comes to a commitment is a commitment to request Congress to adopt waivers permitting recovery of the cost of service for Canadian segments if the project is delayed or not completed. Waivers relating to prebilling of Alaskan segments, placing the gas processing plant in the ANGTS rate base, and others were never promised in commitments to the Canadian government.

It must be understood that tis set of waivers was developed in recent months as a result of various negotiations among pipelines, producers, banks, and others. While one can recognize a commitment to waiver various statutes, if it can be shown that such waivers are necessary and appropriate to expedite construction of ANGTS; there has been no commitment to ratify this particular set of waivers. In fact, the waivers presented to Congress by President Reagan cut back in many respects the original waiver proposals. Just as the President has not reneged on commitments by failing to endorse all requested waivers, the Congress has no responsibility to approve the waivers because they have been requested.

The Congress has been on record in favor of recovering the Alaskan gas through a privately financed venture. These provisions have shifted the financing burden to the public, and have gone too far in other respects. The Congress has made no pledge to ratify these waivers.

THERE ARE BETTER ALTERNATIVES TO THIS SET OF WAIVERS, AND THE CONGRESS HAS THE RESPONSIBILITY TO ENACT THEM

During the course of considering the proposed waivers, Committee members who opposed the waivers have suggested a variety of options which would improve upon the waiver request of the President. If the Congress rejects these waivers, the Committee could expeditiously develop a legislative package (or the President could propose new waivers) so that the pipeline could go forward expeditiously.

Proponents of the waivers reject such a process for unsound reasons. First, they suggest that there would be delay. However, in fact, the delays will be caused not by Congress, but by the sponsors' failure to find adequate capital. The improved waivers could actu-

The lenders to the project are insisting that the equity be invested first, this lowers the effective rate of return to the sponsors. This effect is included in the 25 percent estimate. A higher figure of 35 percent rate of return would result if sponsors contributed their equity in fixed proportion with debt as anticipated in the President's decision.

With the average return on invested capital for U.S. industry as a whole being about 15 percent, this project would certainly be attractive investment if it can be completed.

The waiver package would not affect return on investment, except to increase the possibility that the project would be financed. Alaska segment equity participants would not be paid during any prebilling and are at risk in the case of noncompletion. Although the sponsors cannot collect their return on equity during prebilling it is not correct to say that equity participants lose money during this period. The existing equity investments are added to the rate base and would increase due to the AFUDC additions (allowance for fund used during construction). Equity contributions are allowed and accumulating return on investment during construction. All of which begin to be paid when the project is actually completed. Of course, the waivers allow Canadian equity holders to begin to collect their equity upon prebilling.

2. Producers.—Aside from being participants in the equity financing of the project, the producers benefit from the ability to sell their Alaska natural gas. Without ANGTS the natural gas would be reinjected and of no realizable value until it can be marketed. Thus, the producers, including the state of Alaska which owns a 12 percent royalty share of the natural gas, have much more to gain from the sales of the gas than their equity participation in the project. When the profits from the sale of Alaska natural gas and the return on investment in ANGTS are combined, the producers are calculated to receive a return on investment of over 50 percent. In other words, the producers would make back their investment, on average, every two years. The revenue on the sales of the Alaska natural gas alone would be over $30 billion.

B. The Canadians

The Canadians gain a number of benefits from the construction of ANGTS. First, the prebuilt section of the project provides them with a ready mode of transporting Canadian gas to United States markets. Although the initial transportation charges are net back to Alberta producers, the prebuilt section in Canada would be paid for by American consumers upon billing commencement for the entire Canadian segment. Second, the pipeline in Canada for the most part is 56-inch pipe, larger than the pipeline in the Alaska segment. The larger Canadian pipeline was designed with the idea that the line could eventually carry

House Fight Fails:

Congress Approves Waivers To Help Secure Financing For Alaska Gas Pipeline

Swatting aside last-minute parliamentary tactics by opponents, Congress Dec. 10 cleared President Reagan's Alaska gas pipeline waivers, dumping the fate of the $40 billion project in the lap of the nation's banks.

The waivers to the 1977 decision to build the pipeline will put part of the risk of construction delay or non-completion on 38 million natural gas consumers in 47 states. Project sponsors hope that this, plus increased involvement by major oil companies, will persuade banks and other U.S. and foreign investors to lend them $22.5 billion to build the Alaska segment of the pipeline.

Funding for the portion going through Canada appears assured, and the section in the continental United States is nearly completed. If the entire 4,800-mile pipeline is built — and there is still considerable doubt, even with the passage of the waivers — it would be the largest project ever built with private financing.

In 1977, it was estimated that the pipeline would cost $8 billion to $10 billion. But more detailed engineering studies, coupled with inflation, have driven the cost to about $40 billion, which made it difficult to find financing and led sponsors to seek the waivers.

Opponents called the waiver package a consumer rip-off and contrary to the administration's professed free-market philosophy. Supporters said it was a reasonable attempt to open up Alaska's huge supplies of natural gas to help meet the nation's energy needs.

Consumer advocates were outmatched as the pipeline sponsors put on one of the heaviest lobbying campaigns in recent congressional memory. Also working with the sponsors were labor unions whose members would benefit from the jobs pipeline construction will provide.

Congressional Action

President Reagan sent the waivers to Congress Oct. 15. The Senate Nov. 19 voted 75-19 for a resolution (S J Res 115) approving the package. The House passed an identical resolution (H J Res 341) by a 233-173 vote Dec. 9. *(Vote 322, p. 2470; Senate action, Weekly Report p. 2313)*

However, opponents blocked the resolution from being formally cleared until Dec. 10, when they forced another House vote. They hoped the delay would enable them to switch enough votes to kill the waivers.

They did manage to narrow the margin by 18 votes but still lost, 230-188, as the House passed the Senate resolution Dec. 10. Eight members, all Republicans, switched from supporting the resolution to opposing it. There were no defections from the opposition. *(Vote 329, p. 2472)*

Most of the opposition to the waivers in the House came from the Midwest and Northeast, where resid use of natural gas for heat is heaviest. For example, bers from Maine, New Hampshire, Vermont, Conne Rhode Island and Massachusetts produced only on for the waivers Dec. 9, and 21 against. On the other the gas-producing states of Oklahoma, Texas and L ana voted 23-1 for the waivers. Representatives from Midwest states voted 42-73 on the resolution.

Sen. Howard M. Metzenbaum, D-Ohio, and Rep. ard L. Ottinger, D-N.Y., challenged the second Hous as illegal and promised a court suit. They said the 19 (PL 94-586) providing for expedited congressional c eration of Alaska pipeline issues prohibited more tha vote in either chamber on the waivers within a period. Supporters said the vote was legal because it an identical resolution. Rep. Philip R. Sharp, D-Ind opponents were using a "tortured interpretation" 1976 law, which limited debate and barred amendn

Background

The 1976 law, the Alaska Natural Gas Transpo Act, directed the president to select a method for b natural gas to the continental United States from P Bay, Alaska, where 26 trillion cubic feet of gas percent of U.S. proven reserves — were discovered i In 1977 President Carter decided a pipeline would b *(Background, map, Weekly Report p. 1535)*

The decision stipulated that the project would vately financed. It prohibited the oil companies th

The waivers package is "the greatest consumer rip-off in history."

—Rep. Tom Corcoran, R-Ill.

the gas from also owning part of the pipeline. And gas consumers could not be billed for the constructi of the pipeline until the line was completed and op

But the consortium seeking to build the pipel Alaskan Northwest Natural Gas Transportation C unable to secure financing under those restricti early last summer, at the insistence of its bankers, it a package of waivers to the 1977 law.

The sponsors' proposal was more liberal than President Reagan eventually submitted to Cong would have enabled the companies to begin bill consumers immediately for construction costs. But

—By Andy Plattner

ators consulted by the administration suggested a package that would not charge consumers until significant portions of the line were finished; Reagan adopted their version.

The administration argued that helping to secure financing for the project was necessary to meet U.S. commitments to Canada, which is building the pipeline within its borders. That argument helped persuade key Democrats, including Morris K. Udall, D-Ariz., chairman of the House Interior Committee, which approved the waivers Nov. 12 by a 32-9 vote (H Rept 97-350, Part I).

Another key Democrat, Sharp, chairman of the House Energy and Commerce Subcommittee on Fossil Fuels, decided that the burden placed on consumers by the waivers was not as great as the benefit they would gain from the Alaska gas supplies. His support, along with extensive lobbying by the sponsors, secured a 27-14 vote Nov. 19 for the waivers in the full committee (H Rept 97-350, Part II).

"In return for bearing a small financial risk, consumers will benefit by receiving a secure and economic source of U.S. fuel."

—Rep. Don Young, R-Alaska

House Debate

When the waiver package was drafted, strong opposition came from two key members of the House Energy and Commerce Committee: ranking Republican James T. Broyhill, N.C., and Clarence J. Brown, Ohio, senior Republican on the Fossil Fuels Subcommittee.

But neither wanted to take the lead in opposing the White House on the issue on the floor. Instead, the opposition was led by Tom Corcoran, R-Ill., who had tried unsuccessfully to block the waivers in the committee.

In floor debate Dec. 8, 9 and 10, opponents of the waivers argued that there were other, cheaper ways to bring the gas from Alaska, such as in liquid form by ship. They also warned that the gas might be so expensive because of the high transportation cost that it would be unmarketable, and that the waivers could be the first step toward federal financing of the project.

Sponsors countered that the pipeline was the only viable way to transport the gas. They said banks and prospective lenders will not loan the consortium the money if the gas will not be marketable. And they said the waivers are as far as Congress will go — no federal financing will ever be approved.

Sharp acknowledged that the waivers had problems. "But in my mind the promise of the pipeline is sufficient to outweigh the problems with the waivers," he said, "and you cannot have one without the other." He said failure to go forward with the project would put consumers in danger of not having adequate gas supplies.

While Corcoran labeled the waivers "the greatest consumer rip-off in history," Don Young, R-Alaska, said "this is a consumer-oriented package of waivers. In return for bearing a small financial risk, consumers will benefit by receiving a secure and economic source of U.S. fuel."

Majority Leader Jim Wright, D-Texas, said approval of the waivers "is one way that we can strike a blow for energy independence for the United States." He said delay of the pipeline would cost consumers more in the long run.

After the House passed H J Res 341, Corcoran objected to a routine unanimous consent request to then approve the identical Senate measure. Udall said in his 20 years in the House he had never seen such an objection.

Aided by consumer advocate Ralph Nader, Corcoran hoped to use the delay to generate additional opposition to the waivers. Nader, noting extensive campaign donations to members of Congress from pipeline sponsors, said after the Dec. 9 House vote that the Democratic Party had "sold its soul and sold its credibility for a few million dollars in campaign contributions."

The Senate could have eased the situation by simply passing H J Res 341, which was identical to the bill it passed Nov. 19, but Metzenbaum promised a filibuster if the issue came up. Instead, sponsors got clearance from the House Rules Committee Dec. 9 to bring S J Res 115 to the House floor on Dec. 10.

Provisions

As cleared by Congress, S J Res 115:

- Allowed the major oil companies that own the Prudhoe Bay gas to also own part of the pipeline. The companies are the Exxon Corp., Standard Oil Co. of Ohio (Sohio) and Atlantic Richfield Co. (ARCO).

The Justice Department in 1977 insisted that oil company ownership of the pipeline be prohibited based on antitrust concerns. But the banks said it was unlikely private financing could be arranged without the substantial involvement of the oil companies. In testimony supporting the waivers, pipeline sponsors said the oil companies would own 30 percent of the project.

- Allowed the Prudhoe Bay conditioning plant, needed to prepare the gas for shipping in the pipeline, to be included as part of the project that eventually will be charged to consumers. This $6 billion plant originally was to be the responsibility of the oil companies, but as part of the deal for the companies assuming part of the pipeline ownership, they insisted the plant be included as part of the system.
- Allowed consumers to be billed for part of the project before gas actually is transported.

If the entire pipeline is not completed by the date the Federal Energy Regulatory Commission (FERC) determines that it should be completed (probably 1987), consumers could begin getting bills if at least one of the three segments (the pipeline in Alaska, the pipeline in Canada, the conditioning plant) is finished and ready to operate.

- Eliminated the requirement that FERC hold formal hearings on each application for certification that the pipeline will require. However, FERC would be allowed to hold such hearings at its discretion.
- Restricted FERC's authority to modify the tariff schedules for billing consumers after it sets them. This "regulatory certainty" provision was said to be necessary to assure lenders that the income generated by the project would not be reduced by later FERC changes. Tariffs could be increased by FERC but not lowered. ▮

Reagan Plan Opposed:

Committee Votes to Block Continued Production From Naval Oil Reserve

With unusual partisanship, the House Armed Services Committee voted 19-13 Dec. 9 to block President Reagan's plan to continue pumping oil from the Naval Petroleum Reserve at Elk Hills, Calif.

The prime beneficiaries of continued production would be refiners in Reagan's home state and the U.S. Treasury, which gets $2 billion a year from selling the oil.

The committee vote is likely to be meaningless, however, because House action on the disapproval resolution (H Res 287) is not expected before the early January deadline for congressional consideration.

House Armed Services traditionally has operated in a bipartisan manner; for example, unlike other committees, it does not have Republican and Democratic staffs, just one professional staff. But on H Res 287, Democrats voted 15-4 for it while Republicans opposed it 4-9.

The president had told Congress Oct. 6 that it was in the national interest to continue Elk Hills production at the maximum efficient rate for another three years. Energy Department (DOE) officials acknowledged that the decision was based primarily on economic benefits that accrue to the Treasury by the sale of the oil. The DOE office that administers the reserve had recommended that the field be "shut in," which means producing at only the minimum level necessary to sustain the field.

Under the 1976 law (PL 94-258) that allowed production at the military reserve, Congress had 90 days to block that decision by passage of a resolution of disapproval by either chamber. No action to disapprove Reagan's plan has been taken in the Senate.

The House Armed Services Committee decided it was wiser to save the oil from Elk Hills for use by the military in an emergency. If the House passed H Res 287, oil from the Elk Hills field, the second largest in the United States, would dry up to a relative trickle, from 180,000 barrels a day to about 25,000 barrels a day.

"There really is no need for Elk Hills production [now]," said Richard C. White, D-Texas, chairman of the Armed Services Investigations Subcommittee, who sponsored the disapproval resolution. "But if we ever get into a national defense emergency, there will be a need for it." White's panel approved the resolution, 6-4, Dec. 8.

But the resolution had to be passed by the House before Congress adjourned for the year. (By the time Congress returns in January, the 90-day period for consideration would have expired.) White said Dec. 9 he had no assurances from the leadership that floor action would be scheduled before adjournment.

The administration, with $2 billion in revenue at stake, was opposing H Res 287. So were California legislators who represent refiners that benefit from Elk Hills oil. Also lined up in opposition was Standard Oil Co. of California (Chevron), which owns 20 percent of the Elk Hills reserve.

The reserve at Elk Hills and one at Teapot Dome, Wyo., were set aside by the government early in this century to ensure that the Navy would have fuel in an emergency. But in 1976 Congress authorized production of oil from these reserves for six years. After that, the president could ask for three-year extensions of production if he certified that it was in the national interest to do so, as Reagan did Oct. 6. *(1976 action, 1976 Almanac p. 105)*

H Res 287 also would block continued production at Teapot Dome, but that reserve is nearly depleted anyway; it produces only about 3,000 barrels of oil a day. But Elk Hills has proven reserves of over a billion barrels and, in an emergency, could pump nearly 250,000 barrels daily. (The daily peacetime requirement of the Defense Department is about 450,000 barrels a day.)

Elk Hills oil is a light crude that is exceptionally high in quality and low in sulfur content. Currently, about 100,000 barrels a day are being sold to California refiners; they mix it with heavier, lower quality oil in a blend that is piped to West Coast refineries.

According to a staff report prepared for the House Energy and Commerce Committee, which studied the issue but did not act on it, "a number of California small refiners have become very dependent on Elk Hills crude oil over the past six years." Part of the remaining oil from Elk Hills goes to Chevron, as its share, and part is sold to the Defense Department.

One argument made by Armed Services for shutting in Elk Hills was that a West Coast supply of crude oil was needed in case of a national emergency. Although there are over 200 million barrels of oil in the Strategic Petroleum Reserve located on the U.S. Gulf Coast, that oil can only get to the West Coast by ship through the Panama Canal. ▮

—By Andy Plattner

Energy-Water Bill Signed

Deciding that an extra $375 million did not bust his budget, President Reagan Dec. 4 signed the fiscal 1982 energy and water development appropriations bill into law (HR 4144 — PL 97-88).

Although it exceeded his revised budget request by that amount, Reagan said the $12.5 billion measure "should be a model for a responsible approach to reducing budget deficits. It provides nearly three-fourths of the additional savings for 1982 that I requested."

When Congress cleared HR 4144 Nov. 21, members were not sure Reagan would sign it. The final version of the bill gave him more money than he requested for energy research, water projects and the Appalachian Regional Commission, and less for nuclear weapons programs. *(Weekly Report p. 2352)*

Reagan had promised at an Oct. 1 news conference that "I will sign no legislation that would bust the budget and violate our commitment to hold down federal spending." *(Weekly Report p. 1883)*

In March, Reagan requested $13.4 billion for programs funded in HR 4144. In September, in the face of growing budget deficits, he cut that to $12.1 billion.

HR 4144 included most of the fiscal 1982 funding for the Energy Department. About $1 billion for the department's fossil fuel and conservation programs was included in the Interior appropriations bill (HR 4035). *(Weekly Report p. 2226)*

Grants Eminent Domain Power:

Panel Narrowly Approves Coal Pipeline Legislation

Legislation to promote the construction of coal slurry pipelines as an alternative to shipping Western coal by rail has been approved by one vote by the House Interior and Insular Affairs Committee.

The bill (HR 4230), ordered reported by a 21-20 vote Dec. 8, would allow federally approved pipeline firms to obtain rights-of-way across private lands through eminent domain after private negotiation had failed.

Similar legislation was reported during the 96th Congress, but opposition from railroads and some Western states kept it from reaching the House floor or moving out of a Senate committee. This year, proponents also face resistance from President Reagan. *(1980 Weekly Report p. 3506; 1979 Weekly Report p. 2840)*

Coal slurry is pulverized coal mixed with water transported through a pipeline. At the end of the line, the water is reclaimed and the coal burned to generate energy.

The only operating pipeline is the Black Mesa Pipeline, which connects the Black Mesa coal mine in northeastern Arizona with a power plant in southern Nevada. Others are planned but have been blocked by the refusal of railroads to grant rights-of-way.

Utilities, other coal interests and some consumer advocates argue that the bill will help bring down energy costs by providing competition to railroads. They say railroads now can charge unduly high rates because there is no alternative transportation available.

The railroads, credited with the 1978 House defeat of a pipeline bill, contend that it would be unfair to give competitors the power of eminent domain over rail lands and allow them to siphon off needed revenue. Also, some Western states are concerned that the pipelines would divert scarce water supplies. *(1978 Almanac p. 675)*

Administration officials said that allowing the federal government to grant eminent domain powers to pipeline companies would be a blow to states' rights. President Carter had supported coal slurry legislation.

"We were dealt a severe blow by the administration. I can't believe a Republican administration that believes in competition would be against this," Interior Committee Chairman Morris K. Udall, D-Ariz., said.

Despite Reagan's opposition, HR 4230 drew bipartisan support from committee members.

The House Public Works Committee began hearings on the bill Dec. 8. Floor action is not expected until next year. Another coal pipeline measure (S 1844) is pending in the Senate Energy and Natural Resources Committee.

Legislation

The bill (HR 4230) requires the Interstate Commerce Commission (ICC), which regulates surface transportation, to issue a certificate to a pipeline company if the commission determined that "public convenience and necessity" required or would be enhanced by the operation of the proposed coal pipeline.

Once a company received the certificate, it then could go to federal or state court to exercise the power of eminent domain and secure rights-of-way through private lands.

The court would set the compensation due the property owner.

However, the eminent domain authority would not give pipeline companies rights to water except as allowed by the state.

The provision was included by the committee to help assure Western states that scarce water needed for farming and other uses would not be diverted to coal slurry pipelines against their will.

Provisions

As ordered reported, HR 4230:

- Declared that coal pipeline construction was a public use that justified granting the power of federal eminent domain to companies under certain conditions.
- Allowed a person with an ICC certificate to acquire rights-of-way through private lands by exercising eminent domain in federal or state court.
- Prohibited anyone from acquiring water rights by eminent domain.
- Prohibited, except under certain circumstances, right-of-way acquisition through eminent domain if the land was a historic site, wilderness or wildlife refuge
- Required the ICC to approve a certificate of "public convenience and necessity" to construct, operate or maintain a coal pipeline if the commission determined that the present or future "public convenience and necessity" required or would be enhanced by construction, operation and maintenance of the pipeline. The ICC may approve the certificate with modifications.
- Required coal pipeline carriers with ICC certificates to provide service upon reasonable request.

However, carriers could contract with shippers to provide services under specified rates and conditions. The carriers could not discriminate unreasonably by refusing to enter into similar contracts with other shippers.

- Allowed the interior secretary to grant rights of way through federal lands.
- Prohibited the federal government or certified pipeline operators from reserving or using water within any state for a pipeline unless the use was pursuant to state law.
- Required the transportation secretary within a year of enactment to issue regulations establishing standards for the safe construction, operation and maintenance of coal pipeline facilities.

Failure to comply with the regulations would result in a penalty of up to $5,000 for each day the person was in violation. Willful violation would be subject to a penalty of up to $10,000 and one year in jail. ■

—By Judy Sarasohn

Stalled over Auto Standards:

Tough Issues Still Unresolved In Rewrite of Clean Air Law

The Senate Environment and Public Works Committee has completed its 1981 work on a Clean Air Act rewrite, leaving unresolved many of the cloudiest air pollution issues.

At its last markup Dec. 11, the committee voted 9-7 to delay a decision on perhaps the thorniest issue relating to automobile pollution: whether to relax carbon monoxide emission standards, a change sought by automakers and the Reagan administration. *(Auto lobby, p. 2443)*

An amendment by Sen. Steven D. Symms, R-Idaho, would allow 1983-86 model cars to emit 7 grams of carbon monoxide per mile, rather than the 3.4 grams per mile currently required.

After 1986, the Environmental Protection Agency (EPA) could determine whether the 7-gram standard should be retained, changed, or returned to the 3.4 gram level, based on new studies of the p[illegible] effects of carbon monoxide emissio[illegible] public health.

Action on the Symms a[illegible]ment was delayed at the request [illegible] Pete V. Domenici, R-N.M., who wanted the panel to evaluate new information released by environmentalists Dec. 9 about the effects of relaxing the standard. Vice President George Bush called Chairman Robert T. Stafford, R-Vt., during the meeting to urge delay also. *(Stafford profile, p. 2440)*

Symms, admitting he lacked the votes to adopt his amendment, supported the delay.

The Senate committee did not resolve several other vehicle emission issues, including what to do about emissions at high altitudes and in cold climates — where certain pollutants are more difficult to control — and what kind of manufacturer guarantees should be required for pollution control equipment.

In addition, the panel must decide whether to retain a requirement that cities that cannot meet national clean air standards impose inspection and maintenance programs for pollution control equipment on cars already on the road.

Also held over until next year were most non-automobile issues, such as whether to retain the act's strict requirements to protect pristine air and what kind of pollution control measures to require in dirty-air areas.

The authorization for appropriations under the law (PL 95-95) expired Sept. 30, but money was provided to extend the program in the continuing appropriations resolution (H J Res 370). The regulations will stay on the books until changed by Congress. *(1977 Almanac p. 627)*

Background

Title II of the law requires that new automobiles, trucks, buses and motorcycles emit fewer pollutants each year — using catalytic converters and other devices — so that cities can meet the national clean air standards by 1982.

The act sets limits for hydrocarbons (HC), carbon monoxide (CO) and oxides of nitrogen (NOx), and requires a 90 percent reduction from uncontrolled levels for all auto-related pollutants except NOx, which must be reduced by 75 percent. *(Health effects of pollutants, Weekly Report p. 267)*

The EPA can waive certain standards, if public health does not require the statutory standard and if the technology to meet it does not exist.

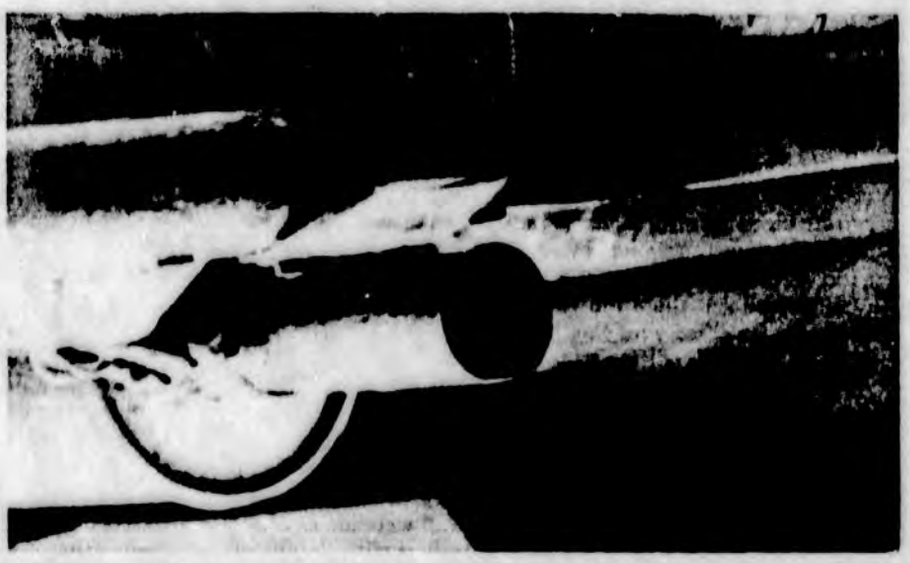
Industry Objectives

The Symms amendment was only one of several changes in the act sought by the beleaguered U.S. auto industry, which has seen new car sales slump to their lowest levels in 23 years.

The other industry proposals were included in a House measure (HR 4400), introduced by Reps. Bob Traxler, D-Mich., and Elwood Hillis, R-Ind., that auto companies admitted was an industry "wish list." No similar bill was introduced in the Senate.

The Senate committee considered only a handful of the items covered in HR 4400, the most controversial of which was the relaxation of carbon monoxide standards for automobiles. The panel refused to consider another major relaxation sought by the industry: changing the 1.0 gram per mile standard for NOx to 2.0 grams per mile.

The automakers claimed the na-



Auto companies want to roll back emission standards for oxides of nitrogen. Diesel-powered automobiles, like the one above, cannot meet current standards.

—*By Kathy Koch*

tion's air quality would continue to improve, and most U.S. cities could still meet the national air pollution standards, even if both the CO and NOx standards were relaxed. As old cars wear out, auto officials argued, the air will improve enough to make up the difference.

The Reagan administration agreed, noting that relaxing the standards would save the industry $1 billion a year.

However, the proposals are tough to sell to Congress because they mean removing equipment already on most cars and rolling back standards that already can be met.

Nearly all 1981 cars met the NOx standard. During the Carter administration, only 30 percent of the 1981 fleet was granted waivers from the 3.4 gram standard for carbon monoxide. But 70 percent of the 1982 cars have been granted waivers by the Reagan administration.

The auto officials never argued that changing the standards would make a sufficient difference in cost to sell enough cars to save the ailing industry. But it would spare car buyers needless expense, they said, because the tighter controls were not necessary to meet the national standards.

The manufacturers argued that if both standards were relaxed they could remove about $360-worth of pollution control equipment — $60-worth of equipment for controlling CO and $300 for equipment to control NOx.

General Motors (GM) Chairman Roger B. Smith promised Congress his company would lower sticker prices on new cars, passing on to consumers "dollar for dollar" any savings realized from removing the equipment.

"The air will keep getting cleaner and cleaner, and car prices will go down," said Smith. "That's the best way I know of affecting sticker shock right now."

Carbon Monoxide Arguments

Although the Senate panel balked at changing the NOx standard, it considered the CO relaxation mainly because it was recommended by the National Commission on Air Quality (NCAQ). The NCAQ said the NOx standard should not be changed. *(NCAQ report, Weekly Report p. 423)*

Symms said relaxing the CO requirements would save $30-$60 per car and improve fuel economy by up to 1 percent. Public health would be adequately protected, he said, yet the action would "help a depressed industry at an environmental cost which is at most infinitesimal."

Sen. Gary Hart, D-Colo., who was chairman of the NCAQ, opposed Symms' amendment because it did not incorporate other NCAQ recommendations proposed as part of a total vehicle pollution control package. Only if all the vehicle recommendations were included in the law, Hart said, could the CO standard be relaxed without causing U.S cities to exceed the national standards.

The NCAQ package included:

- Retaining the CO emission standards for heavy duty trucks scheduled to go into effect in 1984.
- Retaining the requirement that autos sold in high-altitude areas comply with national emission standards.
- Requiring that pickup trucks meet the national emission standards in high altitude areas.
- Retaining the requirement that cities with the most severe auto-related pollution problems establish mandatory programs to inspect and maintain pollution control equipment on cars already on the road.

Hart had offered to draw up such a package and offer it to the committee, but did not get much support from the rest of the panel. Consequently, he may propose each of the NCAQ proposals separately.

What the Opponents Say

The National Clean Air Coalition — a collection of environmental, labor and citizen action organizations — disputes the claim that the national standards can still be met even if the CO standard is relaxed.

In a Dec. 9 press conference, the coalition released a study showing that at least 16 cities — containing more than 40 million people — may never meet the national standard for CO if the 3.4-gram standard is relaxed.

"We think it is very important that the myth that we don't need this level of control be dispelled," said David Hawkins, coalition counsel and the former head of EPA's air pollution program. "We believe that relaxing the standard would have a very adverse affect on public health."

Using internal EPA documents, Hawkins said assertions that the standards can still be met with relaxed CO standards were based on over-optimistic predictions about on-the-road performance of pollution control equipment.

In addition, he said, EPA's predictions ignored the increased carbon monoxide emitted by cars at high altitudes and in cold-weather cities.

"What we've got here is a public health gamble," said Hawkins.

The same day, seven health organizations, including the American Lung Association and the American Public Health Association, wrote the Senate panel urging rejection of the Symms amendment.

They said carbon monoxide, 83 percent of which comes from motor vehicles, can aggravate angina and can be dangerous to persons with cardiovascular disease and pregnant women.

They noted that the NCAQ suggestion that the CO standard be relaxed was based on the assumption that mandatory inspection and maintenance programs would be retained.

"We question the validity of these assumptions," the groups said, noting that some members of Congress want to eliminate mandatory inspection requirements. Without inspection programs, the groups said, violations of the national carbon monoxide standard are projected to double between 1984 and 1990.

NOx Standard Retained

The Senate panel did not even consider relaxing the NOx standard, primarily because it is a precursor to acid rain and contributes to ozone, another pollutant regulated by the act. Further, national levels of NOx are expected to increase over the long term, as more factories and power plants shift from oil to coal. Coal emissions contain NOx.

Some Senate staffers said one reason the industry wants to relax the NOx standard is to allow manufacturers to switch to diesel-powered cars.

Diesels may not meet the current 1.0 gram per mile standard for NOx until 1985. All 1981 and most 1982 diesels were granted waivers allowing them to emit up to 1.5 grams per mile.

But because diesels achieve about 35 percent better mileage than gasoline engines, auto companies, particularly GM, plan to start manufacturing diesels on a large scale. Current estimates are that diesels may represent 20 to 25 percent of the auto and pickup truck sales by 1995.

Since Ford and Chrysler are not prepared to make the diesel switch as quickly as GM, changing the NOx standard would give GM a competitive advantage over the other two companies, according to a recent Congressional Research Service study. ■

Stafford Walking Political Tightrope . . .

As he seeks to shepherd a rewrite of the Clean Air Act through his Senate Environment and Public Works Committee, Chairman Robert T. Stafford, R-Vt., is walking a political tightrope.

On the one hand, he is under pressure from industry and the Reagan administration to make significant changes in the landmark anti-pollution law. On the other, Stafford is seeking re-election next year from a state with a strongly pro-environment electorate, and environmentalists are urging him to stand fast against any modifications in the law.

So far, the Vermont Republican has managed to balance the competing pressures by using a combination of quiet patience and stubborn Yankee determination. Without publicly confronting those who seek major changes in the Clean Air law, he has insisted that only a fine-tuning of the legislation can make it out of his panel and through the Senate this Congress.

"He is the quintessential Vermonter," said freshman committee member Sen. Slade Gorton, R-Wash. "He's very calm and thoughtful, and he doesn't speak a whole lot. But he has very strong views. He's very principled, and he doesn't change his views easily."

Stafford's tenacity has surprised — and frustrated — industry and the administration, both of whom thought earlier in the year that he would be a pushover for major changes they sought in the act.

"He's clearly been more effective than a lot of people last year thought he could be against the industry tide," said one observer who helped write the congressionally mandated National Commission on Air Quality (NCAQ) report on the law. *(NCAQ report, Weekly Report p. 423)*

"He's been helped by an inept administration. Industry is just appalled at the administration's handling of this issue," he said.

In the face of strong public support for the act, the administration has taken a backdoor approach, leaking proposals for major changes in the law rather than coming out publicly with a bill of its own. *(Background, Weekly Report p. 2191)*

Stafford Strategy

Stafford's strategy has been to sit tight, play his cards close to the vest and put the burden of proof on those who want changes to show that they are necessary.

In an unusual approach, he has not introduced a draft bill from which the committee could work. Instead, he is having the panel review the act section by section, forcing anyone seeking changes to draft specific amendments and sell them individually to the rest of the committee.

Since it is difficult to horse-trade votes without knowing what will be in the rest of the bill, committee members have been reluctant to take stands on certain controversial issues.

Meanwhile, Stafford — an original author of the landmark law — has sat back during markups in his characteristically taciturn, wry style and watched as other members — most of whom are unfamiliar with details of the Clean Air Act — slowly realize that it is far too complicated to deal with in a slap-dash manner.

"He's conducting these sessions with a great deal of bemused patience," said committee member Alan K. Simpson, R-Wyo., "as he watches us doing now what we should have been doing during the 25 days of committee hearings — and that's participating.

"He's a man of great patience, but more extraordinarily, he has the ability to let each of us vent our frustrations with the complexity of the act. He's a true old pro," Simpson said.

Stafford's strategy has been buttressed by several recent polls showing strong public support for the act and by the heavy grass-roots lobbying of environmental groups, who contend the administration wants to gut the act. The polls and the lobbying have left the committee extremely skittish about changing the law.

"The U.S.A. is wired up," said Simpson. "The word is that when you say you want to fine-tune the act, that means doing nothing. And none of us has the time or the [communication] systems to explain the depth and nuances of why we would vote to change certain parts of the act."

Mixed Reviews

Stafford's strategy has drawn mixed reactions from fellow committee members.

Some blame Stafford for the glacial pace of the committee's rewrite, criticize him for not offering a markup vehicle and complain privately that Stafford — while extremely well-respected for his gentlemanly approach — is not showing leadership.

"I'm not satisfied with the progress we're making," said Sen. Lloyd Bentsen, D-Texas. "I don't think the format is conducive to making any kind of progress. I had hoped we could have used the NCAQ report as a [markup vehicle]. Having a markup vehicle makes for an orderly process. That's the way we do it in many committees."

"There's some anxiety that all we're doing is spinning our wheels and treading water," said one Republican staffer who did not want to be identified. "Some members are getting disgruntled about it. I just don't think the leadership is there."

Others disagree. "There has been some unhappiness expressed by some members about the way things are being handled, but I'm not among those," said Gorton. "I can't say that I am unhappy about the speed of the action," he said.

"His [Stafford's] strategy is consistent with his personality," said Gorton. "He's not a hard-driving person. He's the farthest thing there could be from a dictatorial chairman."

"He's handling the process excellently," said Leon Billings, the committee's staff director when the act was passed in 1970 and amended in 1977 and currently a consultant to the California Air Resources Board.

"The only way that bill can survive the Senate is if the committee can develop a consensus, and Stafford knows that," said Billings.

. . . As He Guides Clean Air Law Rewrite

"To do that, a whole lot of people have got to back off from their knee-jerk positions. Stafford is helping by being patient, by not pushing people, by not demanding votes or drawing lines in the dirt.

"He's letting everyone have the full opportunity to understand how complex and difficult this law is, so that they realize there ain't no such animal as a quick fix," Billings continued.

Tightrope Act

Stafford's delicate tightrope act is necessitated by several factors.

First, he strongly believes that the law does not need drastic changes. In dozens of speeches since last January, he has reiterated the "only fine-tuning" theme.

His philosophical commitment to the act is reinforced by parochial political considerations as he prepares to run for another term in environment-conscious Vermont.

Secondly, Stafford has consistently argued that because of the complexity of the act and the nature of the Senate, only a bill acceptable to the entire committee can make it through the Senate.

"The bill as a whole must reflect a consensus. I believe we can complete a reauthorization this year, but if not, our chances will be dramatically diminished if not virtually extinguished in this Congress," Stafford said when the panel began its markup Nov. 3.

However, he chairs a committee that, in order to reach agreement, will probably approve more changes than Stafford himself would prefer. His position is complicated further by the fact that there is no accord on key issues among Republicans on the panel — let alone between them and committee Democrats.

Yet he is under intense pressure from top White House officials, with whom he meets regularly, to get a bill cleared this year.

At a Dec. 3 meeting, White House officials told Stafford that President Reagan was ready to go on television calling for Senate action this year.

Stafford quietly pointed out that at each markup he has asked those seeking changes favored by the administration if they were ready to vote, but that senators supporting such amendments have backed away from a showdown because they have not had the votes.

Bucking the Administration

The Clean Air rewrite is not the first time this year that Stafford has stood up to President Reagan.

The Vermont Republican also serves on the Senate Labor and Human Resources Committee, where he was instrumental last May in modifying the president's proposals to lump a wide range of health and education programs into block grants to the states.

Along with Lowell P. Weicker Jr., R-Conn., Stafford joined committee Democrats in opposing Reagan's original proposal — a centerpiece of the president's "new federalism."

He then crafted a compromise plan that exempted from the block grants certain major programs such as aid to low-income students, legal services for the poor and aid to the handicapped. Stafford's compromise, largely incorporated into law (HR 3982 — PL 97-35), also placed restrictions on many smaller programs that were incorporated into the block grants. *(Weekly Report p. 907)*

Stafford the Educator

Stafford's concern for education carries over to his handling of the Clean Air rewrite.

One reason he has been unable to move any faster on the legislation is because many members of the committee simply do not understand the complex jargon and intricate workings of the act. Even the staff at times has disagreed publicly over the impact of various amendments.

"I believe we can complete a reauthorization this year, but if not, our chances will be dramatically diminished . . . in this Congress."

—Robert T. Stafford, R-Vt., chairman, Senate Environment Committee

The panel held two dozen hearings during the year, but many of the senators did not show up for them. Stafford then held caucuses with the Republican members who were anxious to get moving with amendments, but no consensus could be reached, largely because some of the newer members did not understand the act.

Then Stafford scheduled several "seminars," during which panel members discussed the seven major issues, trying to establish a consensus among the members. Even in the month since formal markup began, much of the time has been spent educating the members on the issues.

"I think he's on the right track, even though it's a slow process," said Simpson.

"He's held 24 hearings, and now we're all suddenly paying attention and trying to bring ourselves up to speed. He's patient and wry as he watches us.

"If you went quicker," he added, "you would disclose on the floor a great deal of confusion from the jurisdictional committee, and that's never good. He's letting us slowly come to that position."

—By Kathy Koch

Spinning Their Wheels:

Auto Firms Find Slow Going For Changes in Clean Air Law

Over the years, the auto industry has accumulated a lot of political mileage. But in their drive to relax the auto emission standards of the Clean Air Act, the automakers have not been running on all cylinders.

An industry-backed effort to amend the auto emission section of the 1970 Clean Air Act has had slow going in the House, even with the formidable figure of Rep. John D. Dingell, D-Mich., in the driver's seat.

In the Republican-run Senate, despite backing from the Reagan administration, the automakers have not even tried to find a sponsor for some of their more controversial proposals. *(Details of legislation, p. 2439)*

All of this comes at a time when the auto industry — an economic wreck — would seem to be a natural candidate for congressional sympathy.

"Here's an industry that, if it ever was to receive any favorable treatment, now is the time," said Ben Jackson, a lobbyist for firms that make and sell replacement auto equipment. "But Congress is not buying the argument."

The automakers still have plenty of horsepower and several opportunities to gain ground before the Clean Air Act revisions clear Congress.

But the problems the industry has had so far are revealing. They illustrate both the surprising political durability of the clean air law and possibly some inherent limitations in the industry's political machinery.

The motor vehicle lobby is a tenuous coalition of a few big companies that regard each other with a sense of competition and suspicion.

General Motors Corp. (GM) and Ford Motor Co., the least-ailing companies financially, have large Washington offices. Chrysler Corp., the American Motors Corp. and other domestic manufacturers of cars and trucks keep thinly populated offices in the capital. The lobbyists bring in executives from Detroit to enhance their case.

The companies also retain an array of lawyers and consultants, including some of the city's most prestigious, to specialize in such areas as tax law.

The Motor Vehicle Manufacturers Association (MVMA) tries to harmonize industry views. Over the years it has become less a conventional trade association, pooling the power of many members, than a referee among giants. MVMA had 146 member companies in 1920; today it has 11.

The industry's consensus bill (HR 4400) was drafted to specifications hammered out by industry representatives around a conference table at MVMA, and MVMA has tried to orchestrate the lobbying on its behalf.

The "big four" automakers — General Motors, Ford, Chrysler and American Motors — all maintain political action committees to reinforce their lobbying activities. Their reports to the Federal Election Commission showed that by the end of October, they had contributed nearly $124,000 to federal candidates in 1981, including 14 members of the House Energy Committee and five on the Senate Environment Committee, where clean air legislation is being considered.

While 1981 has been a grim year for automakers economically, it started off bright politically.

The Reagan administration in April postponed a rule requiring that all cars contain air bags or other passive restraints; in October, the rule was rescinded altogether. The Environmental Protection Agency has indicated it is willing to relax several pollution-related rules automakers have challenged in court. The administration, after heavy lobbying from Chrysler's tax lawyers, has allowed distressed automakers to sell their unusable tax breaks to more solvent firms, a provision that has meant millions to Chrysler and Ford.

Early Optimism

Last summer, some industry lobbyists were confident that with Dingell, Reagan and Senate Majority Leader Howard H. Baker Jr., R-Tenn., helping out, by the end of 1981 they would also win the top issue on their wish list, a rollback of the emission limits for carbon monoxide (CO) and oxides of nitrogen (NOx).

By November, however, that optimism had dissolved.

One congressional aide related the story, possibly apocryphal, of an auto lobbyist who confronted a White House political operative in November, demanding to know why the administration had not prodded Baker to help out during early markups in the Senate Environment Committee.

"Where was Baker?" the lobbyist cried.

The White House aide supposedly retorted, "Why don't you look in your pocket. That's where you said he was."

Congress is studying whether to roll back two Clean Air Act standards governing exhaust emissions from automobiles.

—By Bill Keller

Industry and congressional participants have a variety of explanations for why the automakers have not fared as well as they hoped.

One problem is the message. The industry does not claim it lacks the technology to meet the CO and NOx standards; the equipment is already on many cars. It says removing the equipment would save about $300 per car and improve fuel economy, but concedes that would not mean economic rescue for the industry.

Instead, the industry contends the tough standards are not necessary to meet clean air goals, and therefore are philosophically objectionable.

"I think the main reason to do it is because you *should*, not because it will sell more cars," said MVMA lobbyist Timothy C. MacCarthy.

Even among lawmakers who agree, MacCarthy conceded, that argument does not promote the sense of urgency the industry generated in opposing emission standards in 1977.

"In 1977, if certain changes weren't made, cars weren't going to be produced," he said. "It's a harder job selling a rollback. Now we're talking about standards that we're meeting that we don't think need to be met."

To Wayne H. Smithey, Ford's vice president for Washington affairs, this predicament is ironic: "For a long time, the automobile companies have been perceived as not having credibility because we were 'alarmists.' Now we come in with what we think is a fairly moderate proposal, and people say they're not stirred because we're not threatening to shut down."

But Leon Billings, former staff director of the Senate Environment Committee who is now a consultant to one of the Clean Air Act's defenders, the California Air Resources Board, said that "it appears the auto companies want everything or nothing, and the usual result of that approach is that you get nothing."

Little Help From Friends

Another problem has been that the automakers depend on allies who have not — so far — lent much clout.

"One of the mistakes the auto companies made was concentrating most of their facilities in the Midwest," contends Jackson, noting the companies consequently have a relatively narrow political base.

That is changing; MacCarthy said MVMA members now have plants in 123 congressional districts. But the companies still rely on a relative handful of lawmakers — including Dingell and HR 4400 sponsors Bob Traxler, D-Mich., and Elwood Hillis, R-Ind. — to lead the way.

When a major floor fight occurs, as in 1977, the automakers need help, particularly from the auto dealers and the United Auto Workers (UAW). *(Background, 1977 Almanac p. 636)*

Both the UAW and the National Automobile Dealers Association (NADA) have endorsed HR 4400 and are members of a loose coalition pushing it. Both groups are influential, with far-flung memberships and political action committees (PACs) a good deal wealthier than those of the automakers. (The UAW's PAC had raised over $1 million by Nov. 1.)

But they have not thrown themselves into the battle with anything like their past energy.

H. Thomas Greene, executive director of legislative affairs at NADA, said the association has been busy with other issues, especially efforts to block a Federal Trade Commission rule on used cars. Moreover, he said, emission controls "are basically a manufacturer problem" rather than a dealer problem.

Greene said Chrysler, GM, and Ford have tried to mobilize individual dealers, but with limited success.

When they do focus on the clean air law, the dealers' main interest will be the stricter requirement for emission controls at high altitudes, which has caused car-supply problems for dealers in mountain areas. On this issue, many dealers oppose the manufacturers, who favor separate standards for high and low altitudes rather than a stricter, uniform standard.

The UAW was the key to victory for the automakers on a 1977 House amendment, but congressional sources described its lobbying this time as halfhearted. The UAW does not see huge numbers of jobs riding on the outcome, and it is traditionally loyal to the Democrats, who want to claim clean air as a campaign issue in 1982.

Nonetheless, Robert Howard, a Dingell committee aide, said unions, dealers and allied industries are ready to act. "... [A]t the appropriate moment I'm sure there will be quite a bit of championing for [HR] 4400."

The automakers received one timely bit of assistance from friends in the steel and aluminum industries — major purveyors to the auto companies. In recent weeks, aluminum- and steel-makers in West Virginia made urgent calls to Sen. Jennings Randolph, D-W.Va., a member of the Senate Environment Committee. Randolph said in an interview the pleas helped convince him to support an amendment relaxing CO standards.

Polls and Politics

One factor stalling the industry's drive is polling evidence that the public sees the Clean Air Act as sacred.

According to two sources involved in the auto dispute, House Speaker Thomas P. O'Neill Jr., D-Mass., was so concerned about the political sensitivity of clean air that he urged Dingell to ease his pressure for quick amendment of the act.

When asked what was holding up the industry's lobbying campaign, J. R. Kingman, Washington public relations manager for General Motors, replied: "The Lou Harris poll."

Pollster Louis Harris told lawmakers in October that clean air "happens to be one of the sacred cows of the American people," and that Democrats can capitalize on the issue politically. *(Poll details, p. 2192)*

Environmental lobbyists have already made good use of the polling data. Rep. Edward R. Madigan, R-Ill., a member of the House committee, told an industry group in November that its cause was in trouble because "the people who do not want any changes in the act have been much more active politically than those who want change."

Another drain on industry clout has been the role of the Reagan administration. The Environmental Protection Agency was slow getting involved — its administrator was not confirmed until May — and then decided to promote a vague set of principles rather than a specific bill.

GM's Kingman contends the industry might have done better under a second Carter administration. He said Reagan's policies and appointments have galvanized environmentalists, and attacks on the Clean Air Act have become a symbol of the larger threat.

In early December, top White House officials met with Republican senators and volunteered Reagan to play a more active personal role in amending the act.

Industry lobbyists expect the Senate to be more hospitable than its Environment Committee, and the House to be even friendlier. Ford's Smithey says:

"One advantage the delay in consideration of the Clean Air Act gives us is the time to play catch-up." ■

ential subsidy has been paid is barred from engaging in the coastwise trade.

The *Oceanic Constitution* is presently under foreign flag but was originally built as the SS *Constitution* for the now-defunct American Export Lines. The bill removes the restrictions imposed by the above sections and will help to expand and revitalize our once-proud U.S.-flag passenger fleet by returning a passenger vessel to U.S.-flag registry.

The vessel will be employed in the Hawaiian passenger cruise trade. Her sister ship, the *Oceanic Independence*, is employed on a weekly cruise service among the Hawaiian islands—with accommodations for nearly 800 passengers. She is manned by 350 American seamen and is serviced by 100 shoreside personnel. The vessel's operations in the Hawaiian islands have immeasurably added to the area's economic strength. The *Oceanic Constitution* should parallel these employment and economic benefits.

Other additional benefits include the use of U.S. shipyards to maintain and repair the vessel as required by the bill. For example, recently her sister ship, the *Oceanic Independence*, underwent extensive repairs in a west coast shipyard at a cost of over $1 million. Addition of this ship to the U.S. fleet will strengthen our Nation's military preparedness and help improve our balance of payments due to the increased flow of international tourist dollars.

In conclusion, I want to note that even those who spoke in opposition to the bill agreed that it would be of great benefit to the U.S. merchant marine by providing us with a second large passenger vessel under the U.S. flag. It would benefit maritime labor, American shipyards, and the related support industries that will share in keeping her operational.

Enactment of this legislation will not result in any unwarranted co ts to the Government, nor any unusual administrative burdens involved in reflagging the *Oceanic Constitution* to U.S. registry. This legislation enjoys bipartisan support. It enjoys the support of the administration. I urge your support.

Mr. CARNEY. Mr. Speaker, if the gentleman will yield, 2 years ago, this House passed Public Law 96-41 which admitted five vessels to the coastwise privilege in an endeavor to revitalize the U.S.-flag operated cruise trade. This was done by waiving certain statutory restrictions in the Merchant Marine Act of 1920 and clarifying section 506 of the Merchant Marine Act of 1936. Today we propose to admit one more—the SS *Oceanic Constitution*—a ship which has been sitting in the Far East under Panamanian flag since it was sold at bankruptcy by the American Export Lines in 1974.

Of those earlier ships, only the *Independence*, sister ship of the *Constitution*, has actually returned to service. It has been operating at a profit for some months now. This ship requires a crew of 350 men—and already provides jobs ashore and afloat for some 800 Americans. The *Constitution* will provide another 700 to 750 jobs.

The benefits to our Nation are not limited to the jobs for our mariners. Each ship will carry 800 passengers on weekly cruises, to all of the five Hawaiian islands. These 80,000 passengers each year include many European and Japanese visitors whose expenditures on the cruise and in the ports will in prove the U.S. balance of trade.

But, most importantly, at a time when we are reappraising our military responsibilities throughout the world along with resources we have available to meet them, the almost instant availability of these ships to transport troops and technicians should not be overlooked. In most areas of concern to us and to our allies, airlift can do only part of the job. Indeed, there are some volatile places of concern to us in the world where our largest cargo plane cannot land on the available airstrips. We must take practical steps to have the means to deliver troops where they are needed. The Navy would like to have eight or nine ships the size of the *Constitution* available.

At no cost to the taxpayer, simply by granting coastwise privilege to a U.S.-built ship that was sold foreign—and being thereby banished forever under the 1920 law—the Congress can provide a significant increase in the well-being of this Nation. There is probably ample business for more ships in this trade. I would like to see this ship, and in time more, U.S.-flag ships paying their own way in the cruise trade.

The SPEAKER pro tempore. The question is on the amendment offered by the gentleman from North Carolina (Mr. JONES).

The amendment was agreed to.

● Mr. HEFTEL. Mr. Speaker, I rise in support of H.R. 3782, to grant coastwide trading privileges to the passenger vessel *Oceanic Constitution*. I would like to compliment and thank Chairman JONES for his prompt and efficient consideration of this legislation.

This bill will allow the vessel *Ocenic Constitution* to engage in interisland passenger trade in Hawaii. A sister ship, the *Oceanic Independence*, is already operating an interisland cruise service in Hawaiian waters. This venture has been a tremendous success and has been a boon to the Hawaiian economy. Local residents and tourists alike have been enjoying the interisland cruises offered by the *Oceanic Independence*, which have added a new dimension to our tourism and transportation resources. An addition to this passenger fleet will serve to further expand our passenger trade and strengthen the maritime industry in Hawaii. The simple waivers provided in H.R. 3782 are an effective and inexpensive means of assisting an entire industry as well as our island economy in general. I am pleased to support his bill and I urge my colleagues to join with me in passing this legislation.●

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members who wish to do so may have 5 legislative days in which to revise and extend their remarks on the bill, H.R. 3782, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

PROVIDING FOR A WAIVER OF LAW PURSUANT TO THE ALASKA NATURAL GAS TRANSPORTATION ACT

Mr. UDALL. Mr. Speaker, pursuant to section 8(d)(5) of Public Law 94-586, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 341) providing for a waiver of law pursuant to the Alaska Natural Gas Transportation Act.

PARLIAMENTARY INQUIRY

Mr. CORCORAN. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. CORCORAN. Mr. Speaker, is the pending motion before the House subject to a motion to postpone debate?

The SPEAKER. Under the statute governing the procedure of the House at this time, it is.

Mr. CORCORAN. Mr. Speaker, I have a further parliamentary inquiry.

The SPEAKER. The gentleman will state his parliamentary inquiry.

Mr. CORCORAN. Mr. Speaker, is that motion debatable?

The SPEAKER. The motion is not debatable.

PRIVILEGED MOTION OFFERED BY MR. CORCORAN

Mr. CORCORAN. Mr. Speaker, I offer a privileged motion.

The Clerk read as follows:

Mr. CORCORAN moves to postpone consideration of House Joint Resolution 341 until December 10, 1981.

The SPEAKER. The question is on the privileged motion offered by the gentleman from Illinois (Mr. CORCORAN).

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. CORCORAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 50, nays 270, not voting 113, as follows:

[Roll No. 337]

YEAS—50

Bedell	Gunderson	Petri
Bonior	Holland	Pursell
Brown (CO)	Hyde	Railsback
Burton, John	Jeffords	Rodino
Burton, Phillip	Kastenmeier	Rogers
Conyers	Kildee	Rosenthal
Corcoran	Leach	Seiberling
Coughlin	Lowry (WA)	Sensenbrenner
Courter	Markey	Skelton
Donnelly	Martin (IL)	Snowe
Downey	McDade	Stark
Edwards (CA)	Michel	Tauke
Ertel	Miller (CA)	Volkmer
Evans (IA)	Mitchell (MD)	Weaver
Florio	Motti	Weiss
Gonzalez	O'Brien	Yates
Gradison	Ottinger	

NAYS—270

Addabbo	Dunn	Lent
Akaka	Dwyer	Lewis
Alexander	Dyson	Livingston
Anderson	Early	Loeffler
Annunzio	Eckart	Long (LA)
Archer	Edgar	Long (MD)
Aspin	Edwards (AL)	Lott
Badham	Edwards (OK)	Lowery (CA)
Ba'alis	Emerson	Lujan
Bailey (MO)	English	Lundine
Barnard	Erdahl	Lungren
Barnes	Erlenborn	Madigan
Bellenson	Evans (DE)	Marks
Benedict	Fascell	Marlenee
Benjamin	Fazio	Marriott
Bennett	Fenwick	Martin (NC)
Bereuter	Findley	Martin (NY)
Bethune	Fish	Mavroules
Bevill	Flippo	Mazzoli
Biaggi	Foley	McCollum
Bingham	Ford (TN)	McCurdy
Bliley	Forsythe	McEwen
Boggs	Fountain	McGrath
Boland	Frenzel	Mica
Boner	Frost	Mikulski
Bouquard	Fuqua	Miller (OH)
Bowen	Gaydos	Mineta
Brinkley	Gejdenson	Minish
Brooks	Glickman	Moakley
Broomfield	Goodling	Molinari
Brown (CA)	Gore	Mollohan
Burgener	Gramm	Moore
Butler	Gregg	Moorhead
Byron	Grisham	Morrison
Campbell	Hagedorn	Murphy
Carney	Hall, Sam	Myers
Chappell	Hamilton	Napier
Chappie	Hammerschmidt	Natcher
Cheney	Hansen (ID)	Neal
Clausen	Hansen (UT)	Nelligan
Clinger	Harkin	Nelson
Coats	Hartnett	Nowak
Coelho	Hatcher	Oakar
Coleman	Hefner	Oberstar
Collins (IL)	Hendon	Obey
Collins (TX)	Hightower	Oxley
Conte	Hiler	Panetta
Craig	Holt	Parris
Crane, Daniel	Hopkins	Pashayan
Crane, Philip	Hoyer	Patman
D'Amours	Hubbard	Patterson
Daniel, Dan	Hughes	Paul
Daniel, R. W.	Hunter	Pease
Danielson	Hutto	Pepper
Dannemeyer	Ireland	Peyser
Daschle	Johnston	Pickle
Daub	Jones (NC)	Porter
Deckard	Kazen	Price
DeNardis	Kemp	Pritchard
Derrick	Kindness	Quillen
Derwinski	Kramer	Rahall
Dickinson	LaFalce	Ratchford
Dicks	Lagomarsino	Regula
Dingell	Leath	Rhodes
Dorgan	LeBoutillier	Richmond
Dornan	Lee	Ritter
Duncan	Leland	Roberts (KS)
Roberts (SD)	Smith (NJ)	Wampler
Robinson	Smith (OR)	Watkins
Roe	Solarz	Weber (MN)
Roemer	Solomon	Weber (OH)
Rose	Spence	White
Roth	Stangeland	Whitehurst
Roukema	Stanton	Whitley
Rousselot	Staton	Whittaker
Rudd	Stenholm	Whitten
Sabo	Stokes	Williams (MT)
Sawyer	Stratton	Williams (OH)
Scheuer	Studds	Winn
Schneider	Stump	Wolf
Schroeder	Swift	Wortley
Shamansky	Synar	Wright
Shannon	Taylor	Wyden
Sharp	Thomas	Wylie
Shaw	Trible	Yatron
Shumway	Udall	Young (AK)
Shuster	Vander Jagt	Young (FL)
Smith (AL)	Vento	Young (MO)
Smith (IA)	Walgren	Zablocki
Smith (NE)	Walker	Zeferetti

NOT VOTING—113

Albosta	Fithian	Matsui
Andrews	Foglietta	Mattox
Anthony	Ford (MI)	McClory
Applegate	Fowler	McCloskey
Ashbrook	Frank	McDonald
Atkinson	Garcia	McHugh
AuCoin	Gephardt	McKinney
Bailey (PA)	Gibbons	Mitchell (NY)
Beard	Gilman	Moffett
Blanchard	Gingrich	Montgomery
Boiling	Ginn	Murtha
Bonker	Goldwater	Nichols
Breaux	Gray	Perkins
Brodhead	Green	Rangel
Brown (OH)	Guarini	Reuss
Broyhill	Hall (OH)	Rinaldo
Carman	Hall, Ralph	Rostenkowski
Chisholm	Hance	Roybal
Clay	Hawkins	Russo
Conable	Heckler	Santini
Coyne, James	Heftel	Savage
Coyne, William	Hertel	Schulze
Crockett	Hillis	Schumer
Davis	Hollenbeck	Shelby
de la Garza	Horton	Siljander
Dellums	Howard	Simon
Dixon	Huckaby	Skeen
Dougherty	Jacobs	Smith (PA)
Dowdy	Jeffries	Snyder
Dreier	Jenkins	St Germain
Dymally	Jones (OK)	Tauzin
Emery	Jones (TN)	Traxler
Evans (GA)	Kogovsek	Washington
Evans (IN)	Lantos	Waxman
Fary	Latta	Wilson
Ferraro	Lehman	Wirth
Fiedler	Levitas	Wolpe
Fields	Luken	

□ 1330

Mrs. BOUQUARD and Mr. HANSEN of Idaho changed their votes from "yea" to "nay."

So the privileged motion was rejected.

The result of the vote was announced as above recorded.

□ 1345

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. UDALL).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 341), with Mr. FUQUA in the chair.

The Clerk read the title of the joint resolution.

By unanimous consent, the first reading of the joint resolution was dispensed with.

Pursuant to section 8(d), clause (5), Public Law 94-586, the time will be controlled and divided between the gentleman from Arizona (Mr. UDALL), who will be recognized for 30 minutes, and the gentleman from Illinois (Mr. CORCORAN), who will be recognized for 30 minutes.

The Chair recognizes the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Chairman, I yield myself 4 minutes.

(Mr. UDALL asked and was given permission to revise and extend his remarks.)

Mr. UDALL. Mr. Chairman, back in 1977, President Carter submitted a law to the Congress which set up a method of choosing which one of three ways we were going to use to bring the natural gas from the Prudhoe Bay area in Alaska. In 1978 a choice was made for the overland route from Prudhoe Bay joining up with the Canadian segment up the McKenzie River Valley then on down with two legs into the United States.

Under that act, the President had the power, if he chose to use it, to submit to the Congress certain waivers of provisions of law.

Earlier this year President Reagan submitted to the House and to the Senate a package of waivers of law. Under the law as it now exists, the Senate took action on this on November 19 and by a vote of about 76 to 14 or something of that kind, approved the waiver package.

If the House approves the waiver package now before us, the waivers proposed by President Reagan will take effect. If we do not act in opposition to it, the waivers will not take place.

Mr. Chairman, I am a little ill at ease here today arguing to my colleagues to approve this package of waivers. I am generally found with the consumer federation and some of the consumer groups or issues of this kind, and I have not yet been selected as Exxon's man of the year as far as I can determine.

But it seems to me that the wise thing for our country to do is to approve this resolution, because we are dealing with a huge chunk of natural gas. This is something like 13 percent of all the natural gas reserves that we are dealing with in a known situation, now, and with further discoveries we may well be talking about a doubling of the natural gas reserves in this country.

The old utility concept that we have operated under for so many years was valid, and the central idea was that investors would put up money to build an electric plant, or another kind of utility, and once it was in being, and constructed and the consumers are getting gas or electricity, then the consumer begins to pay.

But this in an unusual hybrid situation, which involves a joint construction project, and two countries. The

Canadians have gone to a great deal of trouble. We are not really in the situation ordinarily of some local utility asking for consumers to pay before they receive any of the product.

So I suggest that this is a big hybrid unusual kind of project somewhat similar perhaps to COMSAT where the old rule should not apply, and when we should modify the proven concepts that we generally use in utility situations.

The second major reason I favor the package of waivers is fairness to our neighbors in Canada. We twisted arms pretty hard to get the Canadian Government and some of their provincial governments to come along on this. Some of the provincial governments had to change the law. The settlement had to be made with the natives in the northern part of Canada, and if this project goes down, and there is a chance it will, if this project goes down I would rather not talk to the Canadians and say that we did not even give it a chance, that while the Senate was willing and the President was willing, that the House of Representatives was unwilling to give this project a last chance to put it together.

So, the outcome is in doubt. Some people think the project, even with these waivers, will not survive. I believe it will have a fighting chance and I therefore urge my colleagues to vote "yea" on the pending resolution.

Mr. Chairman, I reserve the balance of my time.

Mr. CORCORAN. Mr. Chairman, I yield myself 3 minutes.

(Mr. CORCORAN asked and was given permission to revise and extend his remarks.)

Mr. CORCORAN. Mr. Chairman, first of all, I want to apologize to my colleagues who may have been inconvenienced by the vote that was held just a few moments ago, but I thought it was essential that with a subject of this magnitude, with a public policy question of this proportion, we should have more time to consider this legislation. It seems to me that this is an issue of considerable substance, and the original intent of the Alaskan Natural Gas Transportation Act was that waivers could be presented to the Congress for concurrence by the President in the event that there was some minor, technical problem with respect to a permit, a certificate of convenience, or some other decision on the part of an agency of the Federal Government under these expedited circumstances with only 1 hour of debate. This is reasonable for much minor issues but this is a major, substantive matter and we deserve more time to debate it. Furthermore everyone should at least be in town when we consider it.

Mr. Chairman, I realize a lot of Members would like to see this issue go away, but I think we ought to debate it and I think we ought to consider seriously what is contained in the proposition pending before the House. It seems to me that for us to have 1 hour of debate on a matter of this consequence and vote 2 or 3 days hence does not do justice to this House. That is the reason that I felt it was important that we try to postpone until next Thursday, December 10, in order to have the debate and the vote take place at the same time.

Mr. Chairman, I want to begin my part in the debate today on House Joint Resolution 341 by referring you and my colleagues in the House to portions of a memorandum from Chairman JOHN DINGELL, a colleague from Michigan, to me and other members of the Committee on Energy and Commerce, dated November 3, 1981. In that memorandum, as is so frequently the case with our distinguished colleague from Michigan, he has superbly framed the issues which confront us in this pending legislation.

He points out that the President has transmitted to the Congress a proposed waiver of various provisions of law to permit expedited construction of the Alaska Natural Gas Transportation System (ANGTS), pursuant to section 8g of the Alaska Natural Gas Transportation Act (ANGTA).

As the chairman says:

The question facing the Congress at this time is not whether we will develop the Alaska gas resource for the benefit of the United States, or even whether the ANGTS project is the appropriate vehicle for doing so. These questions have already been answered through ANGTA.

He further points out that:

Aside from the question of economics—whether the project with these waivers is viable and beneficial to consumers—the sole issues are whether this waiver package is necessary and appropriate. The advantages of the waiver process created in ANGTA are speed and simplicity. If we find that the need for the gas is sufficiently urgent, or that the provisions of law to be waived are relatively unimportant we may approve the President's package. Otherwise, we can only reject the package since we cannot amend it. Such action does not foreclose future consideration of an amended waiver package or of legislation to expedite the project.

Mr. Chairman, I refer to this memorandum because I think it raises for us the two tests, the two standards, the two basic questions we have to resolve in determining whether to support House Joint Resolution 341. They are: First, is the need for Alaska gas urgent? Second, are the provisions of law to be waived as provided in this resolution "relatively unimportant"? If your answer to these questions is in the affirmative, then one should vote in support of the resolution. If, on the other hand, the debate here today indicates that the answer to these questions is in the negative, then I would hope that the Members of the House would cast their votes against this resolution, despite other considerations to the contrary. Surely, with something as important as this issue and the controversy it has generated in recent weeks, I should think that every Member of the House would want to be recorded on the merits of this issue.

Mr. YOUNG of Alaska. Mr. Chairman, will the gentleman yield?

Mr. CORCORAN. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. Mr. Chairman, in the gentleman's statement about debate for 1 hour and the gentleman's reference to only minor technical convenience or minor technical waivers will be offered, I do not find that anywhere in the law that was passed by this Congress. It says, in fact, any provision of law can apply.

I want to make the record very clear these waivers are in line with the law that this Congress acted on and so I want to make sure the gentleman's statement is not taken out of context.

Mr. CORCORAN. I think it is a question of judgment as to whether or not these waivers are unimportant. I think when we look at questions like producer ownership participation of the project, when we look at questions like regulatory certainty—that is a great euphemism if I ever heard one—and when we look at the several other provisions of law involved in this waiver package, most of our constituents would conclude as I have, that paying for something we may never get is indeed a very important matter.

Mr. MOTTL. Mr. Chairman, will the gentleman yield?

Mr. CORCORAN. I yield to the gentleman from Ohio.

(Mr. MOTTL asked and was given permission to revise and extend his remarks.)

Mr. MOTTL. Mr. Chairman, I would like to compliment the gentleman from Illinois for his staunch opposition to these waivers and I would like to associate myself with his remarks that he is going to make now and subsequently.

I think this is potentially one of the biggest ripoffs for the consumers of the State of Ohio and the Midwest and other States that are going to receive this natural gas and having to prepay it and not even receive the gas.

□ 1400

So I would like to compliment the gentleman from Illinois and the gentleman from New York who have led the opposition. I would like to join them in the opposition and hope my colleagues in the House of Representatives will vote a resounding no to the resolution.

Mr. UDALL. Mr. Chairman, I yield 1 minute to the gentleman from Kentucky (Mr. HUBBARD).

(Mr. HUBBARD asked and was given permission to revise and extend his remarks.)

Mr. HUBBARD. Mr. Chairman, as we debate House Joint Resolution 341, I believe it is important to keep the real issue in perspective. We cannot amend the waiver package or pick and choose only those provisions we favor. Our sole decision is whether to ap-

prove the President's proposed waiver of law. I will vote for the resolution and urge my colleagues to join me.

We need the Alaskan natural gas. We are depleting our existing gas reserves faster than we are adding to them. The 26 trillion cubic feet of Alaskan gas represents 13 percent of the total U.S. reserves—the largest U.S. gasfield ever discovered—and it will assure a safe, secure, domestic source of energy in the years ahead. In addition, it will replace 400,000 to 600,000 barrels per day of imported OPEC oil and ease our balance of payments by $7 to $9 billion a year. Just as important, the availability of Alaskan gas will reduce the risk of future natural gas shortages—shortages such as those which closed factories and schools and caused severe economic hardship just a few years ago.

The United States has affirmed its commitment to Canada to build and complete the pipeline system in separate messages from two U.S. Presidents. In addition, Congress enacted a joint resolution in 1980 stating that the pipeline "enjoys the highest level of congressional support for its expeditious construction and completion * * *." It is time for the House to honor this commitment and approve the waiver package.

The Alaskan gas pipeline will be the largest privately financed construction project in history—approximately $40 billion—and will involve no Federal subsidy or loan guarantees. The waiver package is designed to clear away governmental obstacles to private financing and construction of the project. Without congressional approval of this waiver, private financing and construction of the pipeline cannot proceed.

There has never been a private venture of this magnitude. A $40 billion obligation is staggering and will require tremendous resources just to service the debt. The billing commencement waiver minimizes the exposure of consumers to charges before gas flows in the pipeline and even in the event prebilling is necessary it is a minimal amount—no more than $1.78 per household a month under the worst of circumstances. As a consumer I do not personally believe this is an unreasonable risk for me given the overall national benefit and the need for this secure, clean supply of energy.

Support for the waiver resolution is a vote to allow the private sector the opportunity to work out a financing package and to construct the pipeline. I urge all Members to vote for House Joint Resolution 341 and approve the President's proposed waiver of law.

Mr. CORCORAN. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New Mexico (Mr. LUJAN).

(Mr. LUJAN asked and was given permission to revise and extend his remarks.)

Mr. LUJAN. Mr. Chairman, I rise today in support of approval of the Alaska natural gas pipeline waiver package requested by our President.

There is one aspect of this matter which I am particularly concerned about. It is our relationship with our longstanding ally, Canada. Over 5 years ago, the Canadian Government agreed to allow us to build 2,000 miles of this pipeline through their nation. The Canadian Parliament enacted legislation, the Northern Pipeline Act, providing for the construction of the pipeline. The Canadian National Energy Board certified the Canadian segment of this pipeline. The Canadian Government even estabished a separate agency, the Northern Pipeline Agency, to oversee the construction of the Canadian segment of this pipeline. Finally, Canadian pipeline companies agreed to construct the Canadian segment of this pipeline.

After all of those agreements had been reached, after all of those actions had been taken, various U.S. gas pipeline companies went back to Canada and asked for another favor. They requested that the power part of the pipeline system be hooked up to natural gas production facilities in Canada so that Canadian gas could be exported from Canada to the United States while waiting for the upper part of the pipeline system to be built through Alaska.

Once again, our friends in Canada agreed. They knew that we needed that Canadian gas. They knew that this was a one-sided agreement. And they knew that U.S. law precluded prebilling.

However, the President of the United States promised our friends in Canada that he would try to have that provision in the law waived. As a result of that promise, the lower segment of the pipeline is now delivering thousands of cubic feet of Canadian natural gas to our Western States. The eastern leg of the pipeline system is under construction and will be delivering thousands of cubic feet of Canadian natural gas to the rest of the Nation in less than a year.

Let me emphasize what I am concerned about. Our Government promised the Canadian Government and the Canadian pipeline companies that U.S. law would be changed to allow prebilling so that if the Canadian segment is fully completed, by a date to be set by our Federal Energy Regulatory Commission, the Canadian companies would begin collecting their full service costs even if other segments of the line have not been completed. This is a commitment our President made to one of our strongest, best, and longest standing friends.

I urge my colleagues to support this waiver package. I could discuss our national interest in tapping 13 percent of our total proven gas reserve. I could discuss the small chance of these prebilling provisions ever taking effect. I could discuss the fact that voting no on this waiver will kill this project right now. I could discuss the need to leave the economics question of whether or not to build the pipeline up to the private financial sector. But others will make those points in detail.

I want you to think back a few months ago when we had some hostages rotting in confinement in Iran. I remember who helped us. I remember who stuck their necks out for us when very few other nations gave a tinker's dam. These are our friends and we ought to honor our President's commitment to them.

Mr. SHARP. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, I rise in support of the resolution. The House today will consider House Joint Resolution 341, the waiver of law proposed by the President, under procedures laid out in the Alaska Natural Gas Transportation Act, to facilitate the private financing of the Alaska gas pipeline. The resolution was favorably reported by the Energy and Commerce Committee and the Interior and Insular Affairs Committee.

The proposed pipeline will provide access to some 26 trillion cubic feet of gas reserves—about 13 percent of all proven reserves in the United States—and to an estimated 100 to 200 trillion cubic feet of additional potential reserves. Without question, the gas can supplement the declining reserves in the lower 48 States and help to meet the increasing demand for gas. In addition, Alaskan gas is a secure source of energy that will reduce our dependence on foreign oil and save billions of dollars spent for imports.

Mr. Chairman, this is a very difficult decision, but one that is vital to this project. The waiver proposal would not guarantee our access to this energy, but it would give the private financial community a clear chance to build this most expensive energy project of all time. By allowing this project to proceed, we will potentially add to our national security by promoting domestic energy, add strength to our economy by promoting the creation of thousands of jobs in private industry, and open an avenue to the enormous potential resources existing in the North. No alternative to this project has been shown to be cheaper, faster, or otherwise more in the national interest.

The waiver package before us is the result of the pipeline sponsors' determination that certain obstacles need to be removed if they are to be able to raise the private capital for the project. But it is also the result of extensive informal discussions among the administration and Members of both parties in the House and Senate. As a result of these discussions, the waiver package was substantially improved. The original package requested by the sponsors extensively changed existing laws and regulatory practice and clearly transferred excessive risk to gas consumers; the revised package before us today is far better for the consumer

and more in accord with traditional regulatory practices.

Nonetheless, the proposed waiver package does create some potential risk for consumers, and it does depart from traditional regulatory practices. It does so in order to reduce, but by no means eliminate, risks to the investors who will finance this largest private construction project in history.

We are acting under strict deadlines, as a result of the expedited procedures established by the 1976 act. We have nevertheless established an extensive record. The committees aggressively sought the views of a wide variety of interests—State governments, utility commissions, industry, labor, consumer and other groups—both on the sponsors' original request and the President's package. We held 7 days of hearings and heard 63 witnesses from 52 organizations. We not only heard from project sponsors and supporters but expressly sought to hear from those who might oppose the pipeline or believe there may be an alternative way to build it or have access to Alaskan gas. No one who sought to testify was denied.

From this extensive record, I believe key points emerge:

First, it is highly unlikely, if not impossible, for the project to move forward next year, and perhaps for the indefinite future, without these waivers. Delay, of course, would be expensive, with 1 year's postponement of construction costing investors, and eventually gas consumers, an estimated $3 billion more.

Second, there are not now or likely to be soon other means of getting substantial supplies of Alaskan gas to the lower 48—certainly none that will be cheaper for gas users. In particular our hearings examined various options for converting the gas to methanol, and none appeared feasible.

Third, there are conflicting claims about the economic viability of the pipeline. The range of estimated economic benefits to the Nation was broad. On balance, if you believe world oil prices are likely to continue to rise, you would probably agree with those who see this pipeline as a major economic plus for consumers. If you expect oil prices to remain level or drop, you would probably question the project's economic viability.

Fourth, and perhaps the telling factor in my own decision, the economic viability of the project will still be determined in the marketplace—as we intended when we passed ANGTA in 1976, and as we fully intend in supporting this waiver proposal. Although these waivers reduce the investors' risk somewhat, there should be no doubt of the substantial commitment that must be made by the sponsoring pipeline companies, the producers, and the financial institutions that will loan the needed money. For the consumers to begin to have to pay for the pipeline before gas is received—as the prebilling waiver theoretically allows—these private businessmen are going to have to determine that the pipeline is going to be completed—on time—and that the gas will be marketable, so that they can justify committing billions of their own money. In other words, there is still a market test of the worth of the project.

Fifth, when and if the project passes the market test and locates private sources to put the $40 billion dollars into constructing the line, there are several major hurdles it must yet cross. Our decision on this waiver is not the final Federal review of the project by any means. The Federal Energy Regulatory Commission, which must certify that a pipeline project is in the public convenience and necessity and that its proposed tariff, including any proposed billing commencement provision, is just and reasonable, must do so for this project as for any other. The waiver does not exempt this project from any of the standards that must normally be applied by FERC, and it is quite possible that the case made to the FERC concerning the economics of the project or the marketability of its delivered gas will not be strong enough to win FERC approval.

After the FERC's initial approval is won, there is an opportunity for court review. Assuming the project successfully negotiates that, the construction of the pipeline remains subject not only to the FERC disallowance of imprudent costs, but also to the oversight of the Office of the Federal Inspector for the Alaska Natural Gas Pipeline, a Federal watchdog office specifically set up by Congress to protect the consumer's interest in this project as it is constructed. The Federal inspector will be vigilant against cost overruns, must approve spending and building decisions, and must assist the project to save the time and deal with the problems that have caused cost overruns on other energy projects in the past. So while today's decision on the waiver is a crucial step in this process, it is by no means the last.

A sixth point to emerge from the hearings, or rather to be consipicuous by its absence, was any testimony from any witness suggesting that there is a viable legislative alternative to the waivers we are considering. Some Members have suggested that the waivers may not result in the necessary private financing, and they may prove right. But if the pipeline is too risky to investors even after the waiver is accepted, it is hard to conceive of an alternative which makes the project less risky to investors without also making it more risky to consumers.

Our vote tomorrow on this resolution will be in a sense another step on a road our Government is already traveling. From the passage of ANGTA by Congress in 1976 through the U.S. signature on an agreement with Canada pledging to "facilitate expeditious construction of the pipeline and seek all required legislative authority to remove any impediments" and the decision on the Alcan Highway route made by President Carter and ratified by Congress in 1977, and the joint congressional resolution in 1980 declaring that the project remains "an essential part of securing this Nation's energy future" and that it would be given "the highest level of congressional support for its expeditious construction and completion" to President Reagan's assurances to Canada in Ottawa this year, the U.S. Government has repeatedly showed its support for completion of this pipeline. As a result of these actions, and of confidence that the entire pipeline will be built, the Canadians have already constructed part of their segment of the pipeline. Gas is already flowing through this line to California, and will flow through the eastern leg to the Midwest within a few months.

The Canadian Government has committed itself fully to reliance on our national commitment. The Energy Minister has conceded to the opposition in Parliament that if the United States did not live up to its word on the pipeline construction, "It would be the greatest breach of faith committed by the United States on Canada in the last 200 years." Ian Watson, another Member of Parliament, stated:

> If the American Congress cannot be trusted on this by the Canadian Government and the Canadian Parliament, I am afraid it will never be trusted again, and the Americans are well aware of this * * * the relationship between Canada and the United States will change permanently * * *

In short, our relations with Canada—our closest neighbor and ally and an important energy supplier—are to some extent at stake in this vote.

Finally, I would stress that my own decision to support the waiver package was not made easily. I personally had reservations about two waivers in particular—the pre-billing and regulatory certainty provisions—and I believe that it might have been possible to improve them. But, as you know, we do not now have the option of amending the President's proposal, and I have concluded that the flaws and risks of the waivers do not outweigh the almost certain result of their rejection; that is, failure to build the pipeline and bring Alaskan gas to the consumers.

In 1977, in Indiana and many other States, we had a major shortage of natural gas that closed our schools and factories, leaving thousands out of work or on part-time schedules. It taught us all a lesson about how costly the absence of adequate gas supplies can be. In making a decision on this resolution, we must weigh this risk of gas shortages, and the costs such shortages impose on everyone, against the risks the waiver may cause gas consumers to bear.

I also remember very well the desire for energy independence that stirred

us as our citizens suffered the effects of the oil embargo and Iranian revolution. Now we have an opportunity to keep alive one of the major hopes for energy independence we cited so often then. To the extent we do not have Alaskan gas when we need it, the pressure will be increased on us to accept gas supplies from Algeria or other sources that may be both more costly and more risky.

Have the facts about our energy dependence and its risks really changed so radically in 2 years that we can justify saying no to this huge resource of domestic energy, available to us with a largely proven technology? I do not think so.

I am voting for this waiver package not because I think it is free of any problems. It is not. But in my mind the promise of the pipeline is sufficient to outweigh the problems with the waivers, and you cannot have one without the other.

Mr. Chairman, nobody pretends this is not a tough decision. It is complicated. It is difficult and it does involve risk to the consumers; but make no mistake about it, failure to go forward involves major risks to American consumers. The absence of energy supplies has been extremely costly to the American economy and to our national security. If we want to have in the future a secure supply of energy necessary for a vigorous economy, necessary for a strong national defense, we must be willing to make tough judgments and to make bold decisions, and the time to do that is right now.

Mr. CORCORAN. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, one of the issues in this debate is the question of need, as I indicated earlier. Our friend, the gentleman from Indiana, has pointed to the fact that we have had curtailments in terms of gas usage, particularly in this last decade; but the situation has changed and it is on that basis that we ought to make our decision on this pending waiver package.

I would call to the attention of my colleagues numerous documents and analyses which support the notion that the growth in gas supplies is far different looking ahead to the next decade than we experienced in the last one. In fact, the U.S. Geological Survey recently showed that its earlier evaluation of 484 trillion cubic feet as of 1975 is no longer accurate. In February this year the U.S. Geological Survey pointed out that the mean estimate is now 594 trillion cubic feet of gas.

I could go on and on, and for those who would depend for their information on the Reader's Digest, I have with me the recent article entitled, "Bonanza! America Strikes Gas."

We do have the supplies, Mr. Chairman, and I would say that those who argue we need the gas down from Prudhoe Bay beginning in 1986 in order to supplement what we have and what we now are developing are simply ignoring the facts.

Mr. CORCORAN. Mr. Chairman, I yield 1 minute to the gentleman from Colorado (Mr. BROWN).

Mr. BROWN of Colorado. Mr. Chairman, this measure would add a gas conditioning plant to the pipeline project. In essence, we are taking a major enterprise out of the private sector and putting it and operating it as a public utility.

Now, I am one who would like to see this project completed and I am one who would like to see additional measures of gas and other oil reserves for this country; but I must tell you, this package is poorly framed. I believe it is a mistake. It is a mistake because it diminishes free enterprise. It is a mistake because the plant is inconsistent with our traditional concept of a public utility, and it is a mistake because it will remove a strong incentive for efficient management of the project.

I urge the rejection of this measure.

Mr. UDALL. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. DANNEMEYER).

Mr. DANNEMEYER. Mr. Chairman, I thank the gentleman for yielding.

As a member of the subcommittee that considered this, I was deeply concerned whether or not the adoption of this waiver package would militate against the No. 1 option this country has to establish energy independence, and that is to deregulate the price of natural gas.

I am satisfied that the adoption of this waiver package will not work against that policy objective. For that reason, I have concluded definitely it is in the public interest to approve this waiver package.

We are going to get about 5 percent of our supply from this pipeline when it is completed, and the melding price which that would cause from that 5 percent with the 95 percent of the gas that is available in the lower 48 is going to produce a price that is going to make this gas competitive with other sources of natural gas in our country.

We should never overlook the fact that no matter what we say here today, there is no Federal money involved in this project at all. We are merely modifying the law so that the backers of the project can go back to the banking community and determine if they can find the financing. I think we should do it.

Mr. SHARP. Mr. Chairman, I yield 3 minutes to the distinguished chairman of the Committee on Energy and Commerce, the gentleman from Michigan (Mr. DINGELL).

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Mr. Chairman, I rise in support of House Joint Resolution 341, which would approve a waiver of certain laws to facilitate the construction of the Alaska Natural Gas Transportation System (ANGTS) pursuant to the provisions of the Alaska Natural Gas Transportation Act of 1976 (ANGTA).

The Committee on Energy and Commerce, with its sister committee, the Committee on Interior and Insular Affairs, has followed the development of the ANGTS project closely over the past 5 years. The distinguished chairman of the Subcommittee on Fossil and Synthetic Fuels, the gentleman from Indiana (Mr. SHARP) has provided great leadership in this matter. The Committee on Energy and Commerce played its appropriate role throughout this past year in the preparation of the waiver package. It held extensive hearings on the package submitted by the President, heard all the witnesses who asked to be heard, and solicited testimony to insure a complete record.

It is a measure of the thoroughness with which the committee studied the matter that every single argument now advanced by the opposition to the project is drawn from analyses and reports prepared by the committee staff. I must say the arguments against are compelling, but they are not sufficiently compelling. The committee considered all these arguments and voted 27 to 14 to approve the waiver package.

NEED FOR THE GAS

Conventional reserves in the lower 48 are declining. Prudhoe Bay represents more than 10 percent of proven U.S. reserves. Alaskan gas transported through ANGTS would be the equivalent of 400,000 barrels of oil per day, or total current imports from Libya.

ANGTS is the only means currently available to deliver Alaskan gas to the lower 48.

JUSTIFICATION FOR WAIVER PACKAGE

Beginning with the enactment of the Alaskan Natural Gas Transportation Act in 1976, the Congress and the Executive have repeatedly restated the commitment to facilitating private construction of the pipeline:

Alaskan Natural Gas Transportation Act.	Oct. 22, 1976.
Transit Pipeline Treaty (with Canada).	July 3, 1977.
Agreement on Principles (with Canada).	Sept. 20, 1977.
President's decision	Nov. 8, 1977.
Northern Pipeline Act (Canada).	Apr. 12, 1978.
Senate Concurrent Resolution 104.	June 27, 1980.
President's letter to Prime Minister.	July 18, 1980.

ANGTS cannot be privately financed without the approval of this waiver package.

It may be that even with this package, it will not be possible to arrange private financing for ANGTS, but this package represents a good faith effort

to facilitate such financing and discharge our national commitments. If it fails to achieve its goal, the Nation has no further responsibility to pursue the private financing goal.

JUSTIFICATION FOR PRE-BILLING

Pre-billing will only cover the debt and operating expenses of the sponsors, not their equity in the project, thus they have every reason to pursue construction and avoid a circumstance in which prebilling would be triggered.

Pre-billing can occur only under most unusual and unlikely circumstances. It can only occur if one of three essential parts of the system—the processing plant, the Alaskan pipeline segment or the Canadian segment—has been completed and one or both of the other segments is uncompleted after a date to be determined by the Federal Energy Regulatory Commission (FERC).

FERC has full discretion as to whether to allow pre-billing and what amount may be pre-billed. It also has congressional mandate to apply prebilling only to prudent expenditures.

Pre-billing will cease when the unfinished segments of the line are completed and the line goes into operation. Since the sponsors will be unable to collect rate of return while the pipeline is uncompleted and not in operation it is very unlikely that the sponsors would arrange the financing necessary to commence construction, build enough of the pipeline to trigger the prebilling mechanism and then not pursue the line to completion and operation.

The committee has directed FERC to see that consumers, who are assuming additional risks through the prebilling provisions, are granted benefits commensurate with those risks by reducing the rate of return for sponsors and their financial backers proportionately to the reduction in the risk they are assuming.

DECONTROL OF NATURAL GAS

It is the judgment of the Committee on Energy and Commerce that the deregulation of Prudhoe Bay natural gas will deprive consumers of any economic benefits and shall be opposed.

USE OF AMERICAN STEEL

John McMillian, chairman of the board of partners sponsoring ANGTS, stated in a letter to the committee that he "intended to purchase and use, on a priority basis, American materials to the maximum extent feasible and practicable."

The committee intends to excercise continuing oversight to assure that that commitment is fulfilled.

PRODUCER PARTICIPATION

The waiver package does permit producers to participate in the project, but FERC may not agree to producer participation which is inconsistent with antitrust laws, restricts access of nonowner shippers, or restricts expansion of the capacity of the system.

The committee reluctantly accepted limited participation by producers as an essential element in developing a financeable package. It would look with disfavor on any additional change that would give Alaskan gas producers either individually or as a group majority ownership of the project.

REGULATORY CERTAINTY

The financial markets indicated an unwillingness to undertake the financing of the project unless they were assured of the terms governing the recovery of debt. Once FERC has issued its final certificate of convenience and necessity, it can only change the terms for such recovery upon request of the sponsors.

FERC can, however, disallow collection of "imprudently incurred" costs and can change the terms regarding the recovery of equity in the project, that is to say, the profit that the sponsors will be allowed to earn.

FUTURE FEDERAL AID OR OTHER ASSISTANCE

The administration has stated that it would submit no additional waiver or legislative requests in regard to this project.

It is the determination of this committee that enactment of the current waiver package fulfills the commitment to facilitate private development of this project and that no further action would be appropriate or desirable.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The gentleman from Arizona (Mr. UDALL) has 8 minutes remaining, the gentleman from Indiana (Mr. SHARP) has 11 minutes remaining, and the gentleman from Illinois (Mr. CORCORAN) has 21 minutes remaining.

Mr. CORCORAN. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I would just like to call to the attention of the House the comments contained in a memorandum from the distinguished chairman of the Committee on Energy and Commerce (Mr. DINGELL) to the members of that committee. In this memorandum to which he referred earlier in his observations there is a good deal more involved in the prebilling than simply the contingent liability involving interest and carrying charges. As a matter of fact, on page 14, the author of the memorandum points out this would include "debt service, principal, taxes, and operating expenses, which represents about 80 percent of the full cost of service."

In addition to that, in this memorandum there is reference to the involvement of the Canadian leg of the pipeline. And in that particular case there is also the potential liability that the consumers representing 60 percent of the gas consumers in this country would face with respect to the Canadian section. In that case, not only do we have all of these other elements, but we also have a return on equity factor which U.S. consumers will be paying to Canadian sponsors of this pipeline project.

Mr. Chairman, I yield 3 minutes to the gentleman from Iowa (Mr. TAUKE).

(Mr. TAUKE asked and was given permission to revise and extend his remarks.)

Mr. TAUKE. Mr. Chairman, first of all, we need to understand why we are here today. We are here today because the Alaska natural gas pipeline has basically failed the market test. That is why we are here in the first place.

Now, the question before us is not the one that the proponents of this measure are propounding. They are suggesting to us that the issue we face is this: Should we or should we not build the Alaska natural gas pipeline. That is not the issue. The issue is, rather, who will bear the risk of financing the Alaska natural gas pipeline.

Now, under the provision that is before us, we are calling upon the consumers of natural gas and, ultimately in my judgement, the Federal Government, to provide the financing and bear the risk for the construction of this pipeline.

I would suggest to my colleagues that there are two other alternatives: The State of Alaska, which stands to profit very substantially from this pipeline; and the producers of the natural gas. And those we are not asking in this case to bear a substantially increased portion of the risk.

Now, what is the risk?

The risk, ladies and gentlemen, is basically this: As we look at the decontrol of natural gas, and we build in the cost of the construction of this pipeline, we are going to be talking about gas that will be selling for $13 to $20 per Mcf at the time it flows in 1987. Gas priced at that level could very well be noncompetitive, could not compete effectively with alternative sources of energy, including imported oil. Industries in this country are going to be in a position where they will be able to switch away from high-priced natural gas and go to alternative sources of energy. Since they constitute 40 percent of the consumers, that means that the remaining 60 percent of the consumers, primarily residential customers, will be forced not only to pay this high cost for the gas they receive, but then be forced to bear the total burden of the cost of the capital structure for delivering that gas.

Mr. BEDELL. Mr. Chairman, will the gentleman yield?

Mr. TAUKE. I yield to the gentleman from Iowa.

(Mr. BEDELL asked and was given permission to revise and extend his remarks.)

Mr. BEDELL. Mr. Chairman, I want to commend the gentleman for his statement.

Mr. Chairman, I rise in opposition to the proposed waivers of law for the Alaska natural gas transportation system (ANGTS). I want to make clear, however, that my opposition to

these proposed waivers in no way reflects my opposition to the concept of transporting Alaskan natural gas to the lower 48 States. Indeed, I fully understand that the Prudhoe Bay area contains a tremendous amount of proven natural gas reserves—27 trillion cubic feet—that it holds the promise of containing much more—possibly 100 trillion cubic feet—and that access to these reserves appears critical to assuring a secure energy future for the United States.

Yet, I do not believe that the obvious merits of obtaining Alaskan natural gas requires that we approve any means of financing the transportation system without first asking if the proposed financing scheme could be improved upon. In my opinion, the financing package before us certainly could be improved, especially by seeking an alternative to the prebilling provision.

One of the major reasons for the approval of the Alaska natural gas transportation system in 1977 was the pledge by its sponsors that the system could be privately financed. In addition, the proponents of ANGTS claimed that the project could be completed at a cost of approximately $8 billion. Today, we are told that in fact the project cannot be privately financed and that the estimated cost is well over $50 billion.

Under the waiver provision allowing for prebilling, potential Alaskan natural gas consumers could be charged for costs associated with pipeline construction, operation, and debt financing prior to the completion of the entire pipeline system and before they receive any gas. Furthermore, although these charges could commence before the pipeline is completed, there is no guarantee that once billing begins that the pipeline will even be completed or that the natural gas which will flow through it will be marketable at a competitive price. Indeed, there is general agreement that the cost of the gas will be at least $15 to $18 per 1,000 cubic feet, and that the impact of accelerated or full decontrol of natural gas—a very uncertain factor at this point—could affect the economics of the project to a great degree.

Thus, there is the very real possibility that the potential consumers of the gas could be left holding the bill for the full cost of a pipeline which was abandoned short of completion or left idle because the gas which was supposed to flow through it was found to be unmarketable.

In a letter I received from the Iowa State Commerce Commission, the members of the commission stated that the effect of the prebilling provision is "to shift the risk of the project from investors to present consumers with no assurance that they will ever receive any gas from the system. The reluctance of the financial community to invest sufficient funds in the project without the waiver package is an indication of its speculative nature." In expressing their concern about the waiver package, the commissioners noted that the burden of the project's failure would "fall heavily on those Iowans" who are currently served by a partner in the ANGTS project, and concluded by adding that "the risk they are being asked to assume is far out of proportion to the total benefits they will receive, if and when the system is completed."

Mr. Chairman, I too find it rather inconsistent that the proponents of the waiver package have contended that, on the one hand, the pipeline venture is so risky without approval of the prebilling provision that private capital cannot be secured, while on the other hand claiming that the risk is extremely small that consumers will have to be billed prematurely, or for more than about an additional $20 for 1 year. If in fact the pipeline is very likely to be completed on schedule and under budget, and the gas will be sold at competitive rates, then potential investors or financiers should be able to recognize the soundness of the project and be willing to lend it their support.

As one who has stated over the years that there is a role for our Federal Government to play in helping to assure our Nation's future energy supplies, I do not believe that we should simply abandon the idea of obtaining access to Alaskan natural gas reserves after disapproving this waiver proposal. Rather, if it is deemed that the availability of Alaskan natural gas is critical to securing our energy future—and the evidence points to that conclusion—then the U.S. Government should consider its possible role in guaranteeing the completion of the pipeline.

I urge the House to reject these proposed waivers and direct immediate and serious attention to looking at other alternatives for assuring access to Alaskan natural gas.

Mr. TAUKE. Mr. Chairman, I believe the residential consumers who cannot switch, therefore, will be forced to pay an extremely high cost for natural gas.

Now, some Members have suggested, "Well, this is OK. There will be no more waivers. The Federal Government is not being asked to participate." I suggest to my colleagues that they should not buy that argument, because when that extremely high cost for natural gas hits consumers, I submit to my colleagues that the Members of this Congress will be stumbling over one another to jump to the aid of consumers by having the Federal Government bail out this project ultimately.

I suggest to the Members that this is a vote on which we must be very careful. We must be careful that we do not transfer too high a cost, too much risk, to the consumers. We must be careful that we do not paint ourselves into a position where the Federal Government has to bail us out down the line.

Mr. CORCORAN. Mr. Chairman, I yield 1 minute to the gentleman from Missouri (Mr. VOLKMER).

Mr. VOLKMER. Mr. Chairman, I wish to join with those in opposition to this legislation on these waivers, as one from a State where several years ago we had the construction-work-in-progress-idea approach, and we overwhelmingly, the whole State, by a vote of the people, overwhelmingly defeated it, for a similar purpose as this.

I think it has been said here before by others, this is one of the biggest potential ripoffs of the people of this country, is a true statement. I do not think it is an exaggeration at all.

I believe that the idea to make people pay for something they will never benefit from by imposition by the Government is just as bad as taxing people for something they will never receive a benefit from. What we are doing by act of Congress is giving FERC the power to tax and to use those tax moneys basically consumer, taxpayer, people having money, take that money and use it for private enterprise. I think it is the biggest ripoff, and I join others in opposition to it.

Mr. SHARP. Mr. Chairman, I yield 2 minutes to the gentleman from Washington (Mr. SWIFT).

(Mr. SWIFT asked and was given permission to revise and extend his remarks.)

Mr. SWIFT. Mr. Chairman, I would like to enter into a brief colloquy with the gentleman from Indiana (Mr. SHARP), the chairman of the subcommittee.

It is fairly clear, and it has been convincing to me, that Congress on two occasions, and at least two Presidents of the United States, have made commitments with regard to the Alaska natural gas pipeline to the Canadian Government. While some of the waivers in this package trouble me, it seems to me that those commitments are the overriding reason that I must support this legislation.

But it also seems to me that we should make very clear to our Canadian neighbors that there is a point beyond which that commitment does not go, and certainly it is my feeling it should not extend at some future date to any kind of bailout, loan guarantees, or something of that nature.

I would appreciate the chairman's comments in that regard.

Mr. SHARP. If the gentleman will yield, the gentleman states, I think quite accurately, that this fulfills the obligations involved in any commitments that the U.S. Government has made or any representations made to the Canadian Government and the Canadian people with respect to this pipeline. The Canadian government and the American Government have always agreed that the construction and success of this project would depend on the question of whether or not it could attract private financing.

The prebilling waiver satisfies this commitment with respect to the Canadian portion of the project in my estimation. We have also received testimony from the President's representatives, and we have received indications from the Canadian Government through the State Department that this does represent a complete discharge of the commitment, and no one can come back later and tell us that we are required by it to shell out taxpayers' dollars.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. SWIFT. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, I want to associate myself with that, and I want to nail it down.

This is not a Government guarantee. This is not a loan guarantee. And it is not a precedent for one. You are going to have trouble with me if they come back with anything along those lines.

Mr. SHARP. Recouping my time, not only does this fulfill the obligations to Canada, but I share the gentleman's feeling. If this waiver proposal passes and the project does not attract private financing, we go back to the drawing boards. We do not start from the waiver and add to it if this project is not able to attract the private capital.

Mr. UDALL. There will not be any temptation to go back, if this falls apart. I think we have gone as far as we can.

Mr. SWIFT. I want to thank the chairman of the subcommittee and the chairman of the full Committee on the Interior for digging such a marvelously deep hole.

Mr. CORCORAN. Mr. Chairman, I yield myself 1 minute.

Mr. Chairman, I am delighted to hear that some of our colleagues have decided to draw a line and say, "No more." I just wish they would have a ted a little bit sooner. I wish they had the same concern for their own gas customers as they do for the Canadians.

I think our job is to represent the people here, from the United States, not from Canada.

With respect to those commitments in principle between President Carter and the Government of Canada, between President Reagan and the Government of Canada, the fact is that there never was any specificity about what was the obligation, about whether or not we would have to go into this kind of prebilling arrangement, or whether or not we would have to put the blinders on the 50 State regulatory agencies so that they could never have the opportunity, as they ordinarily do, to review the tariffs involved after a project has been started, after the gas has begun to flow, and to protect the public interest. That is why, while it may be facile for some of my colleagues to comment at this point in the debate on this concern about these particular problems, I think that what we should look at is the obligation that we have as Members of the U.S. Congress to take action which protects our people as a first priority. And the obligation we have is to make sure that no major hurdle to the construction of the pipeline would be the problem; however through this waiver package, which cannot be amended, we would go far beyond the original intent of such procedures to guarantee that in the event there is a default on any of the construction loans our citizens would have to pay off the debt. This is unprecedented and should be rejected by this House of Representatives.

Mr. Chairman, I yield 1 minute to the gentleman from Iowa (Mr. LEACH).

Mr. LEACH of Iowa. Mr. Chairman, I would first like to congratulate the leadership of the gentleman from Illinois on this very profound issue.

Simply put, there is real question whether consumers should be expected to carry the burden of corporate risks when, whatever the project's outcome, their only gain is likely to be skyrocketing utility bills. A free-enterprise society implies risk-taking by the entrepreneur, not the consumer. If Congress grants these waivers demanded by the energy industry, a novel precedent will be established. Consumers will be charged for gas they do not and may never receive. If these waivers are approved, incentives to hold down pipeline construction costs will be reduced, as will incentives to keep down the price of natural gas produced in the lower 48 States.

The transfer of wealth as well as people from energy-consuming to energy-producing States will be accelerated. In addition, the cost of production of products as diverse as corn, tractors, and backhoes will go up, thus undercutting America's competitive trade position abroad.

Approval of this waiver package is a classic special-interest issue which Congress has no business sanctioning. I urge its rejection.

Mr. UDALL. Mr. Chairman, I yield 2 minutes to the gentleman from Montana (Mr. WILLIAMS).

Mr. WILLIAMS of Montana. I thank the gentleman for yielding.

Mr. Chairman, we had a good hearing before the Committee on the Interior on this waiver request, and the vote in that committee was 32 to 9 in favor of the resolution. I tell my colleagues here in the House that I do not think there were any of the 32 members, including myself, who voted for this that really liked the waivers, but we did in the final analysis appreciate the reason for the requesting of the waivers.

Further, we know that this country either today or tomorow or on December 8, 1987, will have a desperate need for Alaska natural gas. We know that without the waivers, this pipeline will either not be built or, as is more likely in my judgment, will eventually be built and will be more expensive on the consumers in that far distant day than would the result of the granting of these waivers now be on those same consumers.

If we scuttle this, we are breaking our word to our good and respected neighbors to the north, the Canadians.

Finally, if this House turns this down, if our Committee on the Interior would have turned it down, or the Committee on Energy and Commerce, then we would have been doing what the President and the Senate have refused to do, and that is, break our agreements with the Canadians and scuttle ths project.

So I urge us to go ahead. But I urge one other thing on my colleagues here in the House.

Inasmuch as I really to not like these waivers, but do appreciate the necessity of them, I would urge caution on the Members of this House and the members of the appropriate committees.

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When pipeline companies next come to us and ask for the OK, the legislative OK to build their pipelines, we ought to tie them down tightly so that this foot-in-the-door financing will stop.

Mr. SHARP. Mr. Chairman, I yield 1 minute to the gentleman from North Carolina (Mr. JOHNSTON).

Mr. JOHNSTON. Mr. Chairman, I have always regarded the relationship between employer and employee as a very sacred one, but in 1974 I was faced with a decision to lay off a couple of hundred people because we did not have the gas to run the plant.

Now, price is an inconvenience, but the absence of gas is a disaster.

Most importantly, we seem to be arguing the question of urgency today. Well, unfortunately the question of urgency is beyond the control of the Congress of the United States. It is in the hands of what a lot of us refer to as "a bunch of crazies" in the Middle East, and it is time that we recognize we are never going to be in trouble because we have too much gas, but the converse can be terribly, terribly, disappointing.

Mr. CORCORAN. Mr. Chairman, I yield 1 minute to the gentlewoman from Illinois (Mrs. MARTIN).

(Mrs. MARTIN of Illinois asked and was given permission to revise and extend her remarks.)

Mrs. MARTIN of Illinois. Mr. Chairman, no one would deny the urgency or the need for the Middle West, the East, or the South to have a supply of gas. But earlier this year many of us voted for a tax bill, a tax bill that we said gave true relief and would indeed begin to extend the entrepreneurial spirit and allow risk. We voted to cut back the rate of growth in Federal spending because we said it is inappropriate for the Government to be as involved as it is in the private sector.

To do these two things and then to look at this and say that in this case we will involve ourselves—because that is in effect what we are doing—is in error.

Mr. Chairman, given the cost of constructing this pipeline, certain waivers may be necessary, but the consortium building this pipeline is asking for more than the means to complete the project. The Congress today is being asked to subsidize this venture through a closet tax on gas users, while still assuring the consortium a profitable return. Gas consumers in my district could have their gas bill raised by as much as $1.50 per month to generate the $37 billion in consumer subsidies the consortium may seek.

In 1976, when the Congress first passed the Alaska Natural Gas Transportation Act, it was wisely decided that the pipeline should be built through private financing. Now we are being asked to open the door for future Government subsidization of this project. Prebilling is the first step toward direct Federal subsidies. If this pipeline should fail to be completed or be unable to deliver gas at a marketable price, the Federal Government will be under pressure to engage in a bailout to save the investment that was forced upon gas consumers.

Anyway you cut the cake, the prebilling in these waivers is nothing more than a tax on gas consumers to subsidize the energy companies. As we all know, the energy companies have not been standing in line in bankruptcy court lately. Asking gas consumers to finance their undertakings can only be termed as a rip-off.

We can waive laws to allow the energy companies to build this pipeline; and if the line is completed and can deliver natural gas at a marketable price, these companies will be able to bill the consumers who receive the gas and still make a profit. I will work to see this pipeline constructed and will support waivers to allow private financing. Forcing gas consumers to support this project financially, to assume the risk of this endeavor, is not private financing and is not worthy of passage by this body.

Mr. Chairman, if we do indeed need this gas—and indeed my State does—I would point out that the gas companies know it, and they can build the pipeline and then bill for the gas. It is inappropriate and wrong to go at this along the route that the committee has proposed, and I think we should all be voting in opposition to it.

The CHAIRMAN. The Chairman desires to inform the gentleman from Arizona (Mr. UDALL) that he has 7 minutes remaining, the gentleman from Indiana (Mr. SHARP) that he has 5 minutes remaining, and the gentleman from Illinois (Mr. CORCORAN) that he has 13 minutes remaining.

The Chair recognizes the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Chairman, I yield 2 minutes to the gentleman from Alaska (Mr. YOUNG).

Mr. SHARP. Mr. Chairman, I yield 1 minute to the gentleman from Alaska (Mr. YOUNG).

The CHAIRMAN. The gentleman from Alaska (Mr. YOUNG) is recognized for 3 minutes.

(Mr. YOUNG of Alaska asked and was given permission to revise and extend his remarks.)

Mr. STANGELAND. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Minnesota.

(Mr. STANGELAND asked and was given permission to revise and extend his remarks.)

Mr. STANGELAND. Mr. Chairman, I would like to express my support for this resolution. At the present time our Nation remains dangerously dependent on costly and historically unstable foreign energy sources. Completion of the Alaska natural gas pipeline system will aid efforts to increase production from domestic energy sources and reaffirm our commitment to greater energy independence, thus strengthening our national security.

One of the reported sticking points of the resolution's proposed waiver of legal obstacles to private financing of the pipeline is the potential effect on natural gas consumers. Opponents of the waiver argue that the consumer is going to have to shoulder the cost burden if private financing is approved. In my opinion this is a significant distortion of the facts.

First, the earliest possible date that the average residential consumer could begin to participate in the project's support would be November of 1986. That is the earliest date which could be set by the Federal Energy Regulatory Commission for completion and operation of the whole pipeline system. And even the setting of that date would not automatically enable distributors to bill consumers. Billing could begin prior to actual deliveries of gas from the system only after one or more project segments are actually complete and ready for operation. If, as expected, all three project segments are completed on schedule, no advance billing would take place.

Delay in completion of the project is unlikely thanks to extensive preconstruction engineering and design efforts in coordination with Federal regulatory authorities. In the unlikely event that some delay does occur, the effect on the average residential consumer's monthly gas bill would be limited to a range of from 32 cents to $1.78.

Still it is a fair question to ask why the consumer should carry any potential cost burden. What does the consumer get out of this project, if anything? What he gets is insurance against a much more serious risk than that of a slightly raised gas bill—that is the risk of a repeat of the gas shortages which occurred during the mid-1970's. The Alaska pipeline project will give natural gas consumers of the lower 48 States access to approximately 13 percent of total U.S. domestic gas reserves. Not only will this new access reduce the risk of future gas shortages, and our dependence on foreign energy sources, it will also help create new jobs for U.S. workers.

A vote in favor of this resolution, then, Mr. Chairman, is a vote for a more secure energy future, a vote for increased national security, and a vote for increased employment for our citizens. I urge my colleagues to vote a resounding "yes" for its passage.

Mr. LAGOMARSINO. Mr. Chairman, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from California.

(Mr. LAGOMARSINO asked and was given permission to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Chairman, I rise in support of House Joint Resolution 341 which approves the waiver of law to remove various regulatory obstacles to private financing of the Alaska natural gas transportation system, an important national energy project. There are compelling reasons to support the President's proposed waiver package which has implications on both domestic and foreign policy.

Natural gas is a very important factor in our national effort to reduce imports of foreign oil. Once the pipeline is completed, we will have access to the natural gas of Prudhoe Bay, Alaska, which contains the largest known reserves of natural gas in the United States. We still import more than 5 million barrels per day of crude oil and petroleum products. Therefore, we are still vulnerable to uncontrollable events in unstable regions of the world which presently supply our oil. By 1985, total U.S. gas supplies could be increased to allow displacement of over 2 million barrels of oil per day. The Alaska gas pipeline will have an initial capacity of 2 billion cubic feet of gas per day, and can be expanded to move as much as 3.2 billion cubic feet per day. This will displace nearly 400,000 barrels per day of imported oil, a savings of nearly $7 billion per year as well as a major reduction in our foreign petroleum dependence. Domestic natural gas supplies are very important in the near future if we are to displace foreign oil and make the United States more independent of OPEC.

As a member of the Foreign Affairs Committee, I would like to point out that the approval of the proposed waiver of law would also fulfill important U.S. commitments to Canada. In 1977, the United States and Canada signed a bilateral agreement under which both Governments pledged to facilitate expeditious and efficient construction of the pipeline and to seek all required legislative authority to remove any delays or impediments thereto. You may remember President Carter's letter to Prime Minister Tru-

deau in full support of the project, and also a special congressional resolution confirming that this pipeline enjoys the highest level of congressional support for its expeditious construction and completion. This administration, confirmed by President Reagan's telegram to Prime Minister Trudeau prior to his announcement in support of a waiver package, also believes this project is an important contribution to the energy security of North America, and is a symbol of United States-Canadian ability to work together cooperatively in the energy area for the benefit of both.

Canadian Government approval for the construction of, and export of Canadian gas through, the previously constructed portions of the Alaska natural gas pipeline was given in reliance on these commitments that the entire ANGTS project would be completed and that the Canadian sponsors would be permitted to commence billing for their segment of the pipeline upon its separate completion. This latter commitment was particularly important to Canada in view of the fact that the principal consumers of the Alaskan gas will be U.S. households and commercial industrial users.

Failure to meet these commitments by rejecting or failing to act on the waiver of law proposed by President Reagan could have serious repercussions on United States-Canadian relations in energy as well as other fields. Not only would it cast doubt on the reliability of U.S. international commitments, but also would be perceived abroad as signaling a weakening in American resolve to reduce our energy vulnerability.

Again, I urge my colleagues to vote in favor of the waiver package.

Mr. YOUNG of Alaska. Mr. Chairman, I thank the gentleman from California (Mr. LAGOMARSINO).

First, Mr. Chairman, I would like to compliment the gentleman from Indiana (Mr. SHARP) for his fine work on the subcommittee, and I wish to compliment the chairman of the full committee, the gentleman from Michigan (Mr. DINGELL), and the chairman of the Committee on Interior and Insular Affairs, the gentleman from Arizona (Mr. UDALL).

The Merits of this package of waivers has been heard far and wide and in depth. Let us face facts. I say to my good friends that I have heard much about the consumer side of this issue. However, this is a consumer-oriented package of waivers. In return for bearing a small financial risk, consumers will benefit by receiving secure and economic source of U.S. fuel.

If we go back to the record of 1960, we see that on this same floor many of the same philosophies were expounded. Members were saying, "Let's help the consumers and lift the embargo on imported oil because this will help the consumers."

We saw what happened, and the people who are watching this program saw what happened. We immediately went from $1.74 to $13.74 for a barrel of oil in 2 months. Eventually, we went to $40 a barrel for crude oil. And I can tell my good friends that the same thing can happen to us in the natural gas field. If Congress does not act to increase supplies of American Natural Gas.

Yes, we have heard that there is a surplus of gas now. I say there is no surplus of gas. Gas can take the place of oil and can reduce our dangerous dependence on imported oil. Alaska has the gas, and we want to deliver it to the United States. It was not Alaska's decision to have it go through Canada. The pipeline route was the decision of the Congress and President Carter. There was a commitment at the time to the Canadians that we would build an interstate international line of supply of gas to the Midwest, the West, and the east coast.

This is what this package of waivers does. It gives the opportunity for the marketplace to finance the line. Approval of the waiver will allow private financial negotiations to continue. Private financing will complete this pipeline that will provide to the American people—and I say this without any reservation—120 years of supply of gas.

There is a new report by the National Petroleum Council that the estimated reserves on the Arctic Slope alone are 109 trillion cubic feet of natural gas. Think about that for a moment. That is four times the size if the Prudhoe Bay Reserve, which is the largest ever discovered in North America. The report also estimates there is 143 billion barrels of oil in Alaska.

We have the resources in Alaska. Alaskans are willing to participate in helping this Nation become energy independent. But I can tell the Members that if this waiver package does not pass, there will be no Alcan pipeline built today, tomorrow, or ever. The gas will be utilized, but it could well be delivered by LNG tankers to foreign markets. If Members from Midwestern States want to insure that Alaskan gas is shipped by pipeline to the Midwest, I recommend voting in favor of House Joint Resolution 341.

Now, we have looked at this package of waivers throughout the committee process. Each committee has come down on the side that private industry should have the opportunity to build this pipeline.

If, by some chance, so-called consumer advocates were to defeat this package, the consumers of natural gas and oil will suffer. Consumers will pay, pay, and pay again as that unsettled Mideast situation continues. There is too much trouble in that part of the world and too great of a chance that foreign suppliers could raise energy prices for this Congress to continue the Nation's gamble on the continued supply of foreign oil.

Mr. Chairman, prebilling is truly a red herring. When compared to the benefits which this pipeline could bring to all Americans. For this reason, I urge my colleagues to approve this waiver proposal and vote in favor of House Joint Resolution 341.

Mr. CORCORAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Wyoming (Mr. CHENEY).

(Mr. CHENEY asked and was given permission to revise and extend his remarks.)

Mr. CHENEY. Mr. Chairman, I intend to vote for House Joint Resolution 341, the President's waiver package to permit construction of the Alaska natural gas transportation system—ANGTS. I urge my colleagues to do the same.

Approval of the waiver provisions requested by the President on October 15 is crucial if private financing is to be developed to build this essential link between the enormous natural gas reserves of Alaska, and consumers in the lower 48 States.

The waiver has been reviewed at length in both the Senate and the House. Both the House Interior Committee and the Energy and Commerce Committee held extensive hearings and examined in great detail all of the ramifications of the waiver request. Both committees voted overwhelmingly to approve the waiver package. The proposal has received similar favorable review in the Senate, which has already voted to approve it.

We are talking about huge amounts of natural gas which need to be made available to U.S. consumers. The pipeline will link consumers to Alaskan reserves estimated to exceed 100 trillion cubic feet. The initial capacity of the pipeline will render unnecessary the importation of an estimated 400,000 barrels per day of foreign oil. The pipeline could be expanded to replace as much as 600,000 barrels per day. Moreover, construction of the pipeline will create as many as 16,000 jobs for American workers and make available millions of dollars in private contracts for U.S. industry.

Approval of the waiver also will put the United States in the position of fulfilling commitments made by Congress and two Presidents to Canada. The United States and Canada are parties to a bilateral agreement under which both Governments pledged to remove any delays or impediments to the expeditious completion of the pipeline. This commitment has been reaffirmed by the Reagan administration and by the Congress in a special resolution stating that the pipeline "enjoys the highest level of congressional support for its expeditious construction and completion."

In short, the waiver proposal is necessary if the private sector is to be in a position to put together the necessary financing for construction of the pipeline. I hope it will be approved overwhelmingly by the House.

Mr. CORCORAN. Mr. Chairman, I yield 2 minutes to the gentleman from

Indiana (Mr. COATS), a member of the committee.

Mr. COATS. Mr. Chairman, a lot of good reasons have been detailed today as to why we should support this waiver package. I think there are probably two prevailing reasons in my mind.

This perhaps represents the last chance to get the vast and valuable resources of natural gas from Alaska down to the lower 48 through private financing. Make no mistake about it, I think most experts would agree that at some point in this country's future we are going to want to use that natural gas in Alaska, but most of the people who have testified and the financial people who have testified before our committee indicated that if we are going to do it through private financing and not through taxpayer financing, through public debt or guarantees, we are going to have to do it now through waivers.

Second, I think another point that is very important is that this touches on our national security. A number of people again testified before our committee indicating that if OPEC shut down, it is going to have a devastating economic effect not only on the United States but on all of Western Europe. More than one President has indicated that our only option at that point would be military intervention.

I think it is compelling that we go after these domestic resources to give us one more option to OPEC oil, one more option and consideration to deal with in terms of the potential of OPEC blackmail that we have been facing, and one more option to respond to Colonel Qadhafi's Libyan oil connection.

Mr. CORCORAN. Mr. Chairman, I yield 1 minute to myself.

Mr. Chairman, there has throughout the debate been the attempt to describe particularly the prebilling waiver as a proposal that would make sure that there was private financing as opposed to something that would be taxpayer supported.

I would submit this overlooks what in fact prebilling does. In fact, what has happened is that the free market has rejected this particular financing proposal. The banks have looked at it, four of the largest banks in the United States, if not the world, and they have concluded that on a private financing basis they will not lend one penny to this project. They have said to the sponsors that if you do not get from the Congress and the Federal Government the authority to make the consumers of the gas, if indeed they ever get the gas, provide the collateral on this loan, then we will not support it. Only with the consumers as collateral on the credit will we put private money in this project.

This is far different from the ordinary way in which commercial ventures ought to proceed and by no stretch of the imagination can we call this a free-market solution to the financing for the Alaska natural gas pipeline project.

Mr. Chairman, I am pleased to yield 1 minute to the gentlewoman from Illinois (Mrs. COLLINS).

(Mrs. COLLINS of Illinois asked and was given permission to revise and extend her remarks.)

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in opposition to this package.

In every respect this proposal is a betrayal of commitments made to the Congress and to the American people when the project was approved by Congress in 1977. It asks that consumers assume a burden of risk that no self-respecting banker will undertake. It does this without any guarantee that the gas will ever be delivered to consumers or that the price will be economical.

Just yesterday I chaired a field hearing of the Fossil and Synthetic Fuel Subcommittee on the impact of Federal energy assistance to low-income people in the Chicago, Ill. area. There I heard a lot of very sad stories from people in a city where 75 percent of their heating fuel comes from gas. Many of those people are hardship cases, many are not, but all of them are concerned about the high cost of gas to heat their homes and to use in other forms in their homes.

We also had people from the Department of Energy at our hearing who said it was an awful thing that people had to pay so much in order to be comfortable and that people who are ill faced the added hardship of high energy costs to have their houses cooled by electricity, and so forth. These consumers simply cannot be asked to bear the burden for the cost of this pipeline project.

It seems to me that those of us who are in Congress are faced with a very real responsibility and I have therefore labored hard over this package of waivers for the Alaska gas pipeline in an effort to be as open-minded as possible on an issue of critical concern to the people of this Nation.

Unlike some of my colleagues who convinced that the waiver package was a bad deal because it looked like a bad deal, shut the door on the pipeline sponsors, I have tried to remain objective throughout this debate. After looking long and hard at two sides of this issue—the impact on consumers on the one hand and the impact on jobs on the other I am now convinced that this waiver package is not in the best interests of the American people.

I am fully aware of the argument that Alaskan gas will add to our Nation's supplies and thereby help to hold down the price. However, this, too, is an uncertain proposition for Alaskan gas is expensive and will remain so and, may therefore, add as much to cost as it will to supply.

This is assuming that Alaskan gas will be marketable at all—which it may not be.

Defenders of the prebilling provision claim that the risks of noncompletion or unmarketable gas are very low. If the risks are as small as they claim, why then do not the lenders assume the risks themselves in return for the enormous proceeds they will receive on repayment for their loans? It is, Mr. Chairman, because the lenders have no faith in the economic viability of this project that we are being presented with this waiver package in the first place.

Even with this unacceptable prebilling provision included, this waiver package fails to even accomplish the goal of assuring financing for the project, which is its ostensible purpose. Should this resolution be approved, the financial community tells us, several important issues would still remain to be negotiated, and perhaps other waivers requested before the necessary funding would be granted.

Mr. Chairman, we are told that it is only as a last resort that the consumer is being asked to assume the financial burden of this costly project—that all other sources of capital have been exhausted. I wish the committee had taken a closer look at the financial contribution of the State of Alaska to the pipeline which so far stands at zero.

This is unfair, considering that Alaska stands to gain $20 billion in royalties from the sale of [illegible] gas. That comes to about $40,000 for each resident of a State which even now exempts its residents from paying income tax. This means that, in effect, consumers in Illinois and other gas-importing States are paying the income taxes for consumers in oil and gas producing States. We are in danger of becoming a nation divided between energy haves and have nots, between hard-pressed consumers and a small band of OPEC-like producers, raking in billions in taxes on their oil, gas, and coal. It seems to me that one condition for the granting of these waivers should be an upfront investment by the State of Alaska equal at least to the risk being asked of consumers.

Mr. Chairman, there is a final issue over which I have agonized before reaching a conclusion on this waiver package. This is the contention made by the pipeline sponsors that significant numbers of jobs would be jeopardized—particularly in our Nation's depressed steel industry—should this pipeline project be derailed or delayed as a result of the defeat of this waiver package. It was only because of this consideration that I abstained when the committee voted out this resolution on November 19. In the interim, I have had a chance to look at this issue more closely and I am distressed to report that the optimistic projections of jobs that were made to me have not been substantiated by commitments on the part of the pipeline sponsors to the steel industry. Although I appreciate the sponsors' sincere intention to

use American steel as much as possible—in the construction of the pipeline, decisions already made regarding the pipe diameter to be used and the method of financing—supplier credit—means that foreign steel companies would have a substantial advantage over U.S. firms in bidding for pipeline materials. Under these circumstances, I can see why the pipeline sponsors are unable to give the steel industry a commitment. But without such a commitment, I cannot find a good reason to support this waiver package.

I, therefore, urge my colleagues to join me in opposition to this waiver package and in support of an effort to develop a more equitable approach to financing the Alaskan pipeline.

Mr. CORCORAN. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon (Mr. WEAVER).

Mr. WEAVER. Mr. Chairman, first of all, the companies involved will have very little of their own capital in this venture. Investment tax credits and other depreciation allowances, with front-end loading on payments, will make sure that they receive their capital almost immediately and the consumer, therefore, will be bearing the full risk.

I say, let us make the free enterprise system work. Take all the fetters off and let the oil companies and the pipeline companies finance the venture entirely on their own, pledge their gas and oil reserves, and let them charge what they will for the gas, but let them bill it and sell it for what the market will pay.

There is no hurry to pass this legislation. The three senior vice presidents of the companies involved, Exxon, Arco, and Standard Oil of Ohio, have said they were reinjecting the gas into the field now and could do so indefinitely without loss.

There are alternatives as well. Building a methanol plant on barges at Prudhoe Bay and shipping the liquid methanol along the existing gas or oil pipeline would be one very good alternative that should be seriously considered.

Mr. CORCORAN. Mr. Chairman, I yield 1 minute to the gentleman from Illinois (Mr. O'BRIEN).

Mr. O'BRIEN. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, it seems to me that in the wake of receiving hundreds of letters from my constituents relative to deregulation and apprehension over increases in their gas bills, what we are doing here is asking the consumer, without his consent and without any referendum to assume a risk that the oil companies and the financing institutions are not willing to assume. I think that is just bad law.

Mr. CORCORAN. Mr. Chairman, I yield 1 minute to the gentleman from Maryland (Mr. MITCHELL).

(Mr. MITCHELL of Maryland asked and was given permission to revise and extend his remarks.)

Mr. MITCHELL of Maryland. Mr. Chairman, I will try to be as brief as I can.

Mr. Chairman, if we tried to put this kind of a bill through the Baltimore City Council, the proponents of that bill would be run out of town on a rail. It is the most blatant anticonsumer bill I have seen in my 10 years or 11 years in the Congress, and yet somehow now we are going to manage to slide it on through.

I see that the majority leader is here, and I will leave before he speaks because I am aware of his persuasive powers.

This is a bad bill, and I say to the gentleman, "I am not even going to listen to you today, Mr. Majority Leader."

The other part of the problem is that the House is antiaffirmative action there, but there was an affirmative action program in this bill. I want the Members to read my remarks about how cleverly these companies are giving the impression that they are complying with affirmative action for minority businesses and are really boiling it altogether. What they are doing is setting up a list of those who have made contacts, and then they screen out those who have made contact, matching companies with capabilities against offers, but the net effect is that they will reduce the opportunities by 80 percent for minority businesses to participate.

Mr. Chairman, let us kill this turkey, please. Let us vote it down.

Mr. Chairman, today, I must rise in opposition to House Joint Resolution 341, waivers to the Alaska Natural Gas Transportation Act of 1976. My grave reservations about the measure before us can be divided into two areas: First, the consumer impact; and, second, the lack of adequate affirmative action programs for minority entrepreneurs.

The current administration has asked us to tighten our belts. As Federal programs are being cut we are being told that the worst is yet to come. Indeed, for once, I agree with the administration. Unemployment is moving upward from 8 percent. Investment in new housing is at a post-World War II low, putting the housing sector in a depression. The number of business failures in the United States has reached alarming levels; failures so far in 1981 are 42 percent higher than a comparable period in 1980, more than double the number in 1979, and more than 2½ times higher than in 1978. If the present trend countinues, the number of failures recorded by Dun & Bradstreet will be the second highest since WWII. Net farm income in inflation adjusted dollars will be approximately $7 billion this year according to the U.S. Department of Agriculture, the second year below $10 billion and the worst 2 years since the Great Depression. Likewise, consumer energy expenditures as a percent of all consumption have increased nearly 2 percent since 1978. In 1978, 7.9 percent of every consumer dollar was spent on energy and by 1980 this had increased to 9.8 percent. Despite these economic knives being slung at the consumers, the oil companies and the present administration are asking the buying public to assume the financial burden for a $4.3 billion gas conditioning plant for the natural gas pipeline project. According to one source, if the waivers are approved, residential consumers would pay more than $150 a year in increased gas bills starting in 1982. Mr. Chairman, this is a charge for a facility and service currently not in use and may not even be available by its projected 1987 completion date. While this is appalling, it should also be noted that if the pipeline project is abandoned, consumers will still be required to pay off the debt over a 20-year period.

If we take the worst case scenario that consumers would agree to assume such a risky burden, it should be realized that a percentage of their expenses would not even be used to purchase supplies from American companies. The Alaska gas natural pipeline project is using steel pipes that not "one steel mill in the United States can make." How then can we move this country back to economic sufficiency and stability if the American dollar is not being spent on American products owned and produced in America?

Mr. Chairman, my opposition to House Joint Resolution 341 is founded on yet another element of deceoption by the gas pipeline companies and the present administration. In my 11 years in Congress, I have been a strong supporter of increasing public and private sector business opportunities for minority entrepreneurs. I was appalled with the level of minority business participation in the Alaskan oil pipeline project. Thus in 1976, I sought and received assurances from the natural gas pipeline companies and the administration that a yeoman's effort would be made to increase business opportunities for minorities, female and small business owners. Based on these assurances, I supported the 1976 legislation for the Alaska natural gas pipeline project.

I commend the administration and the pipeline company executives for their ability to utilize the correct phraseology to exhibit compliance with the affirmative action requirements of section 17 of the Alaska Natural Gas Transportation Act and condition 11 of the President's decision. Unfortunately, however, in recent months, I have received numerous complaints from minority entrepreneurs who have been unsuccessful in their bid to secure contracting opportunities with the gas pipeline companies. After a careful examination of the gas pipeline companies affirmative action plans, I can certainly understand these complaints. Section 34.8(c)(3) of the regulations imple-

menting the Alaska Natural Gas Transportation Act, provides that the sponsors should consider the availability and capability of existing minority and female businesses in each procurement and contracting area. I submit that the sponsors have interpreted this requirement too narrowly. For example, the companies have utilized an "applicant flow" approach to ascertain contracting opportunities for minority business entrepreneurs (MBE's) and female business entrepreneurs (FBE's). Simply stated, "applicant flow" is based on the number of MBE and FBE firms expressing an interest in contracting opportunities. From this, the suppliers match potential procurement opportunities. After completing this stage, a goal is created. Thus, instead of MBE's receiving 10 percent of the total project cost ($40 billion) they are receiving 10 percent of a much lesser figure. For example, the projected cost of the Alaska segment in 1980 dollars is $7.05 billion, yet 32 percent of this figure has been excluded as having no opportunities for MBE's and FBE's. In a similar context, the certified cost of the northern border (prebuild) project is nearly $1.092 billion. The company has determined that nearly $893,525 should not be included in the base project cost for purposes of MBE/FBE goal determination. The contractable opportunities for MBE's and FBE's on the project, therefore, total approximately $200 million. The company has set a goal of 10 percent of this $200 million or $20 million for MBE participation. Mr. Chairman, this process is untenable and inconsistent with the mandate of providing for the maximum practicable opportunity for MBE/FBE participation as required in 43 CFR 34.3(c)(3)(i). Instead of summarily concluding that MBE/FBE entrepreneurs cannot perform certain contracting functions, the gas pipeline companies should be exploring innovative joint venturing concepts to expand MBE/FBE participation. Until such efforts are made, the percentage of awards of MBE's/FBE's that are presently being hailed as achievements, over and above the actual goals for such businesses, are no more than craftily conceived diversion strategies.

Mr. Chairman, earlier I stated some hard facts on the condition of this Nation's economy. The administration would like private industry to rally to the cause and rescue us from this quagmire. I, too, believe that the private business sector must begin to assume a more meaningful role in stabilizing our failing economy. I know that MBE's/FBE's are ready to do their share; however, their dreams cannot be fulfilled until barriers as I have just discussed are removed. Mr. Speaker, it is for these reasons that I urge my colleagues to vote against House Joint Resolution 341.

Mr. UDALL. Mr. Chairman, I yield 1 minute to the gentleman from Ohio (Mr. SEIBERLING).

(Mr. SEIBERLING asked and was given permission to revise and extend his remarks.)

Mr. SEIBERLING. Mr. Chairman, first I would like to point out that there is an error in the dissenting views on page 35 of the committee report. It should read "1987 dollars" instead of "1978 dollars." As the author of the dissenting views, I figured that I had better correct that.

□ 1445

I rise in opposition to House Joint Resolution 341 which waives the statutory provisions of the Alaska Natural Gas Tranportation Act.

I think probably everything has been said before. But let me just point out a couple of things about this bill. There is absolutely nothing in these waivers that assures that 1 cubic foot of natural gas will ever move through that pipeline or that the necessary financing will ever be obtained. We have no assurance from the sponsors that they are going to be able to raise this money, even if these waivers are approved. So we ought to put on them now the conditions that will meet the objections that have been raised, the principal ones being, of course, that the consumers are going to pay an astronomical opening cost for gas, and they have to pay it even if no gas is delivered under the conditions of these waivers.

Mr. Chairman, I rise in opposition to House Joint Resolution 341, which waives statutory provisions of the Alaska Natural Gas Transportation Act.

The waiver package has been prepared by pipeline sponsors and proposed by the administration on the claim that it is the only way to assure private financing to complete the pipeline. Private financing was one of the conditions to the project imposed by President Carter's decision in 1977 to permitting, and granting rights-of-way and other authorizations for its construction and completion.

Two other conditions to the project—that the gas conditioning plant not be a part of the project and that producers may not hold an equity share in the project—will go by the board if we approve this package. There is no assurance from the producers or sponsors of the pipeline that the condition of private financing will not be the next requirement to be waived. There is no guarantee that even with the approval of this waiver package that the necessary financing will be provided, or that the project will be completed as scheduled without any additional costs to the consumers or the taxpayers.

As one of the few members of the Interior Committee who sat through virtually every presentation by witnesses in the hearings held on this waiver package, I was shocked at the escalation of costs experienced in the project since Congress authorized the route in 1977. The original projection of costs at $13 billion has now escalated to $59 billion, including debt financing. This increase far exceeds the rate of inflation, yet project sponsors were at a loss to explain the source of the unforeseen and unplanned for cost increases that were not accounted for in the sponsors' original cost estimates. Had we known in 1977 what we know now about the costs of this project—which is the most expensive energy development project of its kind—I doubt very much that we would have approved the pipeline as the preferred way to transport the energy represented by our Alaskan gas reserves to the lower 48.

In these circumstances the Congress should be reevaluating the project and determining whether there are other feasible and more economical methods of bringing Alaska natural gas to the Lower 48. Instead find ourselves with our backs to the wall, hearing the parties who sold us the original plan argue that without this waiver package, there will be no way to develop Alaskan gas reserves for energy-short areas.

In fact, the hearings revealed a number of different options that are technically and economically feasible. One option, for example, proposes converting North Slope gas to methanol which could be delivered through the oil pipeline in the form of a premium liquid transportation fuel for less cost than the natural gas and with a lower loss of resource. Other alternatives have also been proposed which merit further consideration. But we have no opportunity to look beyond the proposal presented to us today.

Even more misleading is the implication that passage of the waiver package today assures the completion of the pipeline. In fact, there is nothing to guarantee that the Federal Energy Regulatory Commission will approve the sponsors' financing proposals, upon which the waiver package is based, or that the financing institutions will agree to lend funds even if FERC does certify the financing scheme—and I would reiterate that there is absolutely no guarantee that the Congress will not hear again from the pipeline sponsors to tell us that they need additional Federal assurances, in the form of loan guarantees or more direct assistance, to assure that the pipeline will be completed.

As it is, the consumers of natural gas have been enlisted by the pipeline sponsors to share the risk in the project. Under the pre-billing provision in this package, consumers of natural gas—primarily those in the Midwest and on the west coast—could be billed for completed portions of the pipeline even if the project as a whole was not completed on a date certain, as set by FERC. The rate consumers would pay would be sufficient to cover producer debt and operation costs, and under the waiver package, the costs of the gas-conditioning plant which adds an-

other $6 billion to the overall costs of the project.

Since the escalation of the cost will increase the price for delivered gas to the extent that it may not be marketable—$17.50 Mcf in 1978 dollars, delivery date 1978—consumers who are unable to switch to other types of energy will have to take the gas at that price. According to a Congressional Research Service study, the impact on industrial consumers would aggravate the problem for residential consumers since—

Most companies would either pass the increased cost to its customers through product price increases or more likely in many cases switch to a cheaper source of energy such as residual oil. If massive switching occurs in the industrial sector, then the average monthly cost to consumers in the residential and commercial sectors could skyrocket because the industrial sector was going to bear 50 percent of the consumer liability.

The prebilling provision makes consumers unwilling partners in the pipeline, paying higher costs without receiving any interest in or benefit from the pipeline other than the promise of receiving Alaska natural gas upon the pipeline's completion at extraordinarily high prices. The waivers do not require, as they should, that in return for being allowed to obtain equity ownership in the pipeline, they contribute their profits on gas at the wellhead to the extent necessary to keep the price of delivered gas competitive with other energy resources. Although the House Interior Committee report suggests to FERC that consumers' interest be considered in any final certificate that may be approved on the financing proposal, the nature of the procedure we are operating under in considering this package prevents us from putting conditions or requirements on producers or sponsors to assure timely completion of this project, and delivery of Alaska natural gas at reasonable and competitive prices.

Since we can only vote "yes" or "no," I urge my colleagues to vote "no." If we defeat this waiver package, then the Congress may spell out the conditions and limitations it wants on any waivers and invite sponsors and proponents to return with a package that assures delivery of this valuable national energy resource at reasonable cost to consumers.

Mr. CORCORAN. Mr. Chairman, I yield 2 minutes to the gentleman from California (Mr. MILLER).

(Mr. MILLER of California asked and was given permission to revise and extend his remarks.)

Mr. MILLER of California. Mr. Chairman, I think the problem with this legislation is that we are being a little bit dishonest with the citizens of this country. You can tell that when politicians start inventing new words.

When the administration and the majority leader in the Senate got into a bind earlier this year and found they had to raise taxes, they talked about "revenue enhancement in out years." They thought that would fool the people in this country.

When we found out that construction work in progress is not popular with utility ratepayers, we now talk about "prebilling." When we found out that loan guarantees and taxpayer subsidies for the free enterprise system were not popular, we have invented "consumer underwriting."

The fact of the matter is that the Congress is mandating a new tax on the people of this country. At the same time, when we are about to have a $30 billion tax decrease in July of next year, we are coming along and taking perhaps $23 billion out of the pockets of the consumers of this country in this unwise legislation. When the Congress mandates that kind of action, that is a tax by any other name.

The point here is that there is another alternative, and I think the gentleman from Illinois (Mr. CORCORAN) should be commended for bringing this matter to the floor of the Congress. That is that the free market system, and it can work, but the special interests would just prefer it not to work.

The State of Alaska can put up additional revenues. The State of Alaska would just prefer not to put up additional revenues. That is certainly their right.

So what we have done is to turn to the consumers and mandate that they pay a cost, if this package goes through, because other people would prefer not to. We can deregulate the price of Alaska gas and the producers could have that gas and have the entire project. They are getting a 50-percent rate of return. In 2 years they will have their risk out of this project. In 4 years the risk of the pipeline companies will be out of this project.

But the consumers' risk, goes on for a 20-year period of time. I think it is very important we be up front with the consumers of this country and tell them exactly what we are doing. Let us quit inventing misleading phrases so that we will be more comfortable doing something we know is wrong.

I would like to insert several letters from the chairman of the California Public Utilities Commission, an editorial he wrote for today's Los Angeles Times, and an editorial from today's New York Times. This material emphasizes my point that this is a bad package of waivers which shifts all of the risk to the consumers and leaves all of the benefits with the owners of the pipeline. I urge my colleagues to defeat this resolution.

PUBLIC UTILITIES COMMISSION,
STATE OF CALIFORNIA,
San Francisco, August 12, 1981.

Hon. PHILLIP SHARP,
Chairman, Subcommittee on Fossil and Synthetic Fuels of the Committee on Energy and Commerce, House of Representatives, Washington, D.C.

DEAR CONGRESSMAN SHARP: Thank you for your letters of July 10 and July 31, inviting our comments on the financial waiver package for the Alaska Natural Gas Transportation System (ANGTS). As you point out in your letter, California is directly impacted by this project. This week, the California Public Utilities Commission approved the purchase of Canadian gas transported through the so-called "Western Leg Prebuild" portion of the ANGTS. The purchase of this gas is a very real sacrifice on the part of California ratepayers as the gas is not required to meet high priority needs, yet, it will cost over $7 per Mcf. This is a price that cannot be absorbed by low priority customers with cheaper alternate fuel options. California distribution companies expect to purchase 20 percent of the Prudhoe Bay when the ANGTS is completed. Hence, the California ratepayers will bear a signficant portion of the ANGTS costs.

The California Public Utilities Commission considered the matter of ANGTS sponsors' requests for certain waivers at its conference of August 4, 1981. This letter reports to you the position of the Commission on the various waivers requested.

The request from the ANGTS sponsors that the billing commencement date for the project the modified to provide for billing as each "segment" of the project is completed is unacceptable to this Commission. Our members have quite strong feelings on this issue. There are, of course, the obvious problems, as yet unresolved, of the delineation of a "segment" and of the procedures in the event of project failure. Prebilling also presents the problem of one group of ratepayers paying today for gas which, if it comes at all, will only be used by another set of ratepayers possibly a decade from now. The primary question, however, is the proper sharing of risk of noncompletion of the ANGTS. If those in the private financial markets believe the project is too risky to constitute a prudent investment, Congress cannot, in good conscience, transfer this risk to the prospective purchasers of Prudhoe Bay gas. If, in fact, the ANGTS cannot be privately financed, and if the Congress nevertheless concludes that project should be built for national security reasons, then the entire nation should share in the risk of non-completion of this project. Rather than certain ratepayers bearing the noncompletion risk through involuntary advance payments, I suggest that the project debt under those circumstances be guaranteed by the United States government. I recognize that there are philosophical objections to this concept. However, it can hardly be said that prebilling the ratepayers constitutes a reliance on market forces to determine the feasibility of the project.

Our Commission objects to several of the remaining waiver conditions, which while less onerous, also warrant comment. The request to waive Sections, 4, 5, 7, and 16 of the Natural Gas Act so that the Federal Energy Regulatory Commission would be precluded from questioning any future debt or operating expenses is a poor precedent and an unnecessary impediment to the regulatory process. It is a violation of the due process rights of those who may pay these expenses. The concern of the sponsors that the form of tariff not be modified over the life of the project can be addressed without foregoing the right of ratepayers to challenge an unreasonable expense claim.

It is the Commission's opinion that the inclusion of the gas conditioning plant in the approved transportation system violates the pricing concept enunciated in the Natural Gas Policy Act which established wellhead prices for pipeline quality gas. If Congress deems it necessary to charge the ratepayers for the conditioning plant then consideration must be given to their receiving a more

equitable share of the value of the natural gas liquids extracted from the plant.

It is apparent that, because of the cost of the ANGTS, Prudhoe Bay gas can only be marketed on a rolled-in basis. Rolled-in pricing is not, however, the panacea some would suggest. Congress must take the additional step and make an effort to determine if Prudhoe Bay gas priced at $15 to $20 per Mcf in 1987 can be absorbed into a natural gas market that will be subsequently deregulated. The risk that rolled-in pricing might bring the average system price of many distribution companies above the price of alternate fuel must be added to the risk inherent in a modified billing commencement date when all of the sponsors' requested waivers are considered by Congress.

Certainly this Commission must consider this risk carefully. It will be difficult, if not impossible, for this Commission to authorize purchase of the gas by our distributing utilities should price or supply conditions make that gas unmarketable.

I look forward to your hearings of this matter.

Sincerely yours,

JOHN E. BRYSON,
President.

PUBLIC UTILITIES COMMISSION,
STATE OF CALIFORNIA,
San Francisco, November 5, 1981.

Hon. PHILLIP SHARP,
Chairman, Subcommittee on Fossil and Synthetic Fuels of the Committee on Energy and Commerce, House of Representatives, Washington, D.C.

DEAR CONGRESSMAN SHARP: On August 12, 1981, I wrote to you on behalf of the California Public Utilities Commission expressing this Commission's opposition to the request of the sponsors of the Alaska Natural Gas Transportation System (ANGTS) for certain waivers from the conditions incorporated in the approval for construction of the ANGTS. In particular, this Commission oppposed the sponsor's billing commencement date waiver because of the risk of noncompletion of the project that waiver places upon the gas consumer.

After reviewing the waiver package sent to Congress by President Reagan and the recent testimony presented before your committee on these waivers, the California Public Utilities Commission has concluded that the waivers should not be approved.

This position is based upon three interrelated factors. First, the billing commencement date waiver as proposed by the President, while more limited than the similar waiver proposed by the project sponsors, still does not comport with the spirit of private sector financing. If it is clear that the ANGTS cannot come to fruition on its own merits in the private sector market place and the project is determined to be in the national security interest, then we again call for federal loan guarantees. The taxpayers of the country all share in the benefits of a secure energy supply of this magnitude and should share in the project risks.

Second, the testimony before your committee made it abundantly clear that the waiver package before Congress, far from being the final step necessary to bringing the ANGTS to a reality, is only a beginning. The project sponsors, the producers and the banking community must negotiate the formulation of a financing plan. Witnesses from the banking community have indicated that acceptable debt assumption arrangements by the project sponsors and producers might be necessary in addition to a precompletion billing commencement date. In many cases, the portion of debt of the ANGTS attributable to individual sponsors is several times their total assets. It is likely that the sponsors will have to return to Congress at a later time for additional waivers. Neither Congress nor those charged with protecting the interests of the consumer should be required to consider these waivers on a piece-meal basis. The project sponsors must be made to determine the actual requirements of private sector financing and present those requirements to Congress in total so that an informed judgment can be made on the viability of the project.

Finally, the question of the marketability of the North Slope gas transported through the ANGTS is clearly an issue that has not been adequately studied. If the gas is not marketable, the waiver package becomes immaterial. The producers, the banking community witnesses and the representatives of the Federal Energy Regulatory Commission have all indicated that studies of the ANGTS gas supply with and without deregulation of natural gas prices must be made prior to final approval of the Alaska pipeline. The determination of marketability should also be made prior to Congressional approval of any waiver package for the ANGTS.

Sincerely yours,

JOHN E. BRYSON,
President.

[From the Los Angeles Times, Dec. 8, 1981]

TAXING CALIFORNIANS FOR A RISKY PIPELINE

(By John E. Bryson)

At the request of the coalition of oil companies, pipelines and utilities proposing to build the new Alaska natural-gas pipeline, President Reagan has asked Congress to waive certain legal conditions governing the project.

If Congress acquiesces—the Senate has already done so and the House is expected to vote this week—the result will be to shift much of the economic risk of this "largest privately financed construction project in history" to California's gas and electricity consumers.

The Alaska Natural Gas Transportation System, as the project is known, is designed to bring the rich deposits of natural gas on Alaska's North Slope south. Twenty percent of the supply is to be allocated to California.

The current project was selected in 1977 by President Jimmy Carter over two alternative proposals, in large part on the ground that this project was to be entirely privately financed. And, in fact, Reagan, not long after taking office, proclaimed his Administration's support for the pipeline only if it met the test of the marketplace by being built with private capital and without government support. Instead, however, the requested waivers are designed to protect the pipeline sponsors from normal marketplace risks.

The central question that is posed by the waiver package is who will bear the economic risks associated with the possibility that the project, to be built under extraordinarily difficult conditions in Alaska, is not completed or is delayed beyond the 1987 estimated completion date. Those are, of course, economic risks undertaken by the sponsors of any construction project. It is precisely those risks that force prospective project lenders to scrutinize the projects carefully and that drive project managers to exercise rigorous cost controls.

Under the waiver package, however, the economic risks of delay or noncompletion would be shifted away from the companies that are sponsoring the pipeline, and would be imposed on the customers of the utilities that will ultimately receive the gas. This mandated risk-assumption is an indirect and disguised means of providing government support, but the result is substantially the same as more direct means would be. It differs from direct government subsidies principally in that only the customers of certain utilities are stuck with the risk, and in that the financial risk is open-ended, rather than being limited to a defined amount.

In fact, the pipeline project is, from another perspective, substantially more economically risky today than it was when proposed in 1977. At that time, all domestic gas prices were controlled, and the nation and California faced severe gas shortages. In 1978, however, Congress passed the Natural Gas Policy Act, which was intended to allow natural-gas prices to increase to market levels by 1985. And now the Reagan Administration is contemplating accelerated natural-gas price decontrol. As a result, natural-gas prices are going up, and current supplies meet and exceed demand.

The significance of these developments is that in 1987, when the Alaskan gas is scheduled to arrive, there is likely to be a much more ample supply than was previously contemplated, and no low-priced gas to offset the very high price of Alaskan gas. Thus, the utilities may not be able to "roll in" the Alaskan gas price to an overall gas utility rate that consumers will accept. If the price of natural gas exceeds that of oil, large consumers will simply substitute oil, leaving only those without the capability to switch, largely residential customers, to bear the total fixed costs of the natural-gas distribution system.

Market prices for oil and natural gas in 1987 are very difficult to predict, varying as they will with changes in supply, federal law and international conditions. But current estimates for the cost of Alaskan gas underscore concern as to its economic competitiveness.

The California Public Utilities Commission staff estimates that at a $40-billion total project cost, the Alaskan gas will cost $15.41 per million BTUs, assuming the project is completed in 1987. This compares with a projected average cost of gas to California utilities at that date of $9.07 per million BTUs. Depending on oil prices, this means that every California residential consumer would pay an extra $72 to $125 annually for the Alaskan gas.

The premium that California gas consumers pay for the Alaskan gas over the cost of other supply sources is, in effect, a tax. There may in fact be a valid argument for assessing such a tax. Access to the Alaskan natural gas would reduce U.S. dependence on foreign sources of both oil and gas. That dependence is a vulnerability affecting U.S. national security. Thus, it is entirely appropriate that Congress consider whether the national-security value of the Alaskan gas merits government support. But that question should be debated directly for what it is.

And, if the national-security interest justifies government support then the associated costs should be borne by all the nation's taxpayers, not just by Californians and other natural-gas consumers who happen to be along the pipeline's distribution route.

[From the New York Times, Dec. 8, 1981]

THE BIGGEST 'PRIVATE' PROJECT EVER

It could turn out to be the biggest private construction project in history; it is already one of the biggest Congressional lobbying efforts.

A consortium of energy corporations wants to build a 4,800-mile pipeline to bring Alaskan natural gas to the lower 48 states.

Congress approved the project four years ago on the assurance that private industry could do the job without further help from Government or natural gas users.

But now the consortium wants key provisions of the law waived, most notably the rules for recovering construction costs. To gain access to financial markets, the consortium argues, it must have permission to pass costs on to consumers long before the natural gas begins to flow.

The Senate agreed to these demands last month by a lopsided 75-19 margin. Now an army of lobbyists is pressuring the House to follow suit. We hope House members have the courage to hold the pipeline builders to their promise.

The Alaskan Arctic holds abou 26 trillion cubic feet of natural gas, more than a tenth of America's proven reserves. But getting that gas to consumers is no small task. A pipeline linking the North Slope with California and the Midwest would cost an estimated $40 billion.

The Northwest Energy consortium's construction plan was chosen over competing proposals in 1977. But the consortium has been unable to find the private investors it originally thought would be willing to finance the project. So, with Reagan Administration support, Northwest wants Congress to waive key provisions of the 1977 law.

One of the requested waivers, to permit oil companies that own the natural gas also to own a piece of the pipeline, seems reasonable. Both the wellhead price of the gas and the pipeline transport cost are regulated; ordinary antitrust considerations don't really apply.

But the core issue is who should bear the loss if the project proves uneconomical.

One worry is that construction delays will add tens of billions to the final cost. That is just what happened to the Alaska oil pipeline. Another worry is that by the time the pipeline is finished, the gas would be so costly no one would want to buy it. Even with no construction cost overruns, the delivered cost of the gas in 1987 will be equivalent to oil at $120 a barrel, more than three times the present rate.

That explains why Northwest wants customers to start paying not when the gas starts to flow but when construction is supposed to be finished—perhaps years earlier. And it explains why the consortium wants Congress to include a multibillion-dollar plant needed to prepare the raw gas for transmission as part of the project.

Some amount of the financial risk might appropriately be borne by those who stand to benefit from the Alaskan gas. But the proposed waivers would go much further, effectively converting the pipeline into a "cost-plus" enterprise. It is hard to see why all the risk should fall on consumers.

Should the Alaska natural gas pipeline be built? The prize is tempting, but the price is daunting. If the people who know energy markets best—the oil companies and the financial institutions that back them—aren't willing to take a chance, then why should the public?

Mr. SHARP. Mr. Chairman, I yield myself 1 minute.

(Mr. SHARP asked and was given permission to revise and extend his remarks.)

Mr. SHARP. Mr. Chairman, we are operating under very limited time here and people have raised a number of very significant questions. I would urge my colleagues to read the committee report and the additional materials that I will now ask unanimous consent to place in the RECORD, which is a list of 12 questions that people have asked about this project, as well as answers to those questions.

TWELVE QUESTIONS AND ANSWERS ON THE WAIVER PROPOSAL, HOUSE JOINT RESOLUTION 341

1. Doesn't the waiver proposal lock consumers into multi-billion dollar payments whether or not the line is ever completed?

No. The pre-billing provision of the waiver proposal gives the Federal Energy Regulatory Commission the discretionary power to allow companies planning to move gas through the project to begin billing gas customers (1) only after a date selected by the FERC as reasonable for completion of the entire system (probably 1987), (2) only after full completion and testing of one or two or three basic segments of the line, (3) only for the debt service and related costs on the U.S. segments of the project, (4) only after billions of dollars of the sponsors' own risk capital has been invested without return until project completion, and (5) only for those costs prudently incurred and actually paid. All such payments serve to reduce the cost of service for the segment on which they occur, so that consumers would pay less after the line is completed.

The average residential U.S. gas consumer, should the project fail after completion of the two most expensive segments (the absolute worst case), would pay an average of only $11.20 per year (1982 dollars) during the twenty years required to discharge the debt in full—less than one dollar per month. Because the conditioning plant is currently excluded from the system, and President Carter's decision permits billing upon system completion, current law hypothetically allows the same result. (The figure of $150 per year per consumer starting in 1982 printed in the Washington Post has no basis in fact whatsoever.)

2. Is it true that the oil companies will receive a 50% rate of return on their investment in this project?

No, that is simply not true. The oil companies, like the other participants, will receive a rate of return which is regulated by the FERC and estimated to be about 17%. The memorandum that calculated the oft-cited 50% figure required two heroic and inappropriate assumptions in order to stretch to such an alarming figure. First, it assumed that all proceeds to producers from wellhead sales of their natural gas to be shipped through the pipeline should be considered profit on their pipeline investment, reasoning that without the pipeline the producers could not get any value for the gas. Second, it assumed that there were zero costs for developing this gas production, that all development costs for the gas should be deemed to have been covered by oil revenues.

3. Is it true that there won't be any American steel used on this huge project?

No, there have already been hundreds of thousands of tons of American steel purchased and there will clearly be much more. Two thirds of the steel already used has been American; more than a million tons, or 60% of the remaining steel to be purchased, is very likely to be American.

The only large portion not currently likely to be American is the pipeline steel for the Alaska segment, which no American company can currently manufacture. But the pipeline sponsors are attempting to help upgrade an American plant so that the difficult Arctic-grade specifications can be met with American pipe. If it can be done, this pipe, like the other steel needs, would be subject to the sponsors' public pledge to "purchase and use, on a priority basis, American-produced material to the maximum extent feasible and practicable, consistent with the requirements imposed upon us by the regulatory authorities."

4. Why hasn't the State of Alaska invested in this pipeline, since they have so much money from oil revenues?

The State of Alaska is currently considering taking such a highly unusual step. Investing public revenues in a private profit-making venture is not a step a state can take lightly, however great the state's own interest. The State of Alaska is aware that it represents one of the few remaining major sources of funding or credit which could assist to close the $10 billion gap in unfunded security for construction loans which will exist even if the waiver is approved.

5. Won't the gas delivered by this project be impossible to sell because of its high price?

The key variable is the price of foreign oil, which will determine the competitiveness of Alaskan gas. If oil prices rise as fast in the 80's as they did in the 70's, the gas produced from the pipeline may be a bargain even in its first years, when it is much higher-priced than it will be later.

In 1980 dollars, its first year price is estimated to be as high as $9.00 per Mcf, less than some deregulated high-cost gas has already sold for. (It should be noted that some much higher estimates have been heard in hearings and debate, but these are in 1987 dollars and assume high rates of inflation and interest.) Its average price in 1980 dollars over the twenty-year payback period of the investment will be between $4.50 and $5.00, which compares favorably with foreign oil at today's prices. The more oil prices rise, the more attractive this gas price will be.

If necessary, the actual prices passed through to consumers can be adjusted to be closer to this average through various regulatory and financing devices, and this will be done: the companies involved have no desire for an empty pipeline. The consumers, on the other hand, will profit from a full one economically, as well as in their continued access to nature's cleanest fuel.

6. Why can't anyone guarantee that passage of the waiver will guarantee financing and construction of the pipeline?

The pipeline has always been planned as a private sector project. The only effective ways to guarantee financing and construction of the project would be through Federal government or consumer guarantees, which the waiver proposal does not provide and which the sponsors do not seek. That the basic decision of whether to go or not go with this project is still that of the private financial markets is proven by the very fact that there are no guarantees that passage of the waiver proposal assures construction.

It is also proof of the fact that the waiver does not provide consumer guarantees, as some have alleged—if it did, financing and construction would be guaranteed. Instead, the testimony from financial experts and bankers is that the waiver proposal clears away some otherwise insuperable obstacles to private financing, and that they believe that there is a good chance of financing the project, but that the private capital market alone will make the key decision on the worth of this project, as it should, and as Congress has always intended.

7. Why should the project include the natural gas conditioning plant that the original decision required the producers to build?

The conditioning plant will perform functions necessary for transportation of the natural gas—separation of the carbon dioxide, chilling, compression, and removal of those liquids which would block the pipe-

line. The value of any liquids removed is fully credited to the project and thus to reducing consumers' costs.

If the plant were not included in the system, and producers were willing to construct it, current law would allow the costs for performing these functions to be added to the wellhead prices of gas, so consumers would pay them anyway. But the producers were not willing to pay the full costs of a facility that was required for a system they could not legally participate in.

8. Aren't the legal protections for consumers based on the Natural Gas Act stripped away by the waiver proposal?

The answer to this is an emphatic no. All the regulatory discretion that the FERC has initially in considering a new pipeline remains, and so does all the regulatory power that the FERC exercises during operation, with the sole exception that the FERC cannot change the tariff in a manner that impairs collection of sufficient revenues to meet the actual costs of the project's debt, taxes, and operation and maintenance expenses. The FERC has never changed a tariff in such a way, and probably never would, but concedes that it could, and the lenders of $21 billion are understandably reluctant to depend on the indefinite consistency of future Federal regulators even when that consistency is supported by commonsense.

9. Isn't this huge project, the most expensive ever built, certain to suffer a major cost overrun?

This project is very unlikely to experience a significant overrun as a result of detailed and complete cost estimates, verified more than once. Millions of dollars were spent on precise design and engineering work. The Federal Inspector's Office will check spending and building practices closely, and FERC will exclude any imprudent expenditures from the rate base. Expectable as well as highly unusual contingencies were all costed-out and accounted for within the project financing plan.

In addition, the rate of return mechanism has a special feature which rewards the builders for finishing under the estimated costs, and penalizes them for coming in over costs. Finally, the sponsors are attempting to finance privately a $3 billion overrun fund, if all other protections fail. All of these factors combine to make an overrun that could lead to pressure for additional consumer assistance extremely unlikely.

10. Can't we defeat the waiver package and still keep the project alive by passing legislation?

The legislative option is a last-minute proposal designed to defeat the waiver package without appearing to prevent construction of the pipeline.

Legislation clearly cannot be passed in the remaining days of this session, nor within the first few months of next year. In fact, no consensus exists, or is likely to develop, on the content of such legislation. Even if it does develop, next year's construction season would be lost, and $3 billion or more added to the project's cost.

Those suggesting a legislative alternative claim that passage of the waiver package may still not be sufficient to result in private financing of the pipeline. But it is difficult to understand how legislation could increase the incentive to private investors by reducing their risk without at the same time increasing the risk to gas consumers or to taxpayers.

No legislative option was considered during the lengthy discussions prior to submission of the waiver package; no witness during the Subcommittee's lengthy hearings suggested that a legislative solution would be timely; and legislation cannot be passed in time to prevent the $3 billion in extra cost to consumers that would be incurred by loss of the coming construction season.

11. Isn't there some way to satisfy our commitments to the Canadians other than by passing the waiver proposal?

Probably not. The waiver proposal has been presented by the Administration as the concrete fulfillment of our national commitment to Canada to clear away the obstacles to private financing of the line and to provide Canadian participants full security for their advance investments in our behalf. It is a full discharge of that commitment, even if the project cannot then find the private funds it requires. Congress joined in this commitment with a concurrent resolution passed in July 1980, for the explicit purpose of assuring the Canadians that they could trust us and authorize the pre-build.

Canada has relied on our national commitment to authorize the advance building of a section of the line, which is now complete, and to authorize greater gas exports. The government did so despite the assertions of the opposition party that the U.S. would renege and never build the portion of the project to Alaska. The Canadian Energy Minister has said that for us to fail now to clear the way for private financing of the remainder of this project "would be the greatest breach of faith committed by the United States on Canada in the last 200 years". Since we would be deluded to think that a legislative alternative can be put together in time to save this project, there is no reason Canada should think so either. Given the potential for political exploitation that such a failure on our part would create in Canada, adding momentum to nationalist and anti-American feelings already causing us problems, it might well be decades before an overland pipeline through Canada would be politically possible, should the current waiver proposal be defeated.

12. Won't the sponsors of this project come back again for more shifting of the risk of this investment to consumers if the current waiver package fails to attract financing?

The Administration and key Congressional participants in this process have made it absolutely clear to the sponsors that there is no interest in additional substantive waivers which deal with project economics. I would personally be unwilling to support any waiver proposal which sought to provide further shift of financial risks to consumers, and I doubt that President Reagan would change his mind and propose it.

Consumer Protections

The waiver proposal does not adversely affect consumer protections for the following reasons:

1. The FERC retains discretion to decide upon what conditions it will issue final certificates of public convenience and necessity under the Natural Gas Act authorizing the construction and operation of the ANGTS. Before issuing such certificates the FERC must examine the financing plan, the project tariffs, marketing and marketability studies, and cost of service studies. The FERC must satisfy itself that the project will be economically viable, that Alaskan gas will be marketable, that the financing plan and conforming tariffs are in the national and public interest, and that issuance of the certificates are not inconsistent with the standards of Section 7 of the Gas Act.

2. The FERC also must find that the initial ANGTS tariffs are just and reasonable under the statutory standards imposed by Section 4 of the Natural Gas Act.

3. Interested parties, including consumers and state public utility commissions, have the right to participate fully in any proceedings where the FERC considers the matters referenced above.

4. The FERC, after consulting with the Justice Department, must find that any agreement providing for a producer ownership interest in the Alaskan facilities of the ANGTS does not have any anticompetitive impacts. This finding must be consistent with ANGTA, the Natural Gas Act, and all antitrust laws.

5. The FERC must review and approve the contracts for the purchase of Prudhoe Bay natural gas.

6. The Federal Inspector will supervise construction to safeguard against inefficient or wasteful practices that could result in cost overruns and to help assure that the entire project is completed on time.

7. The Office of the Federal Inspector will coordinate with its Canadian counterpart, the Northern Pipeline Agency, to help ensure that the U.S. and Canadian facilities are completed at the same time.

8. The Federal Inspector will review the prudency of the ANGTS construction costs.

9. Billing for a segment cannot commence until after that segment is completed and the target date established by the FERC as the most likely date for the completion of the entire system has passed. Establishment of the target date will ensure that the sponsors do not deliberately complete one or two segments in advance of the other(s) in order to invoke billing commencement as soon as possible. Federal Inspector certification that a segment is complete ensures that an independent entity will certify that segment is complete.

10. Once the ANGTS becomes operational, the sponsors will be subject to the FERC's full jurisdiction under the Natural Gas Act, except that the FERC cannot take any action that would impair repayment of project debt or prohibit shippers from collecting such charges. The FERC otherwise retains the authority both to review ANGTS rates, either on its own or at the request of consumers or state public utility commissions, and the authority over any future rate increases filed by the sponsors, which increases must be found to be just and reasonable under the standards of the Natural Gas Act.

These are in addition to other consumer protections that are provided by law or are implicit in the operation of Federal regulatory and oversight agencies.

Summary of Waiver Proposal

The provisions of the waiver proposal can be summarized as follows:

1. It permits Alaska gas producers to participate in ownership of the Alaska pipeline segment and gas conditioning plant segment, provided that any agreement on producer participation may be approved by F.E.R.C. only after consideration of advice from the Attorney General and upon a finding by F.E.R.C. that the agreement will not (a) create or maintain a situation inconsistent with the antitrust laws, or (b) in and of itself create restrictions on access to the Alaska segment for nonowner shippers or restrictions on capacity expansion.

2. It includes the gas conditioning plant in the approved transportation system and in the final certificate to be issued for the system; and waives application of Section 5, Condition IV-2 of the President's Decision to the gas conditioning plant.

3. It allows F.E.R.C. to approve a tariff that will permit billing to commence and collection of rates and charges to begin and that will authorize recovery of all costs paid

by purchasers of Alaska natural gas for transportation through the system pursuant to such tariffs prior to the flow of Alaska gas through the system; permits recovery of the full cost of service for the pipeline in Canada to commence upon completion and testing; and permits recovery of the actual operation and maintenance expenses, actual current taxes and amounts to service debt for the Alaska pipeline segment and gas conditioning segment.

4. It waives Section 7(c)(1)(B) of the Gas Act to the extent it can be construed to require the use of formal evidentiary hearings in proceedings related to applications for certificates authorizing the construction or operation of any segment of the approved system, provided that F.E.R.C. is not precluded from the use of formal hearings if it thinks they are necessary.

5. It waives Sections 4, 5, 7 and 16 of the Gas Act to the extent such sections would allow F.E.R.C. to change the provisions of any final rule or order approving (a) any tariff in any manner that would impair recovery of actual operation and maintenance expenses, actual current taxes, and amount needed to service debt, or (b) the recovery by purchasers of Alaska gas of all costs related to transportation of such gas pursuant to an approved tariff.

6. It permits Alaskan Northwest or its successor and any shipper of Alaska gas through the Alaska pipeline segment to be deemed a "natural gas company."

7. It waives Section 3 of the Natural Gas Act as it would apply to Alaska natural gas transported through the Alaska segment to the extent that any authorization would otherwise be required for (a) the exportation of Alaska gas to Canada (to the extent such gas is replaced by Canada downstream from the export), (b) the importation of gas from Canada (to the extent it is replaced by exports to Canada) and (c) the exportation from Alaska into Canada and importation from Canada into the lower 48 states of the U.S. of Alaska gas. Section 103 of the Energy Policy and Conservation Act would similarly be waived.

THE RELATIONSHIP OF THE WAIVER PROPOSAL TO PRESENT LAW

The proposed waiver of law is submitted by President Reagan in accordance with section 8(g) of the Alaskan Natural Gas Transportation Act of 1976 (ANGTA). That section provides that the President may propose waiver of any provision of law that he finds necessary to permit expeditious construction and initial operation of the approved transportation system selected in accordance with ANGTA.

The waiver proposal contains several parts, each of which waives the application of a specific element of the law (Natural Gas Act, Energy Policy and Conservation Act, and the Joint Resolution incorporating President Carter's Original Decision under ANGTA) governing the construction and initial operation of the pipeline.

The effects of the waiver of law are limited in the language of the proposed waiver by detailed conditions on its use. Any part of the present law not specifically and explicitly waived by the proposal would remain in full force and effect with regard to this project. The waiver would have no effect whatsoever on the law as it applies to projects other than the approved transportation system for Alaska natural gas.

In addition to the limitations on the wavier proposal which are included in its text, and the clarification provided by the synopsis of the proposal provided by the President, any ambiguities or questions of interpretation or limitation of effect have been answered by report language which should authoritatively guide later court review.

In accordance with ANGTA, the waiver proposal submitted by the President is not subject to amendment, but must be approved or rejected as submitted.

POINT OF ORDER

Mr. OTTINGER. Point of order, Mr. Chairman.

The CHAIRMAN. The gentleman will state his point of order.

Mr. OTTINGER. It is not proper in the Committee of the Whole to put in extraneous matter.

The CHAIRMAN. The Chair was about to rule that the gentleman would have to get that permission in the House.

Mr. SHARP. Mr. Chairman, let me just say I will be adding materials to the RECORD I trust in the House of Representatives, which I think will help to clarify for people some of the details that are being raised here today.

I think it is very important for us to remember that consumers in my own State and consumers, as the gentleman from North Carolina (Mr. JOHNSTON) pointed out, have paid dearly when this country has not been able to provide adequate supplies of energy. People have been out of work. People have seen their prices rise dramatically.

None of these decisions are cost-free, whether you are for this project or you are against this project. We need to make sure that in deciding this today that we weigh both the down-side costs as well as the up-side costs of being for this project.

The best protection American consumers will ever have is having a surplus of energy supplies. That has always been the best in terms of being able to do the economic things we want, and also in terms of keeping energy costs down.

Mr. UDALL. Mr. Chairman, I yield 3 minutes to the gentleman from Texas (Mr. WRIGHT).

Mr. SHARP. Mr. Chairman, I yield 3 additional minutes to the gentleman from Texas (Mr. WRIGHT).

The CHAIRMAN. The gentleman from Texas (Mr. WRIGHT) is recognized for 6 minutes.

Mr. WRIGHT. Mr. Chairman, I can scarcely believe that I have been hearing some of the things I have been listening to here on this House floor today. Sometimes I wonder how short our memories can be.

Twice in the last decade American consumers have been brought to their knees, literally forced to wait in mile-long lines, and have seen the gasoline prices doubled and, indeed, tripled because of our continued reliance upon foreign sources of energy and because of our unwillingness to do those hard things necessary to make this country of ours energy independent again.

This year, even in spite of all of the things we have done which have reduced the volume of our imports, we still are bleeding through the pores to the tune of $78 billion for foreign imported energy. Is that any service to the consumer?

The gravest disservice that we have performed to the American consumer has been through our dilatory tactics in not coming to grips with the necessity to make America energy independent again. Now we have one opportunity to do that, take one big step in that direction. This project will go a long way to replacing foreign energy supplies by making more of our own available to American consumers. Yet we sit around here and quibble in petty puerility about who is going to pay for it.

Of course, we know who is going to pay for it. If we do not have the gas, the American consumers are going to pay for that. Who is going to get the benefit of it? The Arabs and the other oil-producing nations.

At a time when some of our people are suggesting that we ought to cut off purchases from Libya as a means of demonstrating our disapproval of that government and its attitudes, let me raise this question: As brave as that sounds and as proper as the action might be under the circumstances, where do you propose that we get the energy to supplant that which we would no longer buy from Libya? This Alaskan source of our own natural gas reserve will supplant the energy equivalent of a little better than three-quarters of the amount that we are purchasing daily from Libya. Yet we sit here almost unbelievably as we quail and wonder aloud whether to do those things that can make it possible for private industry, not the Government, but private industry to perform the tasks that this country so desperately needs done in the interest of our consumers, in the interest of our national defense, in the interest of our production, in the interest of American jobs, and in the interest of America's supremacy in the world. We sit here and wonder and quarrel, and nit-pick about the price of gas to the consumers. Let me tell you, the price of gas to the consumers will inevitably be higher and higher and higher as our supplies are lesser, and our reserves are lesser and lesser and lesser.

The Russians are not stopping. They are spending government money to build approximately as long a pipeline from Siberia for the purpose of serving Western Europe, to make Western Europe more dependent upon the Soviet Union. Yet we sit here and hesitate.

Where is our resolve? We marched up this hill after each of those last two crises and vowed to do what is necessary to make the United States energy independent again. Where has that resolve gone?

My colleagues, this is one way that we can strike a blow for energy independence for the United States. We can make available to the American people American resources, and it

is not going to cost the Government much of anything.

Delay will cost much more. It will cost more to America. It will cost more to the consumers. It will cost more to American production. It will cost more to American jobs. It will cost more to the American economy if we delay. Therefore, delay is the enemy of the consumer. Action is our duty today.

Mr. DINGELL. Mr. Chairman, will the gentleman yield?

Mr. WRIGHT. I yield to the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. I thank the gentleman for yielding.

If there is delay, the cost to the consumer of delivery of this gas will skyrocket beyond belief. If the project cannot be constructed, the probability is that it will be found out and there will be no cost to the consumer. But delay is going to cost the consumers monstrous amounts of money.

Mr. WRIGHT. I thank the gentleman for that comment. I am reminded of what happened in 1941 when the Japanese cut off our supplies of natural rubber. We needed rubber if we were to win that struggle. We are in a struggle no less certain today than we were then. Though it is not a military struggle, it is a struggle for our survival as a people. It is the struggle for energy independence.

That day Franklin Roosevelt called Bernard Baruch and Bill Jeffers together and he said we must develop a synthetic rubber industry in this country. Nobody knew how to do it. But they did not sit around waiting and putting off action and quarreling about whether it was going to cost too much. They knew the need for it and they did it. And 3½ years later, when American and allied troops rolled into Berlin, we rolled on rubber tires made by a synthetic American rubber industry. And yes, I guess some people made some money off of it. I hope they did. But the American people gained victory from it.

That is what we will gain if we act resolutely today.

Mr. CORCORAN. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New York (Mr. OTTINGER).

(Mr. OTTINGER asked and was given permission to revise and extend his remarks.)

Mr. OTTINGER. Mr. Chairman, you have just heard the eloquent rhetoric of the gentleman from Texas (Mr. WRIGHT). The question, however, is not whether we shall get the gas or not. There are other ways to get this resource, and I would go into that if we had a reasonable amount of time to debate this. The arguments against these waivers have been made eloquently by the gentleman from Illinois (Mr. CORCORAN), who has done just a fine job in this matter.

The fact of the matter is that the oil companies have used the energy crisis time and time and time again as an excuse to profiteer at the expense of the American people. The oil companies have gotten themselves absolved just recently in the tax bill from a large portion of the windfall profits tax. They have special provisions in the tax laws for royalty owners. They already get tax subsidies of something like $6 billion a year through depletion allowances, foreign tax credits, intangible drilling costs and other special provisions. Now they come to us on a project that they deem to be uneconomic to finance themselves, and say deceptively that they do not want a Federal guarantee. We have been told by the good gentleman from Arizona (Mr. UDALL) and the gentleman from Indiana (Mr. SHARP) that they will not ask the Federal taxpayers to finance this project. Instead they support a consumer guarantee, and that is what you have here. You have a consumer guarantee.

These consumers, however, are the very same people as the taxpayers. It is the poor and middle-income people of this country that are going to be asked to finance the oil companies despite the record profits they have made. Do my colleagues know that 98 percent of the profit increases in the past 2 years consist of the oil companies' increases in profits, and that 40 percent of the entire manufacturing profits in the United States go into the hands of the oil companies?

We have here a situation in which they are unwilling to finance one of their direct responsibilities, a $4.5 billion processing plant.

They say put it on the books of the consumers. In point of fact, every single one of the people who has a financial interest in this project has been unwilling to put up the money. The oil companies are not willing to finance this project. The State of Alaska which stands to gain $20 billion from this project is not willing to put up their money for this project.

It is the American consumer that is being stuck with this. It is just outrageous.

At the subcommittee markup of this resolution there were many eloquent statements concerning this waiver package.

Subcommittee members spoke about the unfairness of placing a substantial portion of the risk of noncompletion of the pipeline onto consumers through prebilling provisions. They spoke about the unnecessary shifting of the costs of the gas processing plant from the producers to the pipeline and its ratepayers. They spoke of the inequity of permitting producers to earn a 50-percent rate of return and other pipeline sponsors a 25-percent rate of return, according to the excellent committee staff analysis.

And those were the remarks of the supporters of the waivers.

The fact is that a large majority of this Congress knows that these waivers go too far. We know that prebilling places an enormous risk upon consumers. If it did not, the banks would not care about it.

We know that there is no justification for including the $5 billion processing plant in the pipeline's cost, when it should be the producers' responsibility.

We know that it is not right that the State of Alaska, which will receive royalties on the natural gas, has failed to commit a nickel to finance this project.

So why is there any question over these waivers? The answer is simply that some fear that a vote on the waivers is a vote on the pipeline. Indeed, we have been told by some that a negative vote is somehow reneging on our commitments to go forward on the project.

But that fear is unjustified. There is too much at stake for all involved for the project to be abruptly terminated. Furthermore, there is no assurance that even if we pass these waivers, the sponsors would not ask for more.

These waivers of law were not handed down from high and written in stone. They are the product of hard bargaining among the producers, pipelines, and the banks. And when none of them volunteered to take certain risks, or pay certain costs, provisions were written to shift these costs and risks to consumers—the one interest not represented at the bargaining table.

It is now our responsibility to act as their bargaining agent, and reject this package. I know we can do better.

This is another example of the administration's attempt to shield big money projects from the tests of the market. Prebilling permits banks to lend money they would not otherwise risk, because consumers will be forced to pay. This same kind of market insulation also occurred in the WPPSS plants in the Pacific Northwest where terrible overruns occurred. I would like to insert a CRS comparison between the financing of these two projects:

CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., November 30, 1981.

To: Subcommittee on Environment, Energy and Natural Resources, House Committee on Government Operations.

From: Carl E. Behrens, Specialist in Energy Policy, Environment and Natural Resources Policy Division.

Subject: WPPSS and ANGTS: Similarities in funding.

This memo is in response to your request for a discussion of increased costs and delays in large construction projects that may result when those who invest in or build the project are not immediately affected by such increases. In particular, you asked whether the delays and cost overruns in the 5-unit nuclear construction project of the Washington Public Power Supply System (WPPSS)—which have recently led to an agonizing reappraisal of that massive undertaking—carry a cautionary message for the proposed Alaska Natural Gas Transportation System (ANGTS).

The ANGTS waiver package now before the Congress (S.J. Res. 115, H.J. Res. 341) does include provisions which are similar.

with some important exceptions, to the financing arrangements of the WPPSS project. To the extent that these arrangements have contributed to cost and delay problems at WPPSS, there is a potential that they might similarly affect the ANGTS project.

In ways that are detailed below, the WPPSS Board, which is responsible for financing, scheduling and contracting for the project, has been protected to a considerable degree from the short-term effects of its decisions. The result of this protection may have been that warning signals were not acted upon until the viability of the entire project was jeopardized.

The WPPSS experience indicates that large, capital-intensive projects have a potential for serious financial crisis when management decisions are not subject to timely review. Caution suggests that such projects be provided with careful oversight, and perhaps formal review authority, by entities which will eventually be responsible for the costs of the project.

Before discussing the similarities between the WPPSS project and the ANGTS waiver package, the differences should be mentioned. The technologies (nuclear versus gas pipeline), the location (Pacific Northwest versus North Central Canada), and the builders (a public utility consortium versus private gas utilities ties and oil companies) are all different. More important, perhaps, is the fact that the return on the equity investment in the ANGTS project will be higher if costs are kept under control ("incentive rate of return")—a feature that is not present in the complicated financing of the WPPSS nuclear project.

With these differences in mind, it is still possible to draw a parallel between the ANGTS waiver provision—that the costs of the project will be passed through to gas consumers before it is completed, or even if it is not finished—and several features of the WPPSS project.

It is a generally accepted conclusion that zeal in cost control is strongly affected by whether the person responsible for making decisions must pay their costs directly and fully. This phenomenon can be observed in a wide range of economic behavior, from business lunches and individual metering of electric power consumption to elective surgery and automatic fuel adjustment clauses. Among the features of both the WPPSS system and the ANGTS waiver package that tend to separate the decision-makers from the costs of their decisions are:

1. Pass-Through of Costs. Under the "net billing" arrangement between WPPSS and the Bonneville Power Administration for Units 1, 2 and most of 3, BPA has agreed to buy power produced by those units, and subtract the cost of the nuclear operation from its charges to WPPSS utilities for the power it supplies to them. Since BPA's rates to the WPPSS utilities are based on low-cost Federal hydropower, BPA is essentially responsible for the full cost of those nuclear units. BPA has not agreed to net billing for Units 4 and 5; until recently, however, there was a general assumption that it would need to buy the output of those plants as well, to meet the growing demand for power in the region. Even if this is not the case, the cost of Units 4 and 5 will be spread among the the 80-odd utilities that make up WPPSS, all of whom depend on the rather isolated Board to control costs and enforce schedules on contractors.

A similar system will exist if the waiver package is approved. The ANGTS costs will be effectively guaranteed by the consumer, if the pipeline is finished.

2. Rolled-In Costs. In the case of both the ANGTS project and the WPPSS nuclear plants, the cost of the product will be merged into the price of a larger pool of lower-cost resources, and sold to a very larger number of consumers. The result is that the effect on individual consumers of even very large cost overruns will be greatly diluted, thus minimizing potential reaction.

3. Take or Pay Contracts. For for the WPPSS nuclear units, the costs of the projects will be passed through whether or not the project is completed. For ANGTS (under the waiver package), costs of segments of the project can be passed through to consumers before gas begins to flow.

All of these factors can have a strong negative effect on the efficiency of managing a major, capital-intensive project. Their importance as causes of the cost increases and delays, however, has been disputed.

One review of the critical situation at WPPSS has concluded that "WPPSS mismanagement has been the most significant cause of cost overruns and delays" that have sent the estimated cost of the 5 plants from $6.6 billion to $23.8 billion and delayed the scheduled start-up of the units by many months. It claimed that WPPSS management was responsible for inappropriate contracting, nonenforcement of contract terms, acceptance of delays by contractors, and inefficient and costly financing methods.[1] On the other hand, WPPSS management has argued that regulatory requirements and strikes have been major factors in the delays, which in turn have contributed to the major part of the cost increases, because of the high cost of capital. Nevertheless, the fact that the Supply System management could pass through the costs of the project to consumers, through the net billing arrangement, is a prominent feature of the crisis that has developed: a crisis that has left in doubt the completion of at least a major portion of the 5-unit system.

The most dangerous aspect of such arrangements appears to be the possibility that warning signals may not be acted upon until the viability of the entire project is jeopardized. In the case of WPPSS Units 1-3, Bonneville Power Administration was essentially committed to pay for the costs of the project, but did not have clear oversight of the management decisions by the WPPSS Board. It was only in the crisis of financing Units 4 and 5, when the availability of municipal bond money for the entire State of Washington was called into question, that vigorous management changes were adopted by WPPSS.

If a parallel can be drawn with the ANGTS project, it is that oversight and review authority by those responsible for bearing the costs of a large project may be an important ingredient in insuring its efficient and successful completion. The form such an oversight and executive review function might take needs further discussion. The major factor to be considered appears to be supplying enough authority to an entity with a direct interest in keeping costs under control, while preserving flexibility for the pipeline construction management to make timely and efficient decisions.

It is clear that these extraordinary procedures under which we are operating—1 hour of debate, no amendments—were never intended for this kind of sweeping waiver package.

Let us not be hustled by the take-it-or-leave-it hurry-up procedures we are operating under. The waiver package should be defeated.

[1] Washington State. Senate. Committee on Energy and Utilities. Causes of cost overruns and schedule delays on the five WPPSS nuclear power plants. (Olympia) March 1, 1981.

I would also like to share with my colleagues an editorial from today's New York Times and an editorial from the November 23 Christian Science Monitor both this of which oppose waiver package:

[From the New York Times, Dec. 8, 1981]

THE BIGGEST "PRIVATE" PROJECT EVER

It could turn out to be the biggest private construction project in history; it is already one of the biggest Congressional lobbying efforts.

A consortium of energy corporations wants to build a 4,800-mile pipeline to bring Alaskan natural gas to the lower 48 states. Congress approved the project four years ago on the assurance that private industry could do the job without further help from Government or natural gas users.

But now the consortium wants key provisions of the law waived, most notably the rules for recovering construction costs. To gain access to financial markets, the consortium argues, it must have permission to pass costs on to consumers long before the natural gas begin to flow.

The Senate agreed to these demands last month by a lopsided 75-19 margin. Now an army of lobbyists is pressuring the House to follow suit. We hope House members have the courage to hold the pipeline builders to their promise.

The Alaskan Arctic holds about 26 trillion cubic feet of natural gas, more than a tenth of America's proven reserves. But getting that gas to consumers is no small task. A pipeline linking the North Slope with California and the Midwest would cost an estimated $40 billion.

The Northwest Energy consortium's construction plan was chosen over competing proposals in 1977. But the consortium has been unable to find the private investors it orginally thought would be willing to finance the project. So, with Reagan Administration support, Northwest wants Congress to waive key provisions of the 1977 law.

One of the requested waivers, to permit oil companies that own the natural gas also to own a piece of the pipeline, seems reasonable. Both the wellhead price of the gas and the pipeline transport cost are regulated; ordinary antitrust considerations don't really apply.

But the core issue is who should bear the loss if the project proves uneconomical.

One worry is that construction delays will add tens of billions to the final cost. That is just what happened to the Alaska oil pipeline. Another worry is that by the time the pipeline is finished, the gas would be so costly no one would want to buy it. Even with no construction cost overruns, the delivered cost of the gas in 1987 will be equivalent to oil at $120 a barrel, more than three times the present rate.

That explains why Northwest wants customers to start paying not when the gas starts to flow but when construction is supposed to be finished—perhaps years earlier. And it explains why the consortium wants Congress to include a multibillion-dollar plant needed to prepare the raw gas for transmission as part of the project.

Some amount of the financial risk might appropriately be borne by those who stand to benefit from the Alaskan gas. But the proposed waivers would go much further, effectively converting the pipeline into a "cost-plus" enterprise. It is hard to see why all the risk should fall on consumers.

Should the Alaska natural gas pipeline be built? The prize is tempting, but the price is daunting. If the people who know energy

markets best—the oil companies and the financial institutions that back them—aren't willing to take a chance, then why should the public?

[From the Christian Science Monitor, Nov. 23, 1981]

BUT WHY SHOULD CUSTOMERS PAY FOR THE PIPELINE IN ADVANCE?

Whether deregulated or not, natural gas will have to be produced in sufficient quantity to play its part in the energy equation. But gas customers should not be expected to bear the risks of expensive new ventures by having to pay for them even if never completed.

This view was supported by Congress and the Carter administration when clearance was given for John McMillian's pipeline firm to build a line bringing Alaska's plentiful natural gas to the rest of the country. Now Mr. McMillian is seeking various waivers, including one that would permit customers to be billed if a single segment is constructed even though no gas flows and the project remains unfinished. The Reagan administration is going along with this proposed inequity, and so far three congressional committees have done so, too.

Congress as a whole ought to stand firm against the reported strenuous lobbying and stay with the original terms for private financing without consumer risk-sharing. Otherwise it is not hard to imagine the burden gradually being shifted to all taxpayers with requests for federal loan guarantees and then perhaps loans themselves.

For estimates on the costliest private construction project in history have already risen from $10 billion in 1977 to $40 billion or $50 billion now. Interest rates are high. Bankers are reluctant to take the risk of financing. Thus the effort to spread it to consumers, who can hardly help wondering if the pipeline is such a good idea when apparently it does not sell itself in the financial marketplace.

Ironically, the prospect of total decontrol of gas prices has been cited as a threat to the pipeline's economics. Even at $10 billion it was supposed to deliver gas at such high cost that it would be allowed to be blended for pricing purposes with low-priced controlled gas. That low-priced pool and its cushioning effect would presumably be eliminated if gas prices shoot up as expected under decontrol.

An acceptable environmental plan was eventually arrived at for the pipeline. Its economics must continue to be carefully scrutinized.

Electricity consumers in various states are all too familiar with being asked to pay costs of work in progress—or even canceled. The pipeline should not ask customers to pay, until they can turn on the gas.

□ 1500

Mr. UDALL. Mr. Chairman, I yield 30 seconds to my friend, the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Chairman, I would like to clarify one thing. Alaska's name has been taken in vain on this project. The State of Alaska is looking into financial participation in this project. To do so, the State must be sure of the conditions under which it is being asked to invest. One condition is congressional action on this waiver package. Alaska is the only State that I know of that provides energy to the lower 48 that has been asked to participate in the construction of a pipeline. So Alaska, as I said, wants to help; but if you do not approve this waiver package, there will be no help from Alaska. It will go LNG.

Mr. UDALL. Mr. Chairman, I yield 30 seconds to the gentleman from California (Mr. ROUSSELOT).

Mr. ROUSSELOT. Mr. Chairman, in 1976 Congress, in all of its infinite wisdom, established a law which authorized the President to select a route and contractor for the Alaska Natural Gas Transportation System and to impose certain regulatory conditions. This time, however, a mechanism was also included in the law to waive the regulatory provisions should they be found by the President to impair expeditious project completion. This is what President Reagan has done, and we are here today to give our stamp of approval to his actions.

Slightly over 100 years ago Americans mocked and ridiculed Secretary of State Seward for purchasing Alaska from the Russians. That buy may have turned out to be one of the answers to America's present energy problems. Alaska has proven gas reserves that total 26 trillion cubic feet—15 percent of all American reserves. Present estimates are that possible reserves could reach over 200 million cubic feet. With a decline in natural gas availability projected for 1990, failure to make this large reserve available to Americans could result in both an increase in the cost of energy and an increase in our dependence on foreign energy supplies.

Close to one-third of this project has been completed—including the southern Canadian portion. The private sector, which is now expected to help the Government with the national economic recovery, is ready and willing to begin its share of the project. But the waivers are needed first to provide the framework which permits the sponsors to pursue private financing with a greater chance of success.

According to Southern California Gas & Electric, the cost of this project for each consumer family in my district will be under $30 a year. That is, $4 for the conditioning plant, $10 for the Alaska segment of the line, and $12 for our cost of the Canadian segment. This price rate will fluctuate somewhat between States. Mr. Chairman, this means that for a mere 10 cents a day, my constituents can invest in:

First, decreasing our dependence on foreign energy sources;

Second, provide jobs for thousands of Americans in States where the line is to be constructed; and

Third, insure an area of cooperation and good will between the United States and our neighbor to the north, Canada.

Can anyone here think of a better investment for half the price of a candy bar?

The private sector is counting on us, so is Alaska and Canada, and so are the present and future energy consumers of this Nation. House Joint Resolution 341 passed the other body on a vote of 75 to 19, and it passed our own Interior and Commerce Committees with bipartisan support by comfortable margins. I will vote in favor of the waivers—and I urge my colleagues to do likewise while keeping this thought in mind; is it not nice when so much good can be accomplished just by waiving some of Washington's regulations?

Mr. CORCORAN. Mr. Chairman, I yield 30 seconds to the gentleman from Michigan (Mr. KILDEE).

Mr. KILDEE. Mr. Chairman, I oppose this waiver.

The consumers are being asked to assume a risk which the bankers are not willing to assume.

A spokesman for the industry recently said, "The banks want both belts and suspenders for this one."

Now, the customers will be paying for this line even before they get gas, if they ever get gas. Now, this waiver format does not give this body the opportunity to attach any conditions to this. Vote no and we could come back with some conditions for it.

Mr. CORCORAN. Mr. Chairman, I yield the balance of my time to the gentleman from Iowa (Mr. HARKIN) with our apologies that we do not have any more time, which I tried to get earlier.

The CHAIRMAN. The gentleman from Iowa (Mr. HARKIN) is recognized for 30 seconds.

Mr. HARKIN. One hour of debate on an excise tax that is going to cost the American taxpayers $37 billion. One hour to debate that. Tomorrow we will take 10 hours to debate a silly foreign aid bill.

What is happening in the House of Representatives? As the gentleman from California (Mr. MILLER) said, we are getting wrapped up in all of this kind of rhetoric. It all boils down to this: You vote for this bill and you are voting or an excise tax, a $37 billion excise tax on the backs of the American consumers.

There is one difference: It is not going to the Government; it is going to the oil companies.

Do not be held hostage by Saudi Arabia, and do not be held hostage by the oil companies either.

● Mr. BROWN of Ohio. Mr. Chairman, in the report on House Joint Resolution 341, issued by the Committee on Energy and Commerce, the gentleman from North Carolina and I wrote separate views. In these remarks, we explain the process by which the text of the waiver was developed. It was a process that began on a note of "consensus building"—but ended, unfortunately, without a consensus. Having entered the negotiations with the hope of supporting the result, I have come to the conclusion that I cannot.

I will vote against the joint resolution on the waiver package. I do, how-

ever, support the construction of the Alaskan natural gas pipeline as in the national interest.

The vote on the waiver package is, not, in fact, a vote on the project. We have already had that vote—in 1977 we made that choice and I supported it. In 1980, we reaffirmed that choice by adopting a sense of the Congress resolution. I supported that resolution as well.

The waiver package is an entirely different matter, and it is not in the national interest. The waiver package has been described as necessary to insure the financing of the project. But look closer.

Whether or not the project actually receives financing is a decision which bankers will make, not the Congress through this waiver package.

But what Congress will in fact decide, if we approve the waiver package, is the following:

Customers of the participating pipelines will absolve the sponsors of all liability for all debt on any segment or segments, once completed and tested.

Do customers necessarily receive gas? No. Do customers necessarily receive a totally complete pipeline? No. Customers do, however, receive a bill, so long as two events occur—

One, enough time passes that the "date certain" established by FERC pursuant to this waiver package as the projected completion date does occur. In other words, time must continue.

Two, any one of the three segments is completed and tested by or after that "date certain".

Therefore, customers of the participating pipelines will, solely by operation of the waiver package, that is, Federal law—be placed in the position of accepting the contingent liability for both the timely construction of the project and whether or not all three segments are ever completed.

What do the oil companies get under the "new deal" of the waiver package which they did not get before the waiver package?

They get an equity participation for having agreed to make loans to the pipeline consortium. They get something for their money, as they should.

What do the participating pipelines get under the "new deal" of the waiver package which they did not get before the waiver package?

They get the absolute assurance that, whatever the cost of the system turns out to be, they can pass that cost on to their customers—without necessarily delivering gas. And the pipelines receive an important change in regulation: the Federal Energy Regulatory Commission, established to regulate pipelines, will have no legal authority to amend or alter the pass-through of the costs if the waiver package is adopted. Additionally, there is a great deal of dispute over how much, if any, real authority remains to the State regulatory commissions to regulate the costs.

What do the banks get under the "new deal" of the waiver package which they did not get before the waiver package?

They get a far more creditworthy borrower as the pipeline consortium is backed by the customers of the participating pipelines. The pipeline consortium, even with the participation of major oil companies as partners, are not creditworthy enough. There is doubt as to whether even shifting the contingent liability to the customers by operation of Federal law will make them sufficiently worthy to acquire financing.

So, we see that each party—pipelines, oil companies, and bankers—received a benefit from the waiver package. The customers received no benefit solely due to the waiver package, but rather gave benefits.

The saddest fact is that the customers of the participating pipelines have not the foggiest idea about what their Government may be about to do with their money. Moreover, there is no assurance that the waiver package will result in the project being financed.

The waiver package need not have been drafted as it was. Had it conferred a benefit in exchange for the benefit given, I was prepared to support a change in law necessary to build a project in the national interest.

Unfortunately, the entire process of constructing the waiver package has been so one sided that I cannot endorse the package which resulted.

At this point, Mr. Chairman, I include in the RECORD a letter my colleague, the gentleman from North Carolina (Mr. BROYHILL) and I sent to the President on September 23.

COMMITTEE ON ENERGY AND COMMERCE,
Washington, D.C. September 23, 1981.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: On June 17, the partnership designated to construct and operate the Alaskan Natural Gas Transportation System requested that you recommend to the Congress several waivers of the law controlling the financing and regulation of the pipeline. Later in June, the Chairman of your Cabinet Council on Natural Resources and Environment, James G. Watt, graciously asked us, along with several of our colleagues, to work together in reviewing the various proposed waivers.

We share your commitment to moving ahead with this pipeline under private financing as the surest method to bring over 26 trillion cubic feet of natural gas to market in the lower 48 states. We have long agreed that this project is in the national interest and that its delay will add to its cost.

However, we are concerned that the project will not be "privately financed" if the waiver requests proposed by the sponsors are recommended by you and accepted by the Congress. Rather than securing the financing for the project's construction based on its value as the sole transporter of the Nation's single largest natural gas find, the sponsors are requesting a waiver of existing law to allow "pre-billing" the consumers in the lower 48 States prior to the project's completion and, in fact, whether or not, the project is ever completed. This proposed waiver would transfer the risk of noncompletion of the project to the consumers. Removing the risk to the entrepreneurs and transferring it to the consumers also removes, in our judgment, the necessary element for the project to be fairly termed as having "private" financing.

As we have stated several times before, we draw a distinction between the risk of delay and the risk of noncompletion. With a project of this historic size, some delay could be understandable. We are willing to discuss a variety of ways to reduce the eventual cost of the project by arranging some method by which the costs of delay can be borne during any construction delays.

We are unalterably and unequivocally opposed, however, to any waiver requests which would operate to transfer the risk of noncompletion to the consumer.

Under the general guidance of Secretary Watt, we have met several times with our colleagues in the House and in the Senate on this matter. We only wish we could report to you that we have reached a common understanding and a common position. Despite good faith efforts, we have been unable to do so.

We write this letter to you to share our thoughts, and to reaffirm our effort to continue working to reach a consensus on this most important project.

Sincerely,

CLARENCE J. BROWN,
Ranking Minority Member, Subcommittee on Fossil and Synthetic Fuels.

JAMES T. BROYHILL,
Ranking Minority Member,
Committee on Energy and Commerce.

● Mr. UDALL. Mr. Chairman, the waiver for the Alaska gas pipeline project, before us as House Joint Resolution 341, is a troubling issue on which people I respect can disagree. I am supporting the package today, however, and I urge my colleagues to support it, because the risks we take by approving the waivers is very small compared to the risk we take in rejecting it.

There is a great deal of agreement, even between supporters and opponents of the waiver package, as to the most problematic issues the package presents. First, if the waivers are passed, American consumers will bear a certain amount of the financial risk involved in a private-sector project. It is a fact that this project was approved by the Congress and President Carter explicitly with the understanding that no consumer risk or financial backing would be required. We are disappointed that the costs for the project have skyrocketed to a point where the approved financial package is no longer viable. But I think it is time, even for longstanding consumer advocates like myself, to take a new look at some creative financing approaches for expensive private projects, as we found we have had to swallow changes in order to continue financing of family homes.

This consumer financing scheme is about as cautious and low risk as anything I think we could come up with. That was not true of the proposal first brought to us by the project's sponsors and the banks. They had requested what is known as "construction-work-

in-progress" billing. Consumers would have been paying money up front on the project during the years when risks were highest and benefits were furthest away. After months of discussion and negotiation, the sponsors agreed to reduce their request to the one before us today. Consumers are under no risk at all during the early and riskiest project years. Consumers will only begin paying on a tariff if at least one of three major segments is complete, but never before about 1987, by which time all three are highly likely to be ready to ship gas. If any one or two segments is completed and being charged to consumers, chances are very high that the rest of the pipeline will come on line soon afterward.

Because of the protections built into this billing procedure, consumers bear only a very limited kind of risk that they will have to pay only a certain increment of pipeline costs early. The chance of total project failure exists, but it is not substantial once it is over one-third constructed. Project benefits are not only substantial, but potentially tremendous.

The amount of gas to be gained through this project is in fact so enormous and vital that it can be argued that there is no reason to put consumers at risk at all. Opponents of the waiver package can say that alternative projects and alternative financing schemes do exist, and that we should pull out of even this limited public role and see what materializes in its place.

I agree that the potential represented by the possible hundreds of trillions of cubic feet of gas in the North Slope area will not be denied. If this project flops, the gas will get down here somehow, some time, in some form or another. But I submit, first, that however expensive gas from this pipeline will be, gas brought down under a different project will not be cheaper, and may be substantially more expensive. Alternatives to a pipeline have included submarine tankers under the polar icecap, and construction of liquified natural gas terminals in Alaska and on the coast of California. Such proposals strike me as quixotic and uncertain enough to make this system look pretty solid.

If all else failed, I imagine that the owners of the gas would find some way to finance a conventional pipeline. If history is our teacher, they might be back here seeking Federal loan guarantees, which I hope we will deny. More likely, the gas producers would become controlling owners of the pipeline and put up the staggering equity required, since Exxon and other major oil companies are the only imaginable sources of these amounts of credit outside of wealthy governments. Ironically, on of the objections to this waiver proposal is that it allows the gas producers to have a minority, noncontrolling equity interest in the project in return for their putting up some of the money needed. I submit that in terms of our antitrust concerns we are better off with this waiver package than without it.

I want to say a word about the importance of this proposal to our relations with Canada. We have had rocky relations with that country over time, but we always try to stick together because our economic security interests are of the greatest mutual consequence. The Canadians have cooperated with us consistently on this project, which is in their interest as well as ours, giving the full attention and support of their national and local governments to work out the necessary rights of way. In addressing some of the same kinds of financing problems that the U.S. sponsors have confronted, the Canadian National Energy Board had to approve an unusual tariff for the pipeline in order for the project to go forward. The President of the United States, then President Carter, subsequently wrote to Prime Minister Trudeau pledging that he would seek the assistance of Congress and in other ways help assure that the tariff was carried through in this country. I believe we now have a responsibility in the Congress to act consistently with that commitment, made by one President, and reinforced by his successor when President Reagan proposed these waivers.

This waiver package is not a guarantee for the project or its financiers. The burden of risk still lies with the equity investors. The bankers and other lenders will be drawn from hundreds of institutions throughout the world. This project will be competing for funds with a pipeline in Europe being backed totally by Western European governments. Its sponsors will be seeking credit from lenders with little understanding of or familiarity with this kind of project, and with no particular patriotic reason for putting their money here rather than into a lower risk, faster return enterprise. From their perspective, lack of congressional support for the limited proposal before us today would have to speak poorly for the wisdom of investment in this pipeline. If the Alaska natural gas transportation system does not go forward, let it not be because the Congress failed to pledge some limited support on the part of American consumers and some extra certainty in the regulatory process. Let the primary decision for this project remain where is belongs, in the private sector.

For these reasons I urge my colleagues to pass this waiver package. It is innovative, and it supports the project we envisioned when we enacted the Alaska Natural Gas Transportation Act. The project sponsors have come to us for assistance under a process anticipated by the act. With this package, we will fulfill our pledges to carry through the act and our commitments to Canada. And we will over the long term provide for American consumers a supply of natural gas that will many times over repay them for the participation required from them today.●

● Mr. MARKEY. Mr. Chairman, I rise today to state my opposition to House Joint Resolution 341, Alaska natural gas transportation system (ANGTS) waivers. I support the delivery of Alaskan natural gas to consumers in the lower 48 States via a trans-Canadian pipeline. I believe this must be achieved as quickly and economically as possible. However, if that goal is shared by a majority of my colleagues, as I believe it is, this package is not the answer.

The Congress has been sent a set of waivers of law which are purportedly necessary to expedite completion of the ANGTS project. In fact, the waivers are nothing more than a subsidy to the oil companies, pipeline sponsors, banks, and the State of Alaska at the expense of the American consumer. This fact is not at all surprising, since these groups have been the formulators of the waiver package. The American consumers—industries, commerical establishments, residences, and utilities—were not sitting at the bargaining table when this package of waivers was written. If the people who claim to know the energy markets best—the oil companies and the financial institutions that back them—are not willing to take a chance, then why should the public?

The waiver package simply goes too far in placing the consumer at risk for the potential delay or failure to complete the pipeline. The reasons why the waivers are inappropriate can be summarized as follows:

Under the "pre-billing" waivers, consumers could be saddled with paying tens of billions of dollars of the sponsors' debts, even if they receive no natural gas.

Under the provisions of the gas processing plant waivers, consumers will pick up the cost of the $4.5 billion plant in the pipeline tariff, although there is no guarantee that the value of natural gas liquids which are recovered will go to the benefit of consumers.

Consumers will be bearing the risk that the pipeline can market its natural gas—a true risk given the fact that the gas is estimated to cost $13.25 per Mcf in 1987 ($11.40 in 1982 dollars) and that the committee staff of the Energy and Commerce Committee found that the project will be "marginally non-economic."

The financial arrangements are so generous that if the project is successful, according to the committee staff's analysis, the sponsors will receive a 25-percent return on investment, and the producers will receive a 50-percent on their investment.

The choice of pipe size for the Alaskan and Canadian segments of ANGTS means that virtually all the steel used will come from non-American source.

The State of Alaska will receive over $20 billion from the sale of natural gas—equaling over $40,000 per Alaskan—while it has failed to commit 1 cent to the project.

There has never been a commitment to Canada to accept this package of waivers.

There are better alternatives to this set of waivers, and the Congress has a responsibility to enact them.

If the sponsors and Alaskan gas producers had evidenced more willingness to take risks—they have not—if the sponsors would promise to build the pipeline if this waiver package is approved—they have not—and if the sponsors would promise never to come back for more waivers or for financial support—they have not—the waiver package would be more acceptable. Even if the sponsors would promise to buy American steel for the U.S. portions of the pipeline—they have not—I would be more favorably disposed toward the package. However, the failure of the waiver package to address these concerns contributes to my conclusion that getting the natural gas out of Alaska for American consumers can be done faster and better by means other than adoption of this waiver package.

In conclusion, Mr. Chairman, I point out that while the American consumers look to us to spare no effort in procuring the added supplies of natural gas from Alaska as promptly as possible, they also look to us to protect their pocketbooks from unfair encroachments. Neither our Canadian friends nor the American consumer will be well served, if we merely add our seal of approval to a package that does not guarantee the capital to construct the pipeline and does not bind the sponsors to construct the pipeline. Therefore, Mr. Chairman, I urge my colleagues to join me in voting "no" on House Joint Resolution 341.

● Mr. GAYDOS. Mr. Chairman, if this package of waivers for the remaining leg of the Alcan natural gas pipeline could be amended, at this point I would be offering a buy American provision to apply the terms of the project agreement to our Canadian neighbors in the same ways and in the same spirit and for the same purpose that they have used on us.

Boy, did they use it.

On us.

But the package cannot be amended.

And the builders have pledged that American steelmakers will get a fair shake as suppliers of the required 1 million tons of steel are chosen.

By the way, Mr. Chairman, 1 million tons of steel equals 5,000 steelmaking jobs.

Nevertheless, our Canadian friends—and they are truly good neighbors in many ways—and some of our steel-dumping and tariff-invoking partners in world trade need to be forcefully told that Uncle Sucker is waking up.

Dumping—the practice of selling steel here below costs—by our European partners is at unprecedented levels and 80,000 Americans are out of work, or on short weeks, because of it.

And if it begins to appear the assuring party and the assured parties had different understandings of the assurances, as was the case with our Canadian neighbors, the steel caucus and its 150 members will be back with something concrete.

For this reason I want to spread before the House and in the public record a discussion of the phrase "generally competitive terms"—that phrase is from the Canadian agreement—and some background on world steel conditions.

This pipeline, which these waivers are meant to bring about, is not an isolated piece of business.

It is one of the weights that daily is placed on a scale that will determine whether the workers and basic industries of the United States rise or fall.

Attitudes shown by this Congress in building the remaining portion of the pipeline will affect the whole of our industry and all of our workers.

Designed to tap 26 trillion cubic feet of our gas in Alaska and transport it here, the pipeline will have the potential of reducing oil consumption by 3.5 million barrels.

It is an important energy project.

But it is as important in what it says about trade and market accessibility and attitudes as it is to energy.

Administration to administration, Congress to Congress, this Nation has followed the classic and pure economic theories of openness while our partners have peppered the writ of free trade with asterisks and footnotes.

Our economy is taking on a truly classic look as a result.

The classic ruins of Pompei come to mind first.

In both cases an outside force dumped devastation on a people who were thriving.

In the case of the ancient city, it was volcanic ash.

In our case, it is steel.

But "dump" is the key word in either case.

At 4,800 miles, the Alcan pipeline is longer than the longest river in the world, the Nile.

It is a river of steel spanning major portions of the North American Continent to deliver natural gas to the west coast and the industrial heartland.

Still to be built is the 731-mile Alaskan portion and the things necessary to make it work: 1 million tons of steel, 5,000 steelworkers jobs. Major mileage also remains in the lower 48.

Nothing that big takes place in a vacuum, particularly when world steel conditions are as bad as they are today.

Conditions are so bad that our trading partners in the European Community—most of them nationalized or heavily subsidized—and our Canadian neighbors, who have an exceptionally understanding government, are flooding our big and rich market with steel to keep their mills running even at great losses.

Mr. Chairman, dumped steel accounted for about 25 percent of apparent U.S. supply in August.

In September, it was 20 percent.

In October—the most recent month for which figures are available—it was an estimated 22 percent.

For the year to date, it is about 18 percent.

Our Canadian partners spewed forth 16 percent of this flood that is threatening to drown the hoped-for reinvestment and reindustrialization.

Their shipments here are up about 35 percent this year.

We got from them 2.6 million tons, a little over 12,500 steelworking jobs lost to them.

The deluge of European imports, which corresponds directly with economic sluggishness in Europe, means that 60,000 American steelworkers are not working; they are laid off.

Another 20,000 are on short workweeks.

Kaiser Steel has announced it will quit making steel altogether.

And most of the remaining companies are so pressed they cannot gather the capital to modernize and become more efficient.

Why am I so critical of the Canadians in all of this, Mr. Chairman?

Well, the Canadian book of free trade and comparative advantage is so spotted with asterisks and footnotes that it looks as if it was seasoned on the floor of Mr. Trudeau's chicken coop.

Now, Mr. Chairman, I will give the House an enlargement of a couple of those asterisks and draw the focus down to the Alcan pipeline, which is our business today.

Canada has for years followed a policy called "Canadization" in its dealings with the world.

Explained simply, Canadization means the government will do anything it can to strengthen and expand Canadian industry and to keep Canadians working.

Mr. Trudeau's new government is pledged to use government procurement as a major instrument to stimulate industrial development, according to a recent study of Canadian practices done for the American Iron and Steel Institute.

The study found—and I quote it:

> The Canadian Government is centrally involved in decisions for public and private projects * * * with major capital improvements in the Canadian economy such as the construction of pipelines, power generation facilities and mining projects.

That is right, Mr. Chairman, they said pipelines, and that is the footnote on which I will focus—the Alcan pipeline, which is before us today.

First, the Governments of Canada and the United States agreed this pipeline would be built on generally competitive terms. That meant that companies in each would have a shot

at business in the other—absent asterisks.

But the first asterisk behind the phrase "generally competitive" was the National Energy Board of Canada, and the required certificate for construction and operation.

The Board is specifically authorized under Canadian law to regard Canadian content as a relevant consideration in award of the certificate.

They requested such information from the three groups interested in the pipeline.

The winner promised 85 percent Canadian content.

And the National Energy Board's certificate was conditioned on delivery of 85 percent Canadian content.

Then there is the matter of pipe.

Experts tell me the Canadians make pipe by wrapping strips of steel in a spiral, much in the fashion used on cardboard to construct the core-tubes of toilet paper.

The spiral welds do not handle high pressure well, they say, so a larger diameter pipe was required to move the desired volume of gas—56-inch pipe to be precise.

And only the Canadians make this 56-inch pipe. Mark that asterisk 2.

So U.S. companies, which do make high-pressure pipe in diameters up to 48 inches, were shut out of about half the business on the Canadian half of this Nile River of steel.

Canadization handled the remainder—the parts requiring pipe of lesser diameter—more directly.

The Canadians place a 15-percent duty on our pipe, and they simply refused to waive it, and the charge made us uncompetitive.

By the way, our duty on Canadian pipe is 2.2 percent. Mark that asterisk 3.

We had assurances from the Canadians for competition.

We just did not define what kind of competition.

We through it was to be competition between producers.

Remaining to be built is the 731 miles in Alaska, and not one inch, not one valve, should be Canadian.

Neither should that 1 million tons, those 5,000 jobs, be built of steel sold below cost by nationalized and subsidized European steelmakers who want to milk our economy to avoid unemployment in theirs.

There are provisions in the waiver package that I do not like personally, but the Senate has approved it.

If American consumers—workers and manufacturers and businesses—are to be asked to make prepayment on this important energy project, certainly those billions of dollars ought not to be sent to the subsidized and state-owned counting houses of the dumping European nations.

About 40 percent of the eastern leg of this Nile-length project went to Japanese and Italian steelmakers.

Generally the Italian steel industry enjoys heavy government support.

Our producers can make pipe in the proper sizes and grades, I am assured.

Furthermore, these waivers are meant to attract private investment, which has been standoffish.

We need to get moving on the pipeline because having the energy is like having the money in the bank. And we need the orders.

Therefore, I support these waivers even though there are provisions I do not like.

However, if the waivers do not attract investment and if a Federal loan guarantee is required, be assured that a buy American provision will be offered.

We will borrow the Canadian definition of "generally competitive."

You see, if you want other nations to understand you, you have to speak their language.●

Mr. UDALL. Mr. Chairman, I move that the Committee do now rise and report the joint resolution back to the House, with the recommendation that the joint resolution do pass.

The CHAIRMAN. The question is on the motion offered by the gentleman from Arizona (Mr. UDALL).

The question was taken; and the Chairman announced that the ayes appeared to have it.

Mr. CORCORAN. Mr. Chairman, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will advise the gentleman that the motion is not in order in the Committee of the Whole.

Mr. CORCORAN. Mr. Chairman, I withdraw my motion.

Mr. OTTINGER. Mr. Chairman, I ask for the yeas and nays.

The CHAIRMAN. The gentleman asks for a recorded vote.

Mr. OTTINGER. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. The Chair will count for a quorum.

Mr. CORCORAN. Mr. Chairman, I withdraw my motion.

The CHAIRMAN. Does the gentleman from New York (Mr. OTTINGER) insist upon his point of order?

PARLIAMENTARY INQUIRY

Mr. OTTINGER. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. OTTINGER. Mr. Chairman, if we do not establish a record vote at this time, will there be an opportunity in the House to get a record vote?

The CHAIRMAN. That is a decision for the Speaker to make at the proper time.

Mr. OTTINGER. Mr. Chairman, my question is: Do we have to establish the requirement for a record vote at this time?

The CHAIRMAN. The vote on final passage of the joint resolution is to be postponed until tomorrow. At that time, the gentleman will have an opportunity to request a recorded vote.

Mr. OTTINGER. Mr. Chairman, I withdraw my demand.

The CHAIRMAN. The gentleman withdraws his demand.

The motion offered by the gentleman from Arizona (Mr. UDALL) is agreed to.

Accordingly the Committee rose; and the Speaker, having resumed the Chair, Mr. FUQUA, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the joint resolution (H.J. Res. 341) providing for a waiver of law pursuant to the Alaskan Natural Gas Transportation Act, had directed him to report the joint resolution back to the House, with the recommendation that the joint resolution do pass.

The SPEAKER. Without objection, the previous question is ordered.

There was no objection.

The SPEAKER. The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read a third time.

The SPEAKER. The question is on the passage of the joint resolution.

Mr. UDALL. Mr. Speaker, to keep a commitment I made to some of the opponents, I ask unanimous consent that further proceedings on this vote on final passage be continued until the day after tomorrow, Thursday, December. 10.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

Mr. YOUNG of Alaska. Mr. Speaker, I object.

The SPEAKER. Objection is heard.

The question is on the passage of the joint resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. CORCORAN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER. Pursuant to clause 5 of rule I, further proceedings on this question will be postponed.

The vote will be taken tomorrow, Wednesday, December 9, 1981.

Mr. OTTINGER. Mr. Speaker, I ask unanimous consent that when this is considered tomorrow, there be 10 minutes allotted for debated immediately prior to the vote, 5 minutes to be allotted to the proponents and 5 minutes allotted to the opponents.

My reason for doing this is that there was no opportunity for Members who may be voting tomorrow, who are not here, to hear the principal arguments, and I think, in fairness, at least 5 minutes on each side ought to be allotted.

Mr. JOHNSTON. Mr. Chairman, I object.

The SPEAKER. Objection is heard.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the debate on House Joint Resolution 341 just concluded, and that the Members have the right to include extraneous matter, such as the tables mentioned by the gentleman from Indiana (Mr. SHARP).

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

There was no objection.

PARLIAMENTARY INQUIRY

Mr. YOUNG of Alaska. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. YOUNG of Alaska. Mr. Speaker, referring to the vote tomorrow on the pipeline package waiver, is there any time certain on that, or will that be the first order of business?

The SPEAKER. Under the rules, it will be the first order of business.

Mr. YOUNG of Alaska. I thank the Chair.

CONFERENCE REPORT ON H.R. 3455, MILITARY CONSTRUCTION AUTHORIZATION ACT, 1982

Mr. BRINKLEY. Mr. Speaker, pursuant to the order of the House on December 7, 1981, I call up the conference report on the bill (H.R. 3455) to authorize certain construction at military installations for fiscal year 1982, and for other purposes, and ask unanimous consent that the statement of the managers be read in lieu of the report.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The Clerk read the statement.

(For conference and statement, see proceedings of the House of December 7, 1981.)

Mr. BRINKLEY (during the reading). Mr. Speaker, I ask unanimous consent that the statement be considered as read.

The SPEAKER. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The SPEAKER. The gentleman from Georgia (Mr. BRINKLEY) will be recognized for 30 minutes, and the gentleman from Virginia (Mr. TRIBLE) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Georgia (Mr. BRINKLEY).

Mr. BRINKLEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on June 4, the House passed H.R. 3455, the Military Construction Authorization Act for fiscal year 1982. As passed, the bill provided $6,987,497,000 for military construction and military family housing.

On November 5, 1981, the Senate considered the legislation, amended it by striking all language after the enacting clause and wrote a new bill. As passed by the Senate, H.R. 3455 provided new construction authority in the total amount of $6,489,403,000.

As a result of the conference on Friday, November 20, between the House and Senate on the differences in H.R. 3455, the conferees agreed to an adjusted total of $6,546,810,000.

This compromise is identical to the total amount requested by the Department of Defense in its adjusted request of October 9. It is $440,687,000 below the House figure and $57,407,000 above the Senate figure.

In all, there were over 200 differences between the House bill and the Senate amendment. The conference committee was able to resolve all of them. They involved adjustments to particular construction projects, respective House and Senate project and policy initiatives, and modification of certain authorities under which the military construction and family housing programs operate. I will not go into detail because House Report 97-362, the conference report on H.R. 3455, which appeared in the CONGRESSIONAL RECORD on Monday, December 7, 1981, explains the actions of the conference.

In reaching agreement, the conferees realize that a number of worthwhile projects have not been authorized for one reason or another. As the conference report notes, these projects are viewed as deserving top priority in the fiscal year 1983 military construction budget request.

As the Members know, however, the administration lowered its request for military construction. This action was taken after the House passed its bill. In conference, therefore, it was not possible to authorize all of the projects contained in both bills and remain within the administration's amended request of October 9. Faced with these budgetary constraints, the conferees sought to authorize as many high priority projects as possible that contribute to military readiness and modernization and to the well-being of U.S. military personnel and their families, both at home and abroad.

Turning to the action of the conference committee, I want to outline briefly the total authorization provided for various major construction items for the Department of Defense and military services:

[In millions]

Operational and training facilities	$1,153.1
Maintenance and production	505.0
Health care, housing, and community facilities	660.0
Energy conservation, pollution abatement, and occupational safety	250.6
NATO related construction, including infrastructure	885.0
Domestic family housing construction	110.1
Rapid Deployment Force construction	497.2
Guard and Reserve forces	230.0

With regard to the general provisions, there are several items in the conference report that I want to call to the attention of the Members:

First, community impact assistance. The conferees agreed to extend, modify and streamline the existing assistance program for areas affected by the east coast Trident submarine base construction program;

Second, Buy American. The conferees agreed to extend the application of the Buy American concept to the construction of facilities in support of the Rapid Deployment Force, including Diego Garcia. Recognizing that some latitude is required, the conferees agreed to permit contracting authorities certain flexibility in the construction contracts. However, the purpose of the provision is to enable US. firms to do as much of the work as possible since the United States is shouldering the total cost of the RDF effort; and

Third, standardization of military timber harvesting receipts. The conferees agreed to the provision that entitles States and local governments to receive 25 percent of net timber harvesting receipts from military installations for public school and public road purposes. This action is consistent with existing law as it applies to national forest lands. The provision is identical to the bill passed by the House on November 4 under suspension of the rules.

Mr. Speaker, this briefly summarizes the major actions of the conference. Time does not permit greater detailing but the conferees believe that the bill agreed to in conference is one that should meet the construction needs of the Military Establishment during fiscal year 1982. Therefore, Mr. Speaker, I urge adoption of the conference report on H.R. 3455.

□ 1515

Mr. TRIBLE. Mr. Speaker, I yield myself such time as I may consume.

(Mr. TRIBLE asked and was given permission to revise and extend his remarks.)

Mr. TRIBLE. Mr. Speaker, I wish to join my colleague from Georgia in support of the conference report on H.R. 3455, the Military Construction Authorization Act, 1982.

From a budgetary point of view, it is important to note that the conference settled on a total authorization figure which is exactly the amount requested by the administration. Within this total figure, adjustments in the individual services' construction requests were made by both the House and Senate. Wherever possible, the conference accepted those changes, recognizing they are necessary to improve the readiness and morale of our military forces. In short, it was a good give-and-take on the part of both Houses for

House of Representatives

WEDNESDAY, DECEMBER 9, 1981

The House met at 10 a.m.

The Reverend Dr. Ralph A. Bohlmann, president, the Lutheran Church, Missouri Synod, St. Louis, Mo., offered the following prayer:

Almighty and everlasting God, *"whose eyes keep watch on the nations"* (Psalm 67: 7), help us to heed your promise: *"Blessed is the nation whose God is the Lord."* (Psalm 33: 12).

We thank You for all the benefits You have showered upon this Nation and its leaders. With confidence in Your continued grace we are bold to implore Your continual blessing.

In these days of turmoil and unrest, in a world too often plagued by angry greed and crippling fear, we implore You to guide and sustain us and the leaders of the nations that righteousness, peace, and justice may flourish in our land and everywhere prevail; through Your Son, Jesus Christ, our Lord. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. CORCORAN. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. CORCORAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 348, nays 16, answered "present" 1, not voting 68, as follows:

[Roll No. 338]

YEAS—348

Addabbo	Archer	Bedell
Akaka	Ashbrook	Beilenson
Albosta	Aspin	Benedict
Alexander	Badham	Benjamin
Anderson	Bafalis	Bennett
Andrews	Bailey (MO)	Bereuter
Annunzio	Bailey (PA)	Bethune
Anthony	Barnard	Bevill
Biaggi	Frank	Marks
Bingham	Frenzel	Marlenee
Blanchard	Frost	Marriott
Bliley	Fuqua	Martin (IL)
Boland	Gaydos	Martin (NY)
Boner	Gibbons	Matsui
Bonior	Gilman	Mattox
Bonker	Gingrich	Mazzoli
Bouquard	Glickman	McClory
Bowen	Gonzalez	McCollum
Breaux	Goodling	McCurdy
Brinkley	Gore	McDonald
Brooks	Gradison	McEwen
Brown (CA)	Gramm	McGrath
Brown (CO)	Gray	McHugh
Brown (OH)	Gregg	McKinney
Broyhill	Grisham	Mica
Burton, John	Guarini	Mikulski
Burton, Phillip	Gunderson	Mineta
Campbell	Hagedorn	Minish
Carman	Hall, Ralph	Mitchell (NY)
Carney	Hamilton	Moakley
Chappie	Hammerschmidt	Moffett
Clausen	Hance	Molinari
Clinger	Hansen (ID)	Mollohan
Coats	Hansen (UT)	Montgomery
Coleman	Hartnett	Moore
Collins (IL)	Hatcher	Moorhead
Collins (TX)	Hawkins	Morrison
Conable	Heckler	Mottl
Conyers	Hefner	Murphy
Corcoran	Heftel	Murtha
Courter	Hendon	Myers
Coyne, James	Hertel	Napier
Coyne, William	Hightower	Natcher
Craig	Hiler	Nelligan
Crane, Daniel	Hillis	Nelson
Crockett	Holland	Nowak
D'Amours	Hollenbeck	O'Brien
Daniel, Dan	Holt	Oakar
Daniel, R. W.	Hopkins	Oberstar
Danielson	Horton	Obey
Dannemeyer	Hoyer	Oxley
Daschle	Hubbard	Panetta
Daub	Huckaby	Parris
Davis	Hughes	Pashayan
de la Garza	Hunter	Patman
Deckard	Hyde	Patterson
DeNardis	Ireland	Paul
Derwinski	Jeffords	Pease
Dicks	Jeffries	Perkins
Dingell	Jenkins	Petri
Dixon	Jones (OK)	Peyser
Dorgan	Jones (TN)	Pickle
Dornan	Kastenmeier	Porter
Dowdy	Kazen	Price
Downey	Kildee	Pritchard
Duncan	Kindness	Pursell
Dunn	Kogovsek	Rahall
Dwyer	Kramer	Railsback
Dyson	LaFalce	Rangel
Early	Lagomarsino	Ratchford
Eckart	Lantos	Regula
Edwards (CA)	Latta	Reuss
Edwards (OK)	Leach	Rhodes
Emery	Leath	Richmond
English	LeBoutillier	Ritter
Erdahl	Lehman	Roberts (KS)
Erlenborn	Leland	Roberts (SD)
Ertel	Lent	Robinson
Evans (GA)	Levitas	Rodino
Evans (IN)	Lewis	Roe
Fazio	Livingston	Roemer
Fenwick	Loeffler	Rogers
Ferraro	Long (LA)	Rose
Fiedler	Long (MD)	Rosenthal
Fields	Lowery (CA)	Rostenkowski
Findley	Lowry (WA)	Roth
Fish	Lujan	Roukema
Flippo	Luken	Roybal
Foglietta	Lundine	Rudd
Foley	Lungren	Russo
Ford (TN)	Markey	Savage
Sawyer	Snyder	Waxman
Scheuer	Solarz	Weaver
Schneider	Solomon	Weber (MN)
Schulze	Spence	Weber (OH)
Schumer	Stangeland	Weiss
Seiberling	Stanton	White
Sensenbrenner	Staton	Whitehurst
Shamansky	Stenholm	Whitley
Shannon	Stratton	Whittaker
Sharp	Studds	Williams (OH)
Shaw	Stump	Wilson
Shelby	Swift	Winn
Shumway	Synar	Wirth
Shuster	Tauke	Wolf
Siljander	Tauzin	Wolpe
Simon	Taylor	Wortley
Skeen	Thomas	Wyden
Skelton	Traxler	Wylie
Smith (AL)	Trible	Yates
Smith (IA)	Udall	Yatron
Smith (NE)	Vento	Young (AK)
Smith (NJ)	Volkmer	Young (FL)
Smith (OR)	Walgren	Young (MO)
Smith (PA)	Washington	Zablocki
Snowe	Watkins	Zeferetti

NAYS—16

Barnes	Forsythe	Rousselot
Coughlin	Gejdenson	Sabo
Dickinson	Harkin	Schroeder
Dreier	Jacobs	Walker
Emerson	Johnston	
Evans (IA)	Miller (OH)	

ANSWERED "PRESENT"—1

Ottinger

NOT VOTING—68

Applegate	Edgar	Madigan
Atkinson	Edwards (AL)	Martin (NC)
AuCoin	Evans (DE)	Mavroules
Beard	Fary	McCloskey
Boggs	Fascell	McDade
Bolling	Fithian	Michel
Brodhead	Florio	Miller (CA)
Broomfield	Ford (MI)	Mitchell (MD)
Burgener	Fountain	Nolan
Butler	Fowler	Nichols
Byron	Garcia	Pepper
Chappell	Gephardt	Quillen
Cheney	Ginn	Rinaldo
Chisholm	Goldwater	Santini
Clay	Green	St Germain
Coelho	Hall (OH)	Stark
Conte	Hall, Sam	Stokes
Crane, Philip	Howard	Vander Jagt
Dellums	Hutto	Wampler
Derrick	Jones (NC)	Whitten
Donnelly	Kemp	Williams (MT)
Dougherty	Lee	Wright
Dymally	Lott	

□ 1015

Mr. SABO changed his vote from "yea" to "nay."

So the Journal was approved.

The result of the vote was announced as above recorded.

A MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

(OVER)

the amendment of the Senate to the bill (H.R. 3455) entitled "An act to authorize certain construction at military installations for fiscal year 1982, and for other purposes."

The message also announced that the Senate insists upon its amendment to the bill (H.R. 3567) entitled "An act to authorize appropriations for the fiscal years 1982 and 1983 to carry out the purposes of the Export Administration Act of 1979, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. HEINZ, Mr. GARN, Mr. ARMSTRONG, Mr. PROXMIRE, and Mr. DIXON, to be the conferees on the part of the Senate.

DR. RALPH BOHLMANN

(Mr. YOUNG of Missouri asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. YOUNG of Missouri. Mr. Speaker, I would like to compliment the gentleman from California (Mr. DANNEMEYER), who is the official host this morning for our chaplain.

Dr. Ralph Bohlmann was born in Palisade, Nebr., on February 20, 1932, the son of Reverend and Mrs. Arthur E. Bohlmann. He graduated in 1956 from Concordia Seminary, St. Louis.

Dr. Bohlmann was graduated from St. Johns College in Winfield, Kans., in 1951. He was a Fulbright scholar at Heidelberg University in Germany. He earned a doctor of philosophy degree from Yale University.

His first pastorate was at Mount Olive Lutheran Church in Des Moines, Iowa, from 1958 to 1960.

In 1960 he became professor of systematic theology at St. Louis Seminary. In 1975 he was chosen president of the seminary.

In 1981, he was elected president of the Lutheran Church Missouri Synod. He is married to Patricia McCleary. They have two children, Paul Alan, 21, and Lynn Marie, 18.

So, it is my pleasure to introduce today, to the House, Dr. Ralph Bohlmann from St. Louis, Mo.

ALASKA NATURAL GAS PIPELINE

(Mr. MOFFETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOFFETT. Mr. Speaker, I think many of us have had discussions about this pipeline that we are going to be voting on shortly, and I have talked to many of the people involved with the pipeline and I basically lean in the direction of saying that the pipeline is a good idea and that the role for Alaskan natural gas is a good one, but, we are having one vote on one package only here with no opportunity for change, no opportunity for amendments. If we have any confidence in our own ability as a creative group of people, if we think we can create and fashion and mold, it seems to me we should try and craft a solution later on, hopefully soon, which would insure construction of the pipeline in a manner which would provide consumer equity.

The fact is that instead of giving consumers protection commensurate with those offered the companies, this package actually reduces consumer participation in the project.

For that reason I think it should be rejected.

As one who participated in and supported the Alaska Natural Gas Transportation Act of 1976, I am fully aware of the important contribution that Alaskan natural gas will play in our energy future. Consumers of this Nation will certainly benefit from a secure source of supply, and we need to look at all energy technologies to insure the availability of that supply. Indeed, one of the concerns of many is that the waiver package we are debating does not guarantee that the pipeline will be built.

Nor is my opposition to the waiver package based on a belief that there should be no Government role in energy, that private industry alone can handle the problem. I have long held the belief that private efforts need to be augmented through Government programs and support in order to solve our energy problems in an expeditious and fair fashion. It is perhaps ironic that those who espoused free-market solutions during debates on funding for conservation and renewable energy programs are now supporting Government intrusion in this instance. I can only hope that their recent recognition of flaws in total reliance on the market will carry over into next year's budget debates.

My concerns over the waiver package lie with the treatment afforded consumers. In their testimony, the producers involved in the project—Exxon, Sohio, and Arco—noted that they would not invest in the pipeline without receiving equity ownership. This allows then not only to share in the profits of the pipeline but to have a right to information and a say in the management practices of the project. As a further sweetener to the companies' involvement, the gas-conditioning plant is to be included in the rate base, a very rare occurrence which could increase the cost of the project to consumers by 20 percent.

I understand the companies' desires in this regard. If I were going to invest capital in a project I would want similar treatment. But this waiver package goes further, raising the cost of the project to consumers and committing their funds to guarantee the project. Instead of giving consumers' protections commensurate with those afforded the companies, however, this package actually reduces consumers' participation in the project. The profits from the sale of natural gas liquids from the conditioning plant, now paid for by consumers, is not distributed to the ratepayers. The evidentiary hearing requirement is eliminated, although the most important debate is yet to occur at FERC: whether the project is economically and technically feasible and whether the gas will be marketable. States and localities could be limited in their ability to question rates and insure that consumers pay the lowest rates available. After the final certificate is signed, FERC will be able to raise prices to consumers but not lower them, even should circumstances warrant it.

There is a legitimate question whether we in Congress should be committing the limited financial resources of our constituents to guarantee a project which may not be able to fullfill its purpose of delivering marketable natural gas. But if we do make that decision, I think we have the responsibility to insure that consumers will not bear the risk without greater assurances of sharing the rewards.

DEFICITS AND INFLATION—THE ADMINISTRATION HAS RENOUNCED ITS DOCTRINE

(Mr. LEVITAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVITAS. Mr. Speaker, this morning I read in the newspaper the following statement, and I quote:

> In general, concern about the deficit has been misplaced. There is no direct or indirect connection between deficits and inflation.

Now, Mr. Speaker, that is not John Maynard Keynes speaking, that is William A. Niskanen, a member of President Reagan's Council of Economic Advisers.

I cannot believe my eyes and ears. That is like Saint Paul getting waylaid on the way to Damascus. You are telling American children that Santa Claus does not exist 2 weeks before Christmas. I cannot believe this denial of an almost religious-economic doctrine that we have convinced a majority of the American people to believe in.

Hundreds of my constituents have written me over the years expressing their acceptance of this doctrine. They say, "Inflation is caused by Federal deficits. Balance the budget!" Now they are hearing spokesmen for the party that has successfully sold this doctrine saying it is not true.

What will these spokesmen say to my constituents who have been misled by them? What will these citizen believers now say about budget deficits and inflation.

It seems to me that this would make Dave Stockman's Trojan horse very small. This apostacy is the fifth horse of the Apocalypse. Deficits and inflation have no connection, say President Reagan's top economic advisers. I cannot believe it.

I suggest that they either renounce it or resign.

TWENTY-FOUR MINERS DIE AS SAFETY CUTS PEND

(Mr. GAYDOS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GAYDOS. Mr. Speaker, the appropriations we are now laboring to make acceptable for the administration include cuts for the Mine Safety and Health Administration, and within the last week 24 coal miners have been killed and 2 have been seriously injured.

Twenty-one died within a 2-day span.

These cuts—and the possibility for further cuts—for the Mine Safety and Health Administration (MSHA) are bad moves in the cause of miner safety and effective Government.

MSHA was fully funded in 1980, and worker deaths fell to a 10-year low that year.

Coal mining deaths in 1980 were very near a 10-year low.

MSHA has reduced coal mining deaths by 48 percent since it was established.

But three miners died in a Burgoo, W. Va., rockfall last week and two were seriously injured.

Monday, eight men were killed in an explosion in a Topmost, Ky., mine.

And Tuesday, 13 died in a mine explosion at Palmer, Tenn.

The cuts made by Congress may very well have hampered an agency that has shown itself to be highly effective in the cause of worker safety.

We should have been discussing ways to make MSHA more effective, and making judgments based on effectiveness, rather than responding to untried economic theory.

WHAT HAS BECOME OF GOP ORTHODOXY?

(Mr. PEASE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEASE. Mr. Speaker, our colleague from New York (Mr. KEMP) once considered a high priest of fiscal responsibility, shocked the civilized world early this year when he revealed that Republicans no longer worship at the shrine of a balanced budget.

Now it appears that the Reagan administration plans to knock down the shrine altogether so there will no longer be a balanced budget shrine not to worship at.

The Washington Post reports today the remarks of William A. Niskanen, a member of President Reagan's Council of Economic Advisers, before the conservative American Enterprise Institute.

Mr. Niskanen reportedly told the AEI that "there is no direct or indirect connection between deficits and inflation."

He said the American people should be prepared to accept $60-plus billion deficits "for the current policy horizon"—which I gather means the forseeable future.

What has become of GOP orthodoxy?

ALASKA GAS PIPELINE

(Mr. OTTINGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OTTINGER. Mr. Speaker, I would like to express my concern about the procedure under which we are to consider today the largest private project ever considered and the transfer of the burden of the financing of that project from the industry to consumers.

This matter was scheduled so that the debate would take place yesterday when there were no votes and many Members were absent, the vote to take place the first thing today.

When I asked unanimous consent that there be merely 5 minutes on each side so that we could debate this issue before Members voted today, the gentleman from North Carolina (Mr. JOHNSTON), objected.

I will renew that request today because of the magnitude of this project and the fact that it is an outrage. The energy crisis is being used once more as an excuse for trying to enrich the oil company profits. In fact, not only is this whole project to be included in a package to be financed by consumers, but a $4½ billion gas processing plant, which in the ordinary course of things the oil industry ought to finance and would finance, is thrown into the package so that the consumers even have to finance that.

I am entirely for the gas pipeline. We can devise new waivers legislatively that would do justice, but this package of waivers simply smells and ought to be rejected.

□ 1030

ALASKA GAS PIPELINE IS IN CONSUMER INTEREST

(Mr. GLICKMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GLICKMAN. Mr. Speaker, I rise in support of passing the waiver on the gas pipeline, but I think what we have to do is look at this issue in terms of our overall energy needs. The fact is even though we have a temporary oil glut right now, we are still vulnerable to energy blackmail.

I thought my colleagues might be interested in what Sheik Yamani said at the University of Saudi Arabia just recently, and I quote him:

As a result of the Saudi production and pricing policy many major companies have been reluctant to implement their energy substitution projects. This is in the interest of the Arab cause in that it restores the importance of oil.

Nobody in this Congress said that. Sheik Yamani said that. He was very explicit, and did not try to hide his feelings about the United States developing nonpetroleum resources.

I guess what I kind of tend to believe is developing a North American energy alternative is in the national interest and in the consumers interest.

Let us face it, except for petroleum, there is only one thing that we have got that will provide us an energy cushion for the next 25 and 30 years, that is natural gas. It will not last forever, but it will provide a cushion. It is good not only in terms of a substitute for a variety of conventional uses of petroleum, but perhaps most importantly, it is good for the transportation sector, and particularly automobiles.

Now, the consumer issue has been raised in opposition to the waiver. In my judgment, that is a strawman issue. Without the waiver, the pipeline will not be built, gas will not be available, and jobs will be lost.

I urge my colleagues not to be lulled into believing that the energy crisis is over because we have a current, but temporary glut of OPEC supplied petroleum.

DO DEFICITS REALLY HAVE ANY IMPACT ON INFLATION?

(Mr. VOLKMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks).

Mr. VOLKMER. Mr. Speaker, I, too, wish to join with the gentleman from Georgia and the gentleman from Ohio in being astounded this morning at the article in the Washington Post whereby William A. Niskanen is quoted as saying that deficits do not really have any impact on inflation and they are not adverse to our economic condition.

As one who has joined with the gentleman from California and others for a period of years in trying to get a constitutional amendment to balance the budget because we do believe that those deficits have an adverse effect upon our economy, I am quite astounded at this statement. I am a Democrat and am astounded; I can see how one from the other party who perhaps for 40 years has preached with religious zeal that deficits are adverse to our economic conditions and are inflationary and then to hear this statement of heresy is unbelievable. As the gentleman from Georgia says, it is like learning for the first time that there is no Santa Claus.

I, too, join with the gentleman from Georgia requesting that President Reagan publicly refute this statement and fire the gentleman and get new economic advisers.

FARM EQUITY

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and to include extraneous material.)

Mr. ALEXANDER. Mr. Speaker, this week the executive board of the Farm Credit Administration is meeting in Washington. On the agenda is the consideration of the subject of farm equity, which is judged to be at its lowest level since 1934.

There are also reports that the farm credit community anticipates the highest level of bankruptcies in recent history, the result of back-to-back economic disaster years caused by a record heat wave drought in 1980 and the depression prices in 1981.

Yesterday, the House and Senate conferees on the farm bill reached agreement after weeks of protracted debate. The result they have produced is disappointing to all interested in the future of American agriculture.

But this disappointment is overshadowed by the disaster looming in agriculture due to the collapse of agricultural prices. As anyone who follows the grain markets can attest, farm commodity prices are in a free-fall situation. Soybean prices, for instance, have declined 40 cents more per bushel just this week and the same relative declines are evident in wheat, corn, oats, rice, and all the other products produced by U.S. farmers.

At the same time, our farmers are facing the deadline for paying back billions of dollars in production loans and loans borrowed to cover losses from past years produced by drought and other natural disasters. In my State of Arkansas alone, the Farmer's Home Administration has loaned out $910 million to farmers and those loans begin to come due January 1982.

The Small Business Administration has also loaned hundreds of millions of dollars in farm loans in my State and those are coming due as well.

The other major farm lenders, particularly the Production Credit Associations operated through the Farm Credit Administration, have also loaned many millions of dollars to farmers who may not be able to repay those loans due to low farm prices.

We already know that the Reagan administration is pursuing an aggressive policy of farmer debt collection that, considering this year's depressed markets and last year's weather-caused short harvests, is pushing our farmers ever nearer the brink of bankruptcy.

Our farmers have been forced into an economic corner. Many of them have no where to go from here but into liquidation or bankruptcy if our Government fails to show more reason and understanding in dealing with debt collection.

I have written to Secretary of Agriculture John Block and to Michael Cardenas, Administrator of the Small Business Administration, requesting that these two Reagan administration officials use their existing legal power to instruct their loan program personnel to follow a policy of deferring farm loan principal and interest collection for at least 6 months to a year. Such a policy would give our farmers a reasonable opportunity for marketing their crops profitably and improving their chances of repaying their outstanding indebtedness while remaining in farming. This is in the best interests of our farmers, all our taxpayers, and all our consumers.

I have written a similar letter to Donald E. Wilkinson, Governor of the Farm Credit Administration, asking that the intermediate credit banks also consider adopting a policy of deferring farm debt collection for the same kind of period. It is my belief that our farmers and the Nation as a whole will benefit greatly from such a common policy on farm loan collection in this time of farm crop price depression.

It is in the highest national interest that our farmers have a reasonable opportunity to recover economically and remain in the business of agriculture. It is against our highest national interest for thousands of small and medium-sized farmer operations to be forced into liquidation or bankruptcy and their lands to be absorbed into ever larger farming operations, purchased by United States or foreign corporations to which farm production is not a principal interest or acquired by the Federal Government.

DECEMBER 4, 1981

Hon. JOHN R. BLOCK,
Secretary of Agriculture,
Washington, D.C.

DEAR MR. SECRETARY: As you are aware, our Arkansas farmers have been pushed into an economic corner by back-to-back economic disaster years. In 1980 a drought-heat wave combination blasted our farmers' prospects for a good harvest and prosperity. This year despite abundant harvests their prospects for economic recovery are severely reduced as a result of high interest stimulated production costs increases and farmgate price depression. Our farmers have no place to go from this economic corner in which they are trapped if our government fails to demonstrate reason and understanding.

It is in the highest national interest that our farmers have a reasonable opportunity to recover economically and remain in the business of agriculture. It is against our highest national interest for thousands of small and medium-sized farmer operations to be forced into liquidation or bankruptcy and their lands to be absorbed into ever larger farming operations, purchased by U.S. or foreign corporations to which farm production is not a principal interest or acquired by the federal government. Yet, at this time it appears that the Administration's deliberate course of aggressive farm loan collection without adequate consideration for the economic impact of last year's drought-heat wave and this year's depressed markets is forcing farmers ever nearer the brink of bankruptcy.

I, therefore, urge you to exercise your legal authority to instruct state and county Farmers Home Administration offices to follow a policy of deferring collections on farm loan interest and principal for a period of at least six months to a year in order to give our farmers a reasonable opportunity to achieve a better position for marketing their crops profitably and improving their chances of repaying their outstanding indebtedness while remaining in farming. This is in the best interest of our farmers, all taxpayers, all consumers and USDA.

This recommendation, as you know, is consistent with the position taken by the House/Senate conferees on H.R. 4119, the Agriculture, Rural Development and Related Agencies Appropriations, Fiscal Year 1982, as stated on page 17 of House Report No. 97-313.

With kindest regards, I am

Sincerely,

BILL ALEXANDER,
Member of Congress.

DECEMBER 4, 1981.

Mr. MICHAEL CARDENAS,
Administrator, Small Business Administration, Washington, D.C.

DEAR MR. CARDENAS: As you are aware, our Arkansas farmers have been pushed into an economic corner by back-to-back economic disaster years. In 1980 a drought-heat wave combination blasted our farmers' prospects for a good harvest and prosperity. This year despite a good harvest their prospects for economic recovery are severely reduced as a result of high interest rate stimulated production cost increases and farmgate price depression. Our farmers have no place to go from this economic corner in which they are trapped if our government fails to demonstrate reason and understanding.

It is in the highest national interest that our farmers have a reasonable opportunity to recover economically and remain in the business of agriculture. It is against our highest national interest for thousands of small and medium-sized farmer operations to be forced into liquidation or bankruptcy and their land to be absorbed into ever larger farming operations, purchased by U.S. and foreign corporations to which farm production is not a principal interest or acquired by the federal government. Yet, at this time, it appears that the Administration's deliberate course of aggressive farm loan collection without adequate consideration for the economic impact of last year's drought-heat wave and this year's depressed markets is forcing farmers ever nearer the brink of bankruptcy. This is particularly true in the South and Southwest where SBA has placed special emphasis on farm debt collection.

I therefore, urge you to exercise your legal authority to instruct state SBA offices to follow a policy of deferring collections on farm loan interest and principal for a period of at least six months to a year in order to give our farmers a reasonable opportunity to achieve a better position for marketing their crops profitably and improving their chances of repaying their outstanding indebtedness while remaining in farming. This is in the best interests of our farmers, all taxpayers, all consumers, and SBA.

With kindest regards, I am

Sincerely,

BILL ALEXANDER,
Member of Congress.

DECEMBER 4, 1981.

Mr. DONALD WILKINSON,
Governor, Farm Credit Administration, Washington, D.C.

DEAR GOVERNOR WILKINSON: As you are aware, our Arkansas Farmers have been pushed into an economic corner by back-to-back economic disaster years. In 1980 a drought-heat wave combination blasted our farmers' prospects for a good harvest and prosperity. This year despite good harvests

their prospects for economic recovery are severely reduced as a result of high interest rate stimulated production cost increases and farmgate price depression. Our farmers have no place to go from this economic corner in which they are trapped if our government and private sector agricultural lending institutions fail to demonstrate reason and understanding.

It is in the highest national interest that our farmers have a reasonable opportunity to recover economically and remain in the business of agriculture. It is against our highest national interest for thousands of small- and medium-sized farmer operations to be forced into liquidation or bankruptcy and their lands to be absorbed into ever larger farming operations, purchased by U.S. and foreign corporations to which farm production is not a principal interest or acquired by the federal government.

I have written to Secretary of Agriculture John Block and to Michael Cardenas, Administrator of the Small Business Administration, urging them to use their legal authority to bring about deferral for at least six months to a year of collections on farm loan interest and principal in order to give our farmers a reasonable opportunity to achieve a better position for marketing their crops profitably and improving their chances of repaying their outstanding indebtedness while remaining in farming. I am enclosing copies of these letters for your information.

I realize that the Farm Credit System and the Intermediate Credit Banks are private entities. But, since your primary function is providing agricultural credit and since I am convinced that it is in the best interests of our farmers, all taxpayer, all consumers and the Farm Credit System to have a common policy of moratorium on collection of farm loan principal and interest, I urge that you use your influence as Governor to bring about the implementation of such a policy within the Farm Credit System.

With kindest regards, I am

Sincerely,

BILL ALEXANDER,
Member of Congress.

Enclosures.

CONGRESSMAN VENTO INTRODUCES RESOLUTION EXPRESSING HOUSE SUPPORT FOR FULL FUNDING OF RAILROAD RETIREMENT DUAL BENEFITS ACCOUNT

(Mr. VENTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VENTO. Mr. Speaker, I am today introducing a resolution expressing House support for full funding of the railroad retirement dual benefits account.

I am joined in sponsoring the resolution by the gentleman from New Jersey (Mr. FLORIO), the chairman of the Subcommittee on Commerce, Transportation and Tourism; the gentleman from Florida (Mr. PEPPER), the chairman of the House Select Committee on Aging, and 12 other distinguished Members, on a bipartisan basis.

My resolution will put the House on record in opposition to the cuts in the retirement benefits experienced by 400,000 railroad retirees starting October 1 this year.

It expresses House support for an appropriation adequate to keep the commitments that we have made to railroad retirees. As most of us are aware, the stopgap spending resolutions have fallen $90 million short of meeting that need. It is the first time in the last 7 years that we have not met that particular responsibility.

While sometimes this benefit has been called a windfall, it simply is not the case. The dual benefit is the result of legislation passed by Congress to coordinate pension benefits paid to individuals under the independent railroad retirement and social security programs. The 1974 Railroad Retirement Act coordinated the two systems and began the process of phasing out dual benefits. However, Congress protected those already eligible for both benefit payments by grandfathering them in and providing that the cost of the dual benefits be paid out of general revenues.

I believe the situation with the railroad retirement dual benefit is similar to that of the social security minimum benefit. In both cases, retirees have been stripped of legitimately earned benefits which they have every right to receive. The House has twice expressed its strong opposition to the repeal of the minimum benefit. I think Congress should take the same action to bar stripping of legitimately earned dual benefits from railroad retirees.

I hope the House will go on record in support of this resolution and keep our commitment to the railroad retirees.

ANNUAL SURVEY OF WORLD MILITARY AND SOCIAL EXPENDITURES

(Mr. SEIBERLING asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SEIBERLING. Mr. Speaker, there is being distributed to each of the Members' offices a copy of the "Annual Survey of World Military and Social Expenditures 1981," prepared by Ruth Sivard, which is a compilation of what each country in the world is spending on military, on health, on nutrition, on education and similar programs. It is a real eye opener. I call your attention to it. It is particularly pertinent now that we are about to take up the foreign aid bill. As Ms. Sivard points out, world military expenditures, which are now running at the annual rate of $550 billion, exceed the annual income of the 2 billion people who live in the world's poorest countries. This compares to only $25 billion in foreign economic aid from the developed countries to the less developed countries.

In addition, it brings out the way that we are crippling our productivity and our economic strength through a tremendous excess of military expenditures. There is a little chart on page 19 of the survey that shows that the country which of all the industrial Western countries has the lowest military expenditures as a percent of GNP, has the highest rate of productivity growth; that is Japan. The country that has the lowest productivity growth and has the highest military expenditures as a percent of GNP is the United States.

Very illuminating. I urge each of my colleagues to make use of his or her copy of the survey in evaluating our Nation's budget priorities and policies and, in particular, whether they are helping or improving our ability to bring about a more humane and stable world.

WAIVERS FOR ALASKA GAS PIPELINE

(Mr. BEDELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEDELL. Mr. Speaker, we will soon be voting in regard to the waiver proposal on the natural gas pipeline.

I am very concerned about our energy problems. I think we need to be concerned about how we solve those problems; but at least here in America we have tended to believe that we should depend upon the free market and we should consider the risks and therefore we should make those decisions accordingly.

I hope that we realize that if we do pass this legislation, we are saying that that risk will all be borne by the American consumer. It is being offered because of the fact that the pipelines could not get adequate financing from regular financial institutions and what we are doing is saying on this particular opportunity to help with our energy problem, there will be no risk involved for those who are going to try to use this pipeline.

I believe that we need to move forward in regard to the renewable energy resources that are available, the opportunity we have to develop those resources, and if we are going to do so then we certainly have to make these determinations in a fair manner, as we have always made other determinations in our economy.

THE ALASKA PIPELINE EXCISE TAX

(Mr. HARKIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HARKIN. Mr. Speaker and fellow Members, today we will be voting on what I call and what your constituents are going to be calling the Alaska pipeline excise tax. Make no mistake about it, paint it in any kind of language you want, it is an excise tax on the consumers of America. The only difference is that it is not going to the Government. It is going to the

oil companies, but the Government is going to require that you pay it.

Now, Exxon says that they cannot get financing unless we have the waivers. Why not? Because they are only willing to offer what they call project financing. That means that none of the assets of Exxon except for what they put into the project are risked; so they risk nothing. They make the profit.

Alaska is going to make $20 billion. They do not put in a dime.

This is nothing more than a twisted excise tax that this Congress is levying on the people of this country amounting to over $30 billion.

It is a tax and no kind of manipulation of the English language is going to change that one essential fact. It is an excise tax that the Government is going to require your constituents to pay to the oil companies.

RIDICULOUS WAIVERS FOR ALASKA PIPELINE

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, I join others in asking Members to vote against House Joint Resolution 341. I think this resolution is really ridiculous. Much has already been said about the pipeline waiver package this morning. I want to add my voice to those who are saying that this package is unconscionable in asking people to bear this added cost and asking them to believe that Exxon cannot pay. It is very hard to allege Exxon could not get the financing with a straight face. I find it incredible that they were able to come up here and with a straight face say that you consumers have really got to help Exxon or the pipeline will not be built.

I hope everyone here will vote against House Joint Resolution 341.

FREE ENTERPRISE APPARENTLY DOES NOT WORK FOR BIGGEST BENEFICIARIES OF THE FREE ENTERPRISE SYSTEM

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEISS. Mr. Speaker, all year we have been told what difficult times we are in and how this Government cannot provide giveaways to anyone, whether it is the needy or the very needy or business people or whatever, and yet here we are with the biggest businesses in the world, the oil and gas companies, and all the rules and all the strictures are out. Our taxpayers, as rate payers and consumers, are now going to be required to provide perhaps as much as $40 billion worth of payments to big oil and big gas because free enterprise apparently does not work for the biggest beneficiaries of the free enterprise system.

I would hope that we have the courage to stand up for our constituents and for the people of America and defeat this resolution providing for a waiver of law pursuant to the Alaksa Natural Gas Transportation Act, when it comes to a vote within the next half hour or so.

COMPLETION OF THE ALASKAN NATURAL GAS PIPELINE IS IN THE NATIONAL INTEREST

(Mr. MARRIOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARRIOTT. Mr. Speaker, I rise in support of House Joint Resolution 341, the proposed waiver of law package submitted by President Reagan to remove certain regulatory obstacles to the private financing of the Alaskan natural gas pipeline.

With passage of the Alaskan Gas Transportation Act (ANGTA) of 1976, Congress made a clear statement to the effect that completion of the Alaska natural gas pipeline was in the national interest. In the intervening years, I have seen no new evidence suggesting a need to revise this statement. The Alaskan gas pipeline is still a key component in our efforts to meet our energy needs in a self-sufficient and less-costly manner.

The proven natural gas reserves located in the Prudhoe Bay region of Alaska are estimated to be 26 trillion cubic feet, or 13 percent of our domestic natural gas reserves. Furthermore, there are 100 trillion cubic feet in potential reserves in Alaska.

Although natural gas production in the lower 48 can be expected to increase under gas price deregulation, studies prepared for the pipeline consortia and energy projections made by the Department of Energy demonstrate that there will be a clear continuing need for natural gas by American consumers throughout the end of this century. Also, gas production in the lower 48 will not be sufficient to meet that need. Indeed, a shortfall will exist in the mid-1980's even with access to Alaskan natural gas.

Clearly, the proven gas reserves in Alaska are something we cannot ignore. The alternative to accessing Alaskan gas in a timely and efficient fashion is continuing dependence on the importation of foreign oil. The Alaskan gas which will be shipped through the proposed transportation system will initially be able to replace 400,000 barrels of oil per day. Ultimately, when the system is operating at full capacity, the gas will replace 600,000 barrels per day. The resulting savings in payments for foreign oil will be $7 billion in the first year alone, assuming a conservative 1987 price for oil of $50 a barrel.

With these facts before us, the question we must answer is not whether we must access the Alaskan natural gas but rather when and how. I believe the Alaskan natural gas pipeline will be the most efficient, economical and safe method of transporting the natural gas from Alaska to the regions of the lower 48 where it is most needed.

It is true that the initial cost of Alaskan gas to the consumer will be high in the first years. Most assessments place the cost in the range of $9.20 to $9.35 per million Btu's in the early years. However, the effect of debt amortization over the 20 year life of the project will mean considerably lower gas prices for the consumer. Average costs, deflated to 1980 dollars, are projected to be in a range of $4.65 to $5.10 per million Btu's during the project life.

Certainly these cost figures will be highly competitive with the rising cost of oil and alternative energy forms at the end of this decade and through the next. In fact, the cost of natural gas shipped through the pipeline system works out to about one half of the projected average Btu delivered cost of oil over the same period. And this does not figure in the cost of the continued purchase of foreign oil on our balance of trade sheet.

To those who are concerned that ultimately financial participation by the Federal Government will be required, let me be clear, this pipeline will be a privately financed project if it is to go forward.

There is no question; it is a massive project. If the decision is made eventually in the private sector to finance it, the gas pipeline will be the largest and most ambitious project to ever be financed privately. The pipeline will cross 4,800 miles of Arctic and non-Arctic terrain in the United States and Canada. It will provide at least 16,000 American jobs and will have the capacity to deliver between 2 billion and 3.2 billion cubic feet of natural gas per day. The total cost for completion of the project could run as high as $54 billion in 1987 dollars.

Is it not reasonable that the investment community and the pipeline participants would be sensitive to the regulatory climate and the many factors which have a bearing on the viability of the project as a whole? Certainly, the obstacles to private financing of such a project as this would be great, but not impossible, in an unregulated environment. However, present laws and regulations are so rigid and restrictive that any favorable decision by the private sector is automatically precluded.

Regulations imposed by the Federal Government and Congress have molded the market an set conditions on any private financing arrangements which alter some very common business practices. For instance, in the matter of prebilling, public utilities ordinarily pass on the cost of constructing nuclear facilities while construction is in process and no power is being delivered. The practice is common in business though it has never been a

part of energy transportation financing procedures.

Nevertheless, acceptance of this waiver package still affords maximum protection to the consumer since there are strict limits placed on when and how prebilling can begin, all subject to a Federal Energy Regulatory Commission (FERC) decision.

The package also does not decrease the risk to the pipeline participants but maintains a high incentive to complete the project, and to complete it on time. The transmission companies will have invested at least $8 billion, the oil and gas companies at least $9 billion. That is a total of $17 billion they stand to lose if the pipeline is never completed and gas never flows.

Therefore, I urge acceptance of this waiver package in order to allow the private sector to make a decision based on the true merits, costs and risks of the Alaskan gas pipeline venture.

[Mr. BROWN of Ohio addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

□ 1045

THE ALASKA NATURAL GAS PIPELINE HANDOUT

(Mr. BETHUNE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BETHUNE. Mr. Speaker, a lot of Members feel, and a lot of people feel, that Government spending and lending are slowing down. Well, do not bet on it. And the Alaska natural gas pipeline handout proves my point.

This case proves that spending and lending is alive and well.

Now, this may not be a Federal grant, and it may not be a Federal spending program in the conventional sense; it may not be a loan guarantee, or it may not be an interest subsidy in the usual sense. It is not the usual way that we do business. But however you slice it, the Alaska natural gas pipeline deal is corporate welfare just as surely as if you pass a tax increase and hand it out to these very needy corporate interests.

I do not know about the other Members in the House, but I cannot go for it. This gas deals stinks.

IS ALASKA NATURAL GAS NEEDED NOW?

(Mr. CORCORAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CORCORAN. Mr. Speaker, later on today we are going to be voting on this Alaska natural gas pipeline question. One of the issues that has been raised is that we need the gas now. Well, there is no question about the fact that we need the gas, but that is not the issue before the House. The question is: When do we need it? I would argue that we do not need it commencing in 1986.

Let me just call to the attention of my colleagues, as I did yesterday in the debate, the fact that all of the numbers on the increase in gas supplies are in the affirmative and are positive. In fact, in the Midwest, which concerns me most of all, our gas pipeline local distribution companies have a glut of gas. In fact, they are being forced, on a take-or-pay basis, to pay for gas whether they take it or not.

It just seems to me, Mr. Speaker, that we have to recognize that the justification for this particular unprecedented waiver package has not been made. The current situation is that we have a surplus, and in the near term we have a surplus and we do not need the supplemental supplies from the Prudhoe Bay region until about 1995. On a free-market basis, the companies involved would not begin to construct the pipeline until then and we should not through a Government subsidy of power and privilege to a few individuals with enormous political clout force them to do what the free market would reject until the timing was economically better.

WITHDRAWAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1301 AND H.R. 1302

Mr. JOHNSTON. Mr. Speaker, I ask unanimous consent that I be allowed to withdraw my name as a cosponsor of H.R. 1301 and H.R. 1302.

The SPEAKER pro tempore (Mr. HOYER). Is there objection to the request of the gentleman from North Carolina?

There was no objection.

[Mrs. MARTIN of Illinois addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

DAIRY PRICE SUPPORTS

(Mr. GUNDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GUNDERSON. Mr. Speaker, on October 1 of this year the farm bill as we know it in this country expired. We are now in mid-December and find that only yesterday evening a conference committee finally concluded its work on a farm bill. Unfortunately, while I commend the members of the conference committee from the House of Representatives for their tenacity, I wish it had lasted a couple of days longer.

We only need look at a couple of the major issues facing us on that question. One of those happens to be the dairy price supports, which the administration, since day one, has been trying to use as a symbol. Under their proposal, finally adopted in conference committee, we are going to find that from October 1, 1980, until October 1, 1983, over a 3-year period there will only be a 15-cent increase in the total price of milk. Certainly we have an overproduction problem and we need to deal with it. But I took this same position in the well when we considered the April 1 adjustment, to say simply reducing the price at a time of increasing costs of production will only increase total production.

We now face a bigger question about the structure of the American family farm. The conference proposal will force many family farms out of existence, as only the large corporate farms, through economies of scale, will be able to survive.

We truly are at a crossroads in this country, not just economically. And I hope we set the proper course by rejecting the conference report on the farm bill.

I thank the Speaker.

NO VISA FOR IAN PAISLEY

(Mrs. FENWICK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. FENWICK. Mr. Speaker, as far as the pipeline is concerned, I would like to associate myself with the remarks of the gentleman from Ohio (Mr. BROWN). I think he said far more, far better, than I could.

I have another point I would like to bring to the attention of the House, and that is to urge my colleagues to join in a letter to the State Department requesting that no visa be given to Mr. Ian Paisley, who is now apparently preparing to come to these shores. Mr. Paisley's recent actions and speeches in Northern Ireland, I think, make it very undesirable for him to come here.

The State Department denied a visa to Mr. Owen Carron; I think a similar action would be appropriate here. In Mr. Paisley, we do not have one who proposes reconciliation, one who applauds the efforts of the Anglo-Irish Council which has been set up by Prime Minister Fitzgerald and Prime Minister Thatcher. We do not have here, in other words, a person who seeks peace, and I think that it would be wise for the State Department to deny the visa.

FOREIGN ASSISTANCE HELPS AMERICAN WORLD LEADERSHIP

(Mr. LEACH of Iowa asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEACH of Iowa. Mr. Speaker, the action we take on the foreign assistance bill before us today will have a profound effect on the standing of U.S. leadership in the world community. Friends and foes alike will be looking for a signal as to whether the United States intends to return to a "fortress America" mentality or whether a constructive bipartisan rela-

tionship can be established between the Executive and Congress to underline and bolster our premier leadership role in the quest for world peace, prosperity, and security.

At issue in this bill are such questions as whether the United States ought to exercise its role in the world primarily through economic or military assistance—whether our leadership is best symbolized by arms merchants or the Peace Corps. While all of us recognize the need for security assistance to our friends and allies threatened with Communist aggression, it should be clear that the type of activity symbolized by the Peace Corps can often be a more effective—and far less expensive—way of helping developing nations to achieve true security and prosperity. In this regard the House Foreign Affairs Committee has sought to upgrade the Peace Corps by reestablishing its identity as an independent agency. I would hope any effort this afternoon to cut back Peace Corps funding or reestablish ACTION's administrative mantle can be defeated.

Also at issue is the question of whether U.S. aid policy should be dominated by bilateral assistance to beleaguered friendly governments at the expense of more broadly based assistance through multilateral agencies. While bilateral economic support for friends in need serves our national interest in important ways, I would urge that no reductions be made in funding for multilateral programs aimed at establishing a more peaceful and secure world environment by addressing such central problems as hunger and agricultural development.

President Reagan has indicated his strong intent to pursue a responsible and positive role in the search for world peace through arms control initiatives. It is now time for Congress to demonstrate its commitment to the pursuit of peace and human betterment by approving this foreign assistance program. No better signal could be given of the U.S. intent to remain a world leader.

CHANGING THE RULES AGAIN

(Mr. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ASHBROOK. Mr. Speaker, in listening to all the debate on the Pipeline Act, it has a kind of familiar ring to it.

I wonder if this project was devised in the District of Columbia. I have sat on this floor for 20 years and watched what I call the sticky paper routine. They say they are going to build the Kennedy Center, the Metro, the Visitors' Center, the stadium. They get us stuck. Then they come back and want to change the rules. It has happened time and time again. We should reject these revisionist contracts and it is this principle involved whether taxpayers' money is involved or not.

The same thing with the military. I am about as promilitary as one can get. Time and time again they go down the track, know what the rules are, and come back to us and say, "We are not going to finish this project unless you change the rules." Public works often has the same tune. Get it started small and come back with your revisions.

It is the old Br'er Rabbit story: You get thrown in the briar patch, and the stucker you get, the stucker you get, the stucker you get. We should learn not to get into this sticky paper syndrome. This pipeline deal has that same smell.

I do not like that type of deal. I am sure the taxpayers don't either.

(Mr. MARKEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARKEY. Mr. Speaker, I rise to state my unequivocal opposition to the Alaska natural gas transportation system waiver. This is nothing more than a subsidy for the oil companies, sponsors, and lenders who are responsible for bringing this package before the Congress. If the people who supposedly know energy markets best—the oil companies and the financial institutions that back them—are not willing to take a chance, then why should the public?

If we vote for this waiver package, we are exposing our constituents to the risk of being shareholders in this enterprise without granting them the equity interest or the votes to protect that interest. If the sponsors and Alaska natural gas producers had evidenced more willingness to take risks—they have not—or if they would promise never to come back to Congress for more waivers of financial support—they have not—then this package might be more acceptable. However, you have not heard the end of this project. They will be back before this body for more corporate handouts, and on that day, I promise my colleagues that the results will be far different than today.

ALASKA NATURAL GAS IS A BARGAIN

(Mr. SHARP asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHARP. Mr. Speaker, I rise in support of the waiver package. A good many things have been said, and I would hope that people would go beyond the debate and look at the record that was developed when we solicited the opinion of virtually every organization in this country—consumer, labor, and business—on this issue, because it is a complex one.

We had 7 days of hearings, 63 witnesses. We had to urge people to come in to testify against this because the reality is nobody in that hearing and nobody yet on this House floor has come up with a legislative alternative or a practical alternative in the marketplace that will get the consumers of the lower 48 States this gas on a sure basis or get this gas more cheaply for the consumer or get this gas with less risk to the consumer. Nobody has come forth with anything that has gotten anything like a consensus or gotten any kind of expert opinion behind it.

Secondly, Mr. Speaker, I want to point out that what we are talking about is a 20-year deal for the American consumer of gas at between $4 per Mcf and $5.50 per Mcf. That is a good bargain over the next 20 years as far as anyone can see on energy supplies. Right now some of our consumers are paying for natural gas from the lower 48 at $7 and $9 per Mcf.

Mr. Speaker, this is a good bargain for the consumers.

SHAME ON THE PRESS

(Mr. YOUNG of Alaska asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. YOUNG of Alaska. Mr. Speaker, I want to compliment the gentleman from Indiana (Mr. SHARP). It is a good buy. We are talking about 20 years at $4.95 per Mcf. I said yesterday there is over 100 years of gas supplies in the United States. This Nation needs that gas supply.

It is unfortunate there have been many misnomers pronounced on this floor, and especially by CBS News last night, Mr. Moyers' program. If you think there is freedom of press in the United States, I want to tell you there is no freedom of the press. They print one side of the issue, never contact anybody else on the other side, never tried to participate as far as the Ralph Nader group goes, in the hearings to give us some alternatives, ideas, suggestions. Then they come out with the cheap shot. The press should be ashamed of itself. They should come to both sides of the issue and hear both sides and let the American people make up their minds, with both sides fairly presented, not one side, as last night. I think they should be ashamed.

ALASKA NATURAL GAS PIPELINE WAIVERS ARE NECESSARY

(Mr. BINGHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BINGHAM. Mr. Speaker, I rise in support of this waiver package which would remove Federal obstacles to completion of the Alaska natural gas pipeline system. I am convinced that these waivers are necessary if the people of the United States are ever going to have access to the Alaska gas

reserves which constitute 13 percent of this Nation's gas supply. That gas could replace 400 to 600,000 barrels of imported oil a day, and perhaps much more.

For me, access to the Alaska gas outweighs those considerations which might argue against approval of the waiver package. Our present energy situation is a precarious one, as it has been since 1973. Despite all the rhetoric, little has been done to make this Nation less vulnerable to foreign oil boycotts. At this time we could last 30 days, at best, if OPEC decided to cut off our oil supply.

The effects of this unnatural dependence are all around us. It can be seen in the continued United States economic relationship with Libya's Qadhafi—despite the administration's belief that the Libyan colonel is plotting the assassination of American leaders. It can be seen in the sale of AWACS to Saudi Arabia and in the administration's determination to find merit in the anti-Israel Saudi peace plan. It can be seen in the administration's extreme solicitousness toward every oil-rich state in the Middle East. Let us be honest with ourselves. The United States is beholden to Arab States—both moderate and radical—because those nations have the oil this Nation needs.

It is a situation that must not continue. The Alaskan gas supply could serve as America's trump card the next time OPEC moves to cut off exports to the United States. I don't argue that 400,000 barrels a day would eliminate our need for foreign oil. But it would make a major contribution to our domestic energy supply, one that we cannot afford to throw away.

Unfortunately rejection of this waiver package would delay completion of the gas pipeline and perhaps kill it altogether. The pipeline's sponsors have informed the President and the Congress that they will not be able to obtain private financing for the pipeline's construction unless several provisions of law are waived. The sponsors are not asking for Federal loan guarantees or Federal aid in completing the project. They are asking for the cooperation of Congress and of consumers in general in their effort to complete the largest project of its kind in history.

The most controversial waiver concerns when consumers would begin to pay for the pipeline. Under the existing law ratepayers would not begin paying until the pipeline is finished. The waiver proposed in this package gives the Federal Energy Regulatory Commission (FERC) the discretionary power to allow companies to begin billing gas customers after a date selected as reasonable for completion of the entire system and after full completion of one or two of the three basic segments of the line. The prebilling assessment could be applied only to cover debt service—not the investors equity. Despite all this, there are those who are claiming that prebilling would be used to milk the consumer who would pay whether or not the project was ever completed. It is, of course, remotely possible that the project would fail after completion of the first two segments. Should that happen, consumers would be stuck paying an additional $11 per year for 20 years—less than $1 per month. The sponsors of the project, however, would lose as much as $8 billion. I hardly think that they will casually do that.

Another argument made against the waiver package—and, in essence, against completion of the pipeline—is that the Alaskan gas will be so expensive that consumers billed for the gas will be paying exorbitant prices. It is true that initially the price of Alaskan gas will be high—as high as $7.40 to $9 per million cubic feet. But that will only be in the first year. In subsequent years the price of the gas will drop and will quickly become comparable with the prevailing oil price or lower. But most important, the Alaskan gas is American gas. Even a slightly more expensive domestic gas supply is preferable to Middle East oil or liquefied Algerian gas. Just think of the irony if we abandon our own Alaskan gas and, in its place, increase our purchase of gas from Algeria. I do not want to see that happen and I do not believe that most Americans want that to happen either.

Accordingly, I am supporting this waiver package. I do so knowing that the package has been attacked as a boon to the producers. But I ask the critics just what they would propose we do. Under our system the only way that we will get that gas flowing is through private investment and private enterprise. Investors will benefit. But so, I believe, will the general public. In the long run, Alaskan gas will mean more and cheaper fuel and less reliance on unstable foreign sources. A vote for this package is a vote for American energy independence. A vote against it is shortsighted and must be predicated on the unfounded prayer that OPEC will never again cut off our supplies. I say that we must build this pipeline.

ALASKA NATURAL GAS PIPELINE WAIVERS ARE IN NATIONAL INTEREST

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, I serve on the Committee on Energy and Commerce. I heard all of the testimony relating to the waivers that we are going to be voting on shortly. I rise in support of those waivers.

I hesitated for a long time in concluding what was in the public interest on what to do with my vote. I concluded that it is in the national interest that this pipeline be built and that this waiver package be adopted.

One of the reasons that I have heard why we should vote against it is that our Democrat colleagues have received rather large financial contributions from the proponents of the package.

□ 1100

Well, maybe that is true; even if it is, the Democrats need help, too. Independent of this claim, the point is that the national interest requires that we have the use of this gas from this pipeline as quickly and as expeditiously as possible. We are talking about a proposed percentage of 5 percent of our national gas supplies in 1986. This will get this Nation on the road to energy independence, and I think it is the only posture for us to take.

I hope the Members will support the waiver package.

ALASKA NATURAL GAS TRANSPORTATION ACT WAIVER SUPPORTED

(Mr. RITTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RITTER. Mr. Speaker, I, too, serve on the House Energy and Commerce Committee, and I must say that up until the day of the final vote of the package I was undecided, and I listened very carefully to both sides. I was and remain concerned about the impact of this legislation on consumers and jobs in the Lehigh Valley of Pennsylvania.

I was particularly concerned with the "prebilling" issue, that is, prebilling the consumer before the gas actually starts to flow if and possibly when there is a difference between the completion date proposed and the completion date actual.

In the midst of the world political rhetoric of the last couple of days, I think it would be helpful to think about just what prebilling means. It is only in a situation where the billing agent for a product is a public utility that it becomes a problem at all. The fact is that in any production process where the private sector is producing a product for the future and investing today to produce that product in the future, their present price structure reflects the need to produce in the future.

This is basically what prebilling is about for natural gas as well and if it was not a public utility involved on the billing end, there would not be such a fuss.

GAS PIPELINE WAIVER OPPOSED

(Mrs. COLLINS of Illinois asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. COLLINS of Illinois. Mr. Speaker, I am saddened by the fact

that so many people take the prebilling lightly. I see prebilling as just another way of shafting the consumer.

I have here an editorial from the Chicago Sun-Times of Wednesday, November 25, which raises the question of why, in the United States of America, we have the Federal Government encouraging the use of waivers to further enrich the oil industry. By pushing for this waiver package, the Federal Government is not only helping to create a massive shift of wealth from the Midwest and Northeast, as this editorial points out, it is helping to create an American OPEC. That is exactly what the oil industry has become, an OPEC consisting of a small number of fuel-producing States who are raking in millions from taxes on their oil and gas and coal. In Illinois we are collecting $765 per person in taxes. On the other hand Alaska which is not putting up a dime for this pipeline is going to collect $7,000 per person from oil and gas taxes alone.

To quote the Sun-Times editorial further, "that windfall will come from money drained from people in States like Illinois."

That is just one of many reasons why I urge my colleagues to vote down this boondoggle.

Mr. CORCORAN. Mr. Speaker, will the gentlewoman yield?

Mrs. COLLINS of Illinois. I yield to my colleague.

Mr. CORCORAN. Mr. Speaker, I thank the gentlewoman for yielding, and I would like to associate myself with her remarks.

PROVIDING FOR A WAIVER OF LAW PURSUANT TO THE ALASKA NATURAL GAS TRANSPORTATION ACT

The SPEAKER pro tempore. Pursuant to clause 5, rule I, the unfinished business is the question of the passage of the joint resolution (H.J. Res. 341) providing for a waiver of law pursuant to the Alaska Natural Gas Transportation Act, on which the yeas and nays are ordered, on which further proceedings were postponed on Tuesday, December 8, 1981.

The Clerk read the title of the joint resolution.

Mr. OTTINGER. Mr. Speaker, I ask unanimous consent that there be 20 minutes' debate on this immediately prior to the vote on the joint resolution presently being considered. As the Members can see, this is an issue of tremendous controversy, and only 1 minute was allowed for the proponents.

I am asking unanimous consent that each side have 10 minutes to present its point of view.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. YOUNG of Alaska. Mr. Speaker, I object.

The SPEAKER pro tempore. Objection is heard.

The question is on the passage of House Joint Resolution 341.

The vote was taken by electronic device and there were—yeas 233, nays 173, answered "present" 1, not voting 26, as follows:

[Roll No. 339]

YEAS—233

Akaka	Goodling	Murtha
Albosta	Gore	Myers
Alexander	Gramm	Napier
Anderson	Green	Nelligan
Anthony	Grisham	Nelson
Archer	Hall, Ralph	Oberstar
Atkinson	Hall, Sam	Panetta
Badham	Hamilton	Pashayan
Bafalis	Hammerschmidt	Patman
Bailey (MO)	Hance	Patterson
Bailey (PA)	Hansen (ID)	Paul
Barnard	Hansen (UT)	Pickle
Benedict	Hartnett	Porter
Benjamin	Hawkins	Pritchard
Bennett	Heftel	Quillen
Bereuter	Hendon	Rahall
Bevill	Hightower	Reuss
Bingham	Hiler	Rhodes
Bliley	Hillis	Rinaldo
Boner	Holland	Ritter
Bouquard	Holt	Roberts (KS)
Bowen	Hoyer	Roberts (SD)
Breaux	Hubbard	Robinson
Brinkley	Huckaby	Roemer
Brooks	Hunter	Rose
Brown (CA)	Hutto	Rousselot
Burgener	Ireland	Rudd
Byron	Jeffries	Sabo
Campbell	Jenkins	Scheuer
Carman	Johnston	Schulze
Chappell	Jones (NC)	Schumer
Chappie	Jones (OK)	Sharp
Cheney	Jones (TN)	Shaw
Clausen	Kasen	Shelby
Clinger	Kindness	Shumway
Coats	Kogovsek	Shuster
Coelho	Kramer	Siljander
Collins (TX)	Lagomarsino	Skeen
Conable	Lantos	Skelton
Coughlin	Leath	Smith (AL)
Courter	LeBoutillier	Smith (NE)
Coyne, James	Lehman	Smith (NJ)
Coyne, William	Leland	Smith (OR)
Daniel, R. W.	Lent	Smith (PA)
Dannemeyer	Lewis	Solarz
Daschle	Livingston	Solomon
Daub	Loeffler	Stangeland
de la Garza	Long (LA)	Staton
Dickinson	Lott	Stenholm
Dicks	Lowery (CA)	Stratton
Dixon	Lowry (WA)	Stump
Dornan	Lujan	Swift
Dowdy	Luken	Synar
Dreier	Lungren	Tauzin
Duncan	Madigan	Thomas
Edwards (AL)	Marks	Trible
Edwards (OK)	Marlenee	Udall
Emerson	Marriott	Vander Jagt
English	Martin (NC)	Vento
Erlenborn	Martin (NY)	Walgren
Evans (DE)	Mattox	Walker
Evans (IN)	McClory	Watkins
Fazio	McCollum	White
Ferraro	McCurdy	Whitehurst
Fiedler	McDade	Whitley
Fields	McDonald	Whittaker
Flippo	McEwen	Williams (MT)
Foley	McHugh	Wilson
Ford (MI)	McKinney	Winn
Forsythe	Mikulski	Wortley
Frenzel	Miller (OH)	Wright
Frost	Mineta	Yatron
Fuqua	Molinari	Young (AK)
Gaydos	Montgomery	Young (FL)
Gephardt	Moore	Young (MO)
Gibbons	Moorhead	Zablocki
Gingrich	Morrison	Zeferetti
Glickman	Murphy	

NAYS—173

Addabbo	Bethune	Brown (CO)
Andrews	Biaggi	Brown (OH)
Annunzio	Blanchard	Broyhill
Ashbrook	Boland	Burton, John
Aspin	Bonior	Burton, Phillip
Barnes	Bonker	Carney
Bedell	Brodhead	Chisholm
Bellenson	Broomfield	Clay
Coleman	Gunderson	Purnell
Collins (IL)	Hagedorn	Railsback
Conte	Harkin	Rangel
Conyers	Hatcher	Ratchford
Corcoran	Heckler	Regula
Crane, Daniel	Hefner	Richmond
Crane, Philip	Hertel	Rodino
Crockett	Hollenbeck	Roe
D'Amours	Hopkins	Rogers
Daniel, Dan	Horton	Rosenthal
Danielson	Hughes	Rostenkowski
Davis	Hyde	Roth
Deckard	Jacobs	Roukema
Dellums	Jeffords	Roybal
DeNardis	Kastenmeier	Russo
Derrick	Kemp	Savage
Derwinski	Kildee	Sawyer
Donnelly	LaFalce	Schneider
Dorgan	Latta	Schroeder
Dougherty	Leach	Seiberling
Downey	Lee	Sensenbrenner
Dunn	Levitas	Shamansky
Dwyer	Long (MD)	Shannon
Dyson	Markey	Simon
Early	Martin (IL)	Smith (IA)
Eckart	Matsui	Snowe
Edgar	Mavroules	Snyder
Edwards (CA)	Mazzoli	Spence
Emery	McGrath	St Germain
Erdahl	Mica	Stanton
Ertel	Michel	Studds
Evans (GA)	Miniah	Tauke
Evans (IA)	Mitchell (MD)	Taylor
Fascell	Mitchell (NY)	Traxler
Fenwick	Moffett	Volkmer
Findley	Mollohan	Wampler
Fish	Motti	Washington
Florio	Natcher	Waxman
Foglietta	Neal	Weaver
Ford (TN)	O'Brien	Weber (MN)
Fountain	Oakar	Weber (OH)
Fowler	Obey	Weiss
Frank	Ottinger	Whitten
Gejdenson	Oxley	Williams (OH)
Gilman	Parris	Wirth
Gonzalez	Pease	Wolpe
Gradison	Perkins	Wyden
Gray	Petri	Wylie
Gregg	Peyser	Yates
Guarini	Price	

ANSWERED "PRESENT"—1

Wolf

NOT VOTING—26

Applegate	Fary	Miller (CA)
AuCoin	Fithian	Moakley
Beard	Garcia	Nichols
Boggs	Ginn	Nowak
Bolling	Goldwater	Pepper
Butler	Hall (OH)	Santini
Craig	Howard	Stark
Dingell	Lundine	Stokes
Dymally	McCloskey	

□ 1115

The Clerk announced the following pairs:

On this vote:

Mr. Dymally for, with Mr. Miller of California against.

Mr. Pepper for, with Mr. AuCoin against.

Mrs. Boggs for, with Mr. Stark against.

Mr. Santini for, with Mr. Fary against.

Mr. Goldwater for, with Mr. Garcia against.

Until further notice:

Mr. Applegate with Mr. Fithian.

Mr. Ginn with Mr. Beard.

Mr. Dingell with Mr. Butler.

Mr. Hall of Ohio with Mr. McCloskey.

Mr. Howard with Mr. Lundine.

Mr. Moakley with Mr. Stokes.

Mr. Nichols with Mr. Nowak.

Mr. SMITH of Pennsylvania and Mr. FORD of Michigan changed their votes from "nay" to "yea."

Mr. HUGHES and Mr. DAN DANIEL changed their votes from "yea" to "nay."

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. UDALL. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate joint resolution (S.J. Res. 115) to approve the President's recommendation for a waiver of law pursuant to the Alaska Natural Gas Transportation Act of 1976, a measure identical to the joint resolution just passed, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate joint resolution.

The SPEAKER. Is there objection to the request of the gentleman from Arizona?

Mr. CORCORAN. Mr. Speaker, reserving the right to object, under my reservation I would like to inquire of the distinguished gentleman from Arizona (Mr. UDALL) what he proposes to do and whether or not he could explain to us why he proposes to do this.

Mr. UDALL. Mr. Speaker, if the gentleman will yield, this is the traditional, regular, and normal procedure. We have a Senate joint resolution which is identical to our joint resolution. It has already passed the Senate. That Senate joint resolution is before us now awaiting action.

I am simply asking to take the Senate joint resolution and pass it in lieu of the House joint resolution so there will be action by both bodies on the same matter.

Mr. CORCORAN. Mr. Speaker, under my reservation let me just respond by saying that ordinarily I would not object to this kind of request, but I think that under the circumstances we have not been afforded in the House the kind of appropriate opportunity for debate and consideration that I think would be deserving of this kind of public policy question.

On that basis, Mr. Speaker, I object.

The SPEAKER. Objection is heard.

PERMISSION FOR COMMITTEE ON GOVERNMENT OPERATIONS TO HAVE UNTIL MIDNIGHT, FRIDAY, DECEMBER 11, 1981, TO FILE SUNDRY REPORTS

Mr. BROOKS. Mr. Speaker, I ask unanimous consent that the Committee on Government Operations may have until midnight, Friday, December 11, 1981, to file sundry oversight reports approved by the full committee on December 8, 1981.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION TO FILE CONFERENCE REPORT ON S. 884, AGRICULTURE AND FOOD ACT OF 1981

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file a conference report on the Senate bill (S. 884) to revise and extend programs to provide price support and production incentives for farmers to assure an abundance of food and fiber, and for other purposes.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

[The conference report (H. Rept. No. 97-377) will appear in the RECORD of December 10, 1981.]

INTERNATIONAL SECURITY AND DEVELOPMENT COOPERATION ACT OF 1981

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 291 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 291

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3566) to authorize appropriations for the fiscal years 1982 and 1983 for international security and development assistance and for the Peace Corps, and for other purposes, the first reading of the bill shall be dispensed with, and all points of order against the bill for failure to comply with the provisions of clause 5, rule XXI are hereby waived. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs, the bill shall be considered for amendment under the five-minute rule by titles instead of by sections, and each title shall be considered as having been read. It shall be in order at any time while the bill is being considered for amendment under the five-minute rule for the chairman of the Committee on Foreign Affairs to move to limit debate on the pending portion of the bill and to provide in said motion for the allocation of time under the limitation on the pending portion of the bill, or on amendments, or on amendments to amendments, thereto. It shall also be in order at any time while the bill is being considered for amendment under the five-minute rule for the chairman of the Committee on Foreign Affairs to move that the remainder of the bill, or any title thereof, be considered as having been read and open to amendment. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit. After the passage of H.R. 3566, it shall be in order to consider the bill S. 1196 in the House, and it shall then be in order in the House to move to strike out all after the enacting clause of the said Senate bill and to insert in lieu thereof the provisions contained in H.R. 3566 as passed by the House.

The SPEAKER. The gentleman from California (Mr. BEILENSON) is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Arizona (Mr. RHODES) for purposes of debate only, pending which I yield myself such time as I may consume.

(Mr. BEILENSON asked and was given permission to revise and extend his remarks.)

Mr. BEILENSON. Mr. Speaker, House Resolution 291 is an open rule providing for the consideration of H.R. 3566, the International Security and Development Cooperation Act of 1981.

The rule provides for 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs.

In order to expedite consideration of the bill, the rule states that the bill shall be read for amendment under the 5-minute rule by titles instead of by sections. Each title shall be considered as having been read. House Resolution 291 further provides for one motion to recommit.

The rule further waives all points of order against the bill for failure to comply with the provisions of clause 5, rule XXI, which prohibit appropriations in a legislative bill. This waiver is necessary because section 202, section 309(b), and section 601(c)(3) of H.R. 3566 contain provisions that would constitute appropriations in a legislative bill.

It should be noted that the rule provides that it shall be in order at any time while the bill is being considered for amendment under the 5-minute rule for the chairman of the Committee on Foreign Affairs to move to limit debate on the pending portion of the bill and to provide in that motion for the allocation of time under the limitation on the pending portion of the bill or on amendments or on amendments to amendments, thereto.

The rule also states that it shall be in order at any time while the bill is being considered for amendment under the 5-minute rule for the chairman of the Committee on Foreign Affairs to move that the remainder of the bill, or any title thereof, be considered as having been read and open to amendment.

The effect of these two provisions is to allow the chairman of the Committee on Foreign Affairs to move to limit debate on that portion of the bill which is pending consideration. Since the rule provides that the bill is to be read by titles for amendment, the motion to limit debate would be by title, with the limitation affecting all amendments and amendments to amendments for the title pending. In his motion, the chairman of the Foreign Affairs Committee also would specify the allocation of time.

In other words, it is conceivable, although unlikely, that a motion to limit debate could be made on each of the seven titles of the bill. Such motion naturally would be subject to a majority vote.

The rule further would allow the Foreign Affairs Committee chairman

to move at any time during consideration of the bill for amendment that the remainder of the bill be considered as having been read and open to amendment. If such a motion were agreed to by majority vote, the chairman of the Foreign Affairs Committee then could move to limit debate on the remainder of the bill and any amendments or amendments to amendments, and specify the allocation of time.

Although the procedure outlined in the rule is somewhat unusual, the objective of these provisions is to permit the chairman of the Foreign Affairs Committee to expedite floor consideration of H.R. 3566. The bill contains seven titles and is 75 pages long. Since the chairman of the Committee on Foreign Affairs has expressed the hope that consideration of this authorization measure can be completed in 1 day, the Committee on Rules has sought to provide him with the procedural tools to make possible the most expeditious consideration of H.R. 3566.

The Rules Committee was mindful of the length of floor time consumed during consideration of foreign assistance authorization legislation in recent years, the target date for adjournment of this session of Congress, and the other important legislation scheduled for full House consideration prior to adjournment. The committee believed that the authorities granted to the chairman of the Foreign Affairs Committee under this rule would facilitate prompt House action on H.R. 3566. At the same time, since the chairman's motions would be subject to the approval of the Committee of the Whole, the element of fairness would be preserved.

House Resolution 291 additionally provides that upon the passage of H.R. 3566, it shall be in order to consider the bill S. 1196 in the House, and it shall then be in order to move to strike out all after the enacting clause and to insert in lieu thereof the provisions contained in H.R. 3566 as passed by the House. This will help to facilitate a conference with the other body on the foreign assistance authorization legislation.

Mr. Speaker, the principal purpose of H.R. 3566 is to authorize appropriations for fiscal year 1982 and for fiscal year 1983 for certain international security and economic assistance programs. The administration is seeking a foreign aid authorization measure, and this bill is the product of bipartisan cooperation.

I urge my colleagues to adopt this rule, so that the House can consider this important legislation.

□ 1130

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

(Mr. RHODES asked and was given permission to revise and extend his remarks.)

Mr. RHODES. Mr. Speaker, the gentleman from California has accurately and thoroughly explained the provisions of the rule which provides for consideration of the International Security and Development Act, H.R. 3566.

The so-called foreign assistance program has been operating for at least 2 years now without any appropriation or really any authorization except that which comes from continuing resolutions. I think it is high time that the House and the other body act to put this program under an authorization and under an appropriation in the usual form.

As the gentleman stated, this resolution grants an open rule with 1 hour of general debate. All points of order against the bill for failure to comply with the provisions of clause 5, rule XXI—appropriations in a legislative bill—are waived by the rule. The bill is to be read for amendment by titles instead of sections, with each title considered as having been read.

The rule also provides one motion to recommit. After passage of the bill it will be in order to consider S. 1196, and a motion to strike out all after the enacting clause and insert in lieu thereof the language contained in H.R. 3566 as passed by the House.

There are two additional provisions in this bill which are unusual in a procedural sense and should be noted by the House.

The first of these provisions makes in order a motion by the chairman of the Foreign Affairs Committee to limit debate on the pending portion of the bill or an amendment, and to provide for the allocation of time under such limitation. As the Speaker and Members know, the usual form is for a limitation on the time on an amendment to be imposed and the Chair then records the names of those people standing at the time the request was made, and the time which is available is divided equally amongst those standing.

As I understand this limitation, it will not be that way at all; rather, the time will be apportioned by the chairman of the Foreign Affairs Committee.

During the Rules Committee hearing on this rule I asked the chairman of the Foreign Affairs Committee what his intentions were with regard to the allocation of time. He assured me and the members of the Rules Committee that it would be his intention to apportion time in such a way as to be fair to all concerned, not only to the minority but also to the opponents as well as the proponents of the pending amendment. With such assurances stated for the record, the Rules Committee reported the rule with these provisions to facilitate thorough yet timely consideration of the bill. And again, it was made abundantly clear that the time under any limited debate was to be allocated equitably to both proponents and opponents of any amendment.

The second provision makes in order a motion by the chairman of the Foreign Affairs Committee, at any time while the bill is being considered for amendment, to have the raminder of the bill or title considered as having been read and open to amendment. This, too, is somewhat unusual.

While I do not like this method of procedure, and I would hope it would not be adopted often, because of the time constraints at the end of the session and the need for a foreign aid authorization, I have no intention of opposing the rule.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. RHODES. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

Do I understand that the chairman will be able to set the time under this without asking unanimous consent of the House for a limitation of time?

Mr. RHODES. It is my understanding that the chairman could do so by moving that all time on an amendment or amendments thereto be closed at a certain time or after a certain number of minutes and that he then would have the option of apportioning the remaining time.

Mr. WALKER. But it would eliminate the unanimous consent request that normally is used in matters of this type?

Mr. RHODES. It would make the unanimous consent request unnecessary. Presumably the chairman would ask unanimous consent and if objection were heard he would then be in a position to move.

Mr. WALKER. If the gentleman would yield further, I wonder has this procedure ever been used before in the House. I am not aware in the time I have been here that we have ever had a rule that specifically allows a chairman to impose limits on debate. Is this something that is totally new? Are we setting a new precedent here?

Mr. RHODES. As far as I know, this procedure has never been followed. That is the reason I made the proviso I did; namely, that while I will not object to the procedure at this particular time and in this particular circumstance, if this device is employed I believe the use of such procedure in the future warrants careful scrutiny.

Mr. WALKER. If the gentleman will yield further, I thank him for pointing this out. I agree with him. I think it is a rather disturbing precedent. However, I come to a different conclusion from the gentleman. I will oppose the rule based upon this language because I think it is a precedent that would ill serve us on some other bills that will come before this House in the future.

It may well be that on this particular bill at this particular time there is some merit in the suggestion, but I am disturbed that we may be setting a precedent here for future debate.

penter, who chatted with a friend about the housing industry as they waited in a long line at an unemployment claims office in Joliet. "The Government could ease up a little on money," he added.

A partner with his brother and father in a small construction company, Mr. Biernat said he had become disenchanted with Reaganomics. "The election was supposed to bring the rates down, but they went up," he said. "It looks like they've lost confidence in everything they were trying to do."

But conservative economists in Washington, who see a labor bargaining calendar for 1982 that encompasses contracts covering 40 percent of organized labor, say a sustained period of unemployment is necessary to dampen wage demands and to cool inflation.

"The most constructive thing that should be done is nothing," said Marvin Koster, a specialist in labor economics at the American Enterprise Institute. "Anything done now would have adverse consequences later and no immediate beneficial effects."

In Washington, officials expect the unemployment situation to correct itself. The Administration hopes that the interest rates will fall enough next year to stimulate a recovery.

The next round of tax cuts set for June 1982, will put money in the pockets of consumers and business, insuring a recovery, according to Administration economists. In the meantime, they say, short-term deficits from the recession should not cause alarm.

Needless to say, that outlook has not gone unchallenged. Many economists say that even after a recovery, businesses add workers slowly and cautiously and many managers use slow periods to permanently reduce their work forces.

Laurita Parish, a secretary who was laid off last month from the GAF building materials plant in Joliet, said she has seen examples of this at GAF since she started working there a few years ago.

"Every year they lay off people, saying it's temporary," she said. "Only two people have come back. They worked a few months and were laid off again." She said the office staff dwindled to 17 from 45 during her tenure, while the production force, at 300 now, is about a third of what it had been.

Others say the large budget deficits will prevent an economic self-correction. "You're going to have these tremendous deficits from the recession," said Marion Anderson, executive director of Employment Research Associates, a Lansing, Mich., consulting firm. "The Government will be going to the debt market next year for more than a billion dollars a week. That's going to send interest rates back up and choke off the recovery."

Barbara R. Bergman, an economist at the University of Maryland, has questioned the stimulative effects of the tax cuts, saying they may not lead to high employment and output because they mostly benefit the rich and will not greatly stimulate demand for durable goods such as autos and appliances.

At the same time, such developments as U.S. Steel's $6.3 billion bid for Marathon oil have raised questions about the commitment of big business to such distressed industries as steel, rubber, textiles and automobiles. During the last decade tens of thousands of jobs have been lost in these industries to more-efficient foreign plants and cheaper overseas labor; the tax reductions were supposed to help win them back.

But even if the tax plan were working according to plan, industrial jobs would still be disappearing, experts say. Robots have been eliminating jobs in the auto industry since General Motors started using them at its Lordstown, Ohio, plant several years ago. And their use has been spreading rapidly to other industries since then.

The bleak prospects for employment are producing louder pleas for help from the unemployed. "I'm a conservative myself," said Gary Stiller of Waseca, Minn. "I know we have to save money, but the Government ought to be able to do something." Despite his political leanings, he says he favors some some sort of public works employment program, recalling that it helped his parents during the Depression.

Mr. Stiller, a 42-year-old truck driver who had worked for the same company for more than 23 years, was thrown out of work last April when his employer, Herter's, a sporting goods chain, went bankrupt, tying up more than $17,000 he had in the company's profit-sharing account. With a daughter in college and a son in high school the family is surviving on the wife's part-time job.

Having drawn his final $36-a-week unemployment check, he is getting despondent. "It's getting out of hand," he said of the recession. "It looks like the bottom could drop out."

Some social activists insist that the bottom could fall out for people if unemployment remains unusually high for a long period. Extended benefits, which sustained some of the unemployed for more than a year during the 1974-75 recession, have been severely curtailed under the Reagan program, making it much harder to receive benefits past 26 weeks.

Other transfer payments, which are sometimes called "automatic stabilizers because they prevent a recession from spiraling downward into a depression, have been cut also. In addition to welfare and food stamp cuts, there have have been changes in trade readjustment assistance and the Comprehensive Employment and Training Act.

And many of the supplemental funds of the auto, rubber and steel companies, which add to the income of furloughed workers, are close to depletion because of the prolonged slump in those industries.

The unemployed defend these programs vigorously. "If it weren't for unemployment compensation, I would have missed a few mortgage payments," said Mr. Biernat, the Joliet carpenter, who is single. He insists that he would much rather work than collect the payments. But, he says, his company has not built a house in three years, and they have had to settle for small, occasional remodeling jobs, which are now becoming even more scarce.

The cutting back on transfer payments and the scaling back of subsidies to the unemployed by the Federal Government has another purpose besides saving Federal dollars. "The theory is that the stabilizers have taken away people's incentive to work at certain wages and for companies to lower prices," said George Schwartz, the associate director of research for the United Automobile Workers.

Next year, labor contracts covering the auto, trucking, rubber, construction, electrical equipment, oil refining and food processing and production industries will be negotiated. The Administration is counting on the swelling ranks of the unemployed and the reduction in Government benefits, including the denial of food stamps to strikers, to moderate wage demands.

The economy's poor performance has already caused unions of railroad, airline and automobile workers to offer concessions to troubled companies. And individual workers seem willing to experiment with lower pay within limits.

Mrs. Parish, the furloughed secretary at GAF, said she would accept a job paying as low as $5.50 an hour, down $3 an hour from her old rate. Mr. Biernat has considered moving to Miami or Houston to find work as a carpenter, but the $6 to $8 an hour that he could make in the Sun Belt is less than half the local scale of $13 to $17 an hour.

Liberal political groups in the area are saying they hope to mount enough pressure before next year's Congressional election to prevent the unemployed from making such dire sacrifices. National People's Action, a Chicago-based activist group that has taken the Federal Reserve to task at a series of "town meetings" it sponsored around the country with the central bank, says it is now turning it's attention toward organizing the unemployed.

"What this country has to see is a lot of angry unemployed people demonstrating and demanding jobs," said Gail Cincotta, executive director of the group. "We learned some things in the 60's—how to organize people and how to build coalitions. Without organization we would run the risk of something happening spontaneously. This could be a rough summer."●

IN OPPOSITION TO HOUSE JOINT RESOLUTION 341

SPEECH OF

HON. TOM HAGEDORN

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, December 3, 1981

● Mr. HAGEDORN. Mr. Speaker, I would like to rise in opposition to House Joint Resolution 341, a resolution approving the waiver of law to expedite construction of the Alaskan natural gas transportation system.

Although I am extremely concerned about our country's energy dependence, and specifically that of the Midwest, I cannot in good conscience support waivers of Federal law that would impose an unprecedented tax upon consumers, requiring them to assume the costs of a project that may not even be completed.

It is my understanding that the Northwest Energy Co. would probably not be able to get additional financing if the waiver package we are voting on today to is not approved. Although we certainly need to look at the national interest of such a project, if bankers feel that large companies such as Arco and Exxon are not credit worthy in terms of financing such a project, why should the consumers have to bear the burden for such a risky endeavor?

Because Alaska contains 13 percent of U.S. proven reserves of natural gas, it is in public interest to provide a means to bring it to the lower 48 States. However, I believe that if the project is a national concern, then the Federal Government should provide loan guarantees for the project rather than shifting the burden to ratepayers.

The current sponsors of the project have mounted a massive campaign to change the terms of the proposal which they submitted and the Federal Government agreed to in 1977, over 4 years ago. If they are no longer willing to keep their part of the agreement,

new participants should be found. However, a new plan should be carefully drawn, and Congress should be given more than the 60-day period to consider a legislative proposal which could cost the gas consumers over $30 billion.

Although Alaskan gas would significantly reduce U.S. vulnerability to disruptions in the world oil markets, we need to understand the economic ramifications which are being passed on to the consumer if such a bill is passed. There is no question that we need in some way to accommodate the energy needs of our country, and using the enormous energy potential of the State of Alaska will be necessary. Since passage of this waiver package is not a Federal guarantee that this important project can be financed, I sincerely believe we need to consider other legislative proposals to handle one of the largest construction projects ever attempted.●

FAIR COMPETITION—SOLUTION TO FEHBP'S PROBLEMS

HON. RICHARD A GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1981

● Mr. GEPHARDT. Mr. Speaker, I submit my testimony on the Federal Employees' Health Benefit Plan (FEHBP) for the RECORD. The survival and stability of FEHBP is crucial as it serves over 10 million Federal employees. Reform of the program is necessary judging from the current confusion and the delay of open season. This reform should promote fair competition among the plans and allow Federal employees to choose the health plan that best meets their needs.

The statement of RICHARD A. GEPHARDT follows:

STATEMENT OF REPRESENTATIVE RICHARD A. GEPHARDT TO THE COMMITTEE ON POST OFFICE AND CIVIL SERVICE

Madame Chairwoman and members of the Subcommittee, I appreciate this opportunity to express my views on the difficulties facing the Federal Employee's Health Benefit Program (FEHBP). I am here today not to promote my health legislation, the National Health Care Reform Act (H.R. 850), but to emphasize the importance of the Federal program.

FEHBP serves as the first model in the United States of an employer offering health plans in a competitive environment. It has been the vanguard for well over twenty years. However, as successful as the FEHBP has been in these twenty years, certain structural problems exist. When OPM tried to restrain cost escalation in the Federal contribution to FEHBP, these structural problems became apparent. OPM's discretionary role has inhibited competition between the health plans and is at the root of the difficulties facing the FEHBP today. A short-term solution which would allow all the present plans to participate through an open season must be found. This will give your Committee and the Congress time to carefully restructure FEHBP, utilizing the most current thinking on competition.

Competition in health care delivery is being supported by the Reagan Administration as well as several members of Congress. Cost escalation in the medical field is rampant and the familiar statistics no longer need repeating. Cost is the straw that broke the camel's back in the Federal program and brought the structural problems of FEHBP out into the open. Even though competition existed to an extent in the FEHBP, it did not have enough clout to restrain health care costs in the entire health system. Competition can work in a small segment of the population like the FEHBP, but it will not be able to retrain health care costs on its own. Competition must restructure the incentives facing all consumers across the country in order to affect the health system. The cost problem facing OPM emphasizes problems facing all employers and the Federal government in the implementation of Medicare and Medicaid.

The current structure of the FEHBP demonstrates that competition can work. On the demand side, ten million employees are able to make choices and respond to the price, quality, and benefits of several health options. FEHBP further demonstrates that one employer can administer over one hundred health plans nationally. These plans are even administered with some semblance of efficiency, considering that a few years ago it cost 26 percent more to process a Medicare claim than a FEHBP claim.

On the supply side, however, several structural flaws prohibit the plans from competing with each other on premiums and benefits. As you know, to constrain their costs, OPM requested a six and a half percent reduction in benefits and premiums. OPM's ability to constrain premiums and benefits is contrary to competition and serves to intensify the problems of adverse selection. The carriers should have free rein to set their premiums and benefit packages to meet the needs of the employees.

In recent years, for example, Blue Cross-Blue Shield has been required by OPM to offer mental health benefits. No other carrier has faced such a requirement. This tends to encourage Federal employees who feel that they would utilize mental health benefits, to join high-option Blue Cross-Blue Shield. It has been estimated that these mental health benefits have raised the Blue Cross-Blue Shield premiums by 7 to 8 percent in the Washington area. These increased costs are then reflected in higher premiums which accentuate the problem, employees who utilize mental health benefits remain, while employees who do not, think twice before they continue to pay such high premiums.

At this point I would like to emphasize that I am not advocating a "bail out" for Blue Cross. Blue Cross is financially stable and not dependent on the Federal employees' business to survive. The ground rules by which these plans compete need adjustment. We do not need to regulate the structure of the plans themselves. As a matter of fact, it is regulation not competition that is threatening Blue Cross.

The Federal government's contribution to their employees' health benefits should be limited and adjusted annually. This would divorce the government's contribution level from the premiums which the largest six plans charge. It would also remove OPM's inclination to become involved in the benefits these plans offer, because OPM's expenses will no longer be tied to the six largest plans. The limit should be adjusted annually to reflect inflation in the medical sector as long as the rest of the health system is not competitive.

Besides being limited by the Federal government, the Federal contribution should be adjusted according to several actuarial categories including age, sex, geographic area, and employee or annuitant status. This would decrease the effect of adverse selection. The age and sex of a population do tend to reflect differences in health status and should be accounted for in the government's contribution. A fifty year old or an annuitant is likely to utilize more health services than a thirty year old. The government should contribute more to the fifty year old's health coverage. This will enable the health plan with the fifty year old to serve him, without artificially increasing their premium next year to cover the additional costs. Sicker people, or people who think they may become sick, will continue to desire comprehensive, first-dollar coverage. The trick is to balance these "sicker" people with healthier people in the same actuarial category, which will allow the carriers to underwrite such a plan.

Furthermore, contributions should also be adjusted for the area of the country in which the Federal employee lives. Through the government's experience with Medicare, we know that health services are more expensive in New York City than in Oklahoma City.

The FEHBP requires careful restructuring. My health legislation contains certain aspects of what I have proposed above to incorporate into the FEHBP. We believe that the health care needs of the Federal employees, and ultimately the general public, would best be served by a competitive health system. In FEHBP the employees should be able to choose coverage from several health plans which compete with one another on the basis of quality, premiums, and benefit packages. Minimum regulations should govern this system to encourage fair competition. As legislators we are not here to dictate the details of the benefit packages available to Federal employees. Rather, we are here to preserve their benefits by the best possible means. That translates into taking very modest steps that will facilitate competition in the delivery of health care to Federal employees, which in turn will guarantee an open season for the people we are attempting to serve.●

AMERICAN LABOR MOVEMENT CELEBRATES ITS CENTENNIAL

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1981

● Mr. BIAGGI. Mr. Speaker, I would like to call attention to an event that occurred 100 years ago in Pittsburgh. On November 15, 1881, 107 delegates from a handful of unions and local assemblies gathered together to establish the Federation of Organized Trades and Labor Units—the forerunner of today's AFL-CIO.

This historic meeting of working people called for: compulsory free public education; an end to child labor; achievement of the 8-hour work day; apprenticeship laws; payment of wages in legal tender; creation of a national bureau of labor statistics; workers' compensation; and use of the ballot box to elect friendly legislators.

One hundred years later—due to the courage and work of the American

houses and moving out into the field for maneuvers. The concept works in Europe, and it can work in Southwest Asia.

We believe that, with our efforts to develop a Rapid Deployment Force, and the efforts of those other allies who maintain forces in the area—there are, for example, important French and United Kingdom naval units in the Indian Ocean—together also with the efforts of friendly regional powers, we will present a credible defensive capability to deter Soviet adventurism. We do not plan major ground force peacetime deployments in the region such as have been established in the Federal Republic under NATO, and which have contributed so importantly to maintaining the peace in Europe. The local situation is, of course, different in Southwest Asia, and the Soviets are not directly bordering the region—as they are in the GDR and Czechoslovakia—but rather would have to cross difficult and possibly hostile terrain to reach crucial areas.

These U.S. efforts, and those of others, however, have clear implications for the alliance defense effort in Europe. Although the Reagan administration is making significant increases in defense expenditures, U.S. resources are not infinite. U.S. divisions which may have to be assigned to a crisis in Southwest Asia would no longer be available to reinforce Central Europe. U.S. naval forces serving in the Indian Ocean would not be available for the protection of maritime convoys in the North Atlantic, or for controlling the Mediterranean. U.S. aircraft which are used to transport forces to Southwest Asia would not be availalbe to fly troops to Central Europe. Further, if the United States is to project significant forces to Southwest Asia in a period of crisis, it will have to depend on cooperation of several European allies for transit facilities.

If the alliance is to continue to present a credible conventional defense in Europe, at the same time that new challenges in Southwest Asia are being met, we must find ways of replacing these U.S. combat capabilities in the European theater.

We cannot accept a system which complacently counts everything twice. That is fine in peacetime, but could leave all of us out in the cold in wartime. We have, therefore, agreed in the alliance that we will consult on the force implications of the out-of-area problem, and that alliance members will take steps to meet any resulting gaps. This is a complex matter, particularly when it is difficult for members of the alliance to find funds for the present level of defense effort. But there is no other satisfactory course. We do not have the option of saying that, because of financial difficulties, we chose not to be prepared. The historical record of nations which made such ill-considered choices is not a happy one. Security is not deferrable, unless we are prepared through lack of security to put all our other values and social accomplishments at risk.

Some people have argued that the out-of-area problem is exaggerated, and that the members of the alliance should not deal with it because the NATO treaty area is circumscribed. They have contended that the problems of oil supply could be solved by political means, making unnecessary direct or indirect Western involvement in the security of the area.

Unfortunately, it is difficult to build a strategy on this basis. There is no question that the political problems of the region are severe and deep-rooted. The United States has been in the forefront of efforts to achieve a just and durable peace between Israel and the Arabs. We know from our own experience the difficulties involved and the genuine possibilities which exist. The Reagan administration is continuing to push forward with the effort which became known as the Camp David process.

However, it is not clear that even a complete resolution of the outstanding political problems of the region would ensure the safety of Western oil supplies, which would still remain vulnerable to Soviet direct attack or indirect subversive activity. Therefore, we believe that what is required is a composite program, of political, economic, and military efforts, which will enhance the strength and security of our friends in the area, deter Soviet Adventurism, and preserve the basis for an enduring relationship between the West and the region.

This is a broad and varied program. There are actual and potential roles in it for all members of the alliance, suited to the particular capacities and policies of individual nations—acting individually and jointly rather than an alliance which, after all, has fixed boundaries for its activities. What is important is that we press forward promptly with action, to ensure that our friends are not left exposed and without assistance, that our own vital interests are protected and that the dangerous politics of violence and threat do not come to dominate this crucial area of the world.

CONCLUSION

Certainly the West has the strength to do this, and to maintain a fully effective defense and deterrence posture in Europe at the same time. Contrary to the professional pessimists, I believe that the economic, political, and spiritual strength of the West continues to outstrip by far that of the Soviet Union and its unwilling satellites.

I would much prefer to be a Western leader, facing all of our admitted problems, but with the flexibility and dynamism afforded by democratic political structures, than a Soviet leader, facing much larger problems, and caught within the rigid framework of an archaic dictatorship. The Soviet leadership has no solutions to offer the heroic resistance fighters of Afghanistan—only tanks and helicopter gun ships. They have no solutions to offer the oppressed and restless peoples of Eastern Europe—only tired ideological formulas and none-too-subtle threats. They have no solutions to offer their own population either: Soviet military expenditures, which already consume 12-13 percent of Soviet national product, twice the U.S. level and four times the West European level, are expected to absorb even more in coming years, as the massive military buildup continues unabated. Let us all thank God that we don't live beyond the Elbe.

Today, more than ever, the peoples of the world look to the Western nations for the ideas and energy which will ensure the maintenance of peace and the expansion of opportunities for the future. Together, as free democratic peoples, we can meet those expectations. We remain the "city on the hill"—the beacon of light and freedom for all mankind.●

PROVIDING FOR A WAIVER OF LAW PURSUANT TO THE ALASKA NATURAL GAS TRANSPORTATION ACT

SPEECH OF

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 8, 1981

The House in Committee of the Whole House on the State of the Union had under consideration the joint resolution (H.J. Res. 341) providing for a waiver of law pursuant to the Alaska Natural Gas Transportation Act.

HOUSE JOINT RESOLUTION 341

● Mr. FRENZEL. Mr. Chairman, to reduce our excessive reliance on energy from foreign sources, the Alaskan gas reserves must be made accessible to the lower 48 States. We need the pipeline.

But, in my judgment, the prebilling feature of this waiver is outrageous. Therefore, I am obliged to cast a reluctant vote for a bill with which I am very uncomfortable.

Prebilling is wrong. It only means that the project's sponsors are unwilling to assume their share of the risk. Consumers will not only be obliged to shoulder a disproportionate share of the risk, but also they will have no assurances at all that they will ever receive the gas.

I am not convinced that FERC will be able to prevent financial abuses to the consumers. I do not believe there will be no billing before the pipeline is completed. Further, I foresee a need for Federal loan guarantees a couple years down the road.

Although I am opposed to prebilling and am uncomfortable with the waiver package as it is written, I see no feasible alternatives to it. We must have the gas. We must maximize our national energy potential.

Despite my reservations, I have voted for the waiver. A chance to get expensive gas is better than no gas at all.●

WAS THE McCARTY DECISION ON MILITARY RETIRED PAY RETROACTIVE?

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1981

● Mrs. SCHROEDER. Mr. Speaker, on June 26, 1981, Supreme Court ruled in the McCarty against McCarty case, that military retirement pay is not marital property subject to State community property laws and, therefore, could not be divided by a court upon divorce.

Since then many constituents who are military former spouses have called congressional offices to find out what effect the McCarty decision would have on their receipt of payments from a military retiree—either as alimony and child support or as a property settlement.

To assist Members and their staffs who are dealing with constituent inquiries from divorced military spouses, I am inserting in the RECORD two items.

First, the NOW legal defense and education fund has published a brochure entitled "After McCarty against McCarty: A Guide to Your Rights as a Military Wife," which contains an-

To his widow and family, I wish to extend my heartful sympathy, and to my colleagues, I wish to call attention to the life of Bill Blackwell as one which was exemplary. May his life's work be a shining example to all of us.

The article follows:

FLORENCE ATTORNEY DIES AT 65

Mr. Blackwell was a partner in the law firm of Wright, Scott, Blackwell and Powers and was a practicing attorney for 32 years, specializing in contract, insurance, corporation, real estate, wills, trusts and estates.

He retired as a lieutenant colonel in the U.S. Air Force Reserve and served on active duty as an air combat intelligence officer in the 86th Fighter Group in North Africa and Europe during World War II.

Born in Pacolet, he was a son of the late William Joseph and Eva Genoble Blackwell. He received his undergraduate degree from Wofford College and his law degree from the University of South Carolina.

Blackwell was the Florence Young Man of the Year in 1950 and president of the Florence Chamber of Commerce in 1952. President of the Florence Kiwanis Club in 1958, he was a member of the Judicial Council of South Carolina, the American Bar Association, and member and past president of the Florence County Bar Association. He was also a past chairman of the Central United Methodist Church Board of Stewards, past president of the Friends of Francis Marion College, past chairman of the Francis Marion College Foundation and chairman of the Board of Directors of Security Savings and Loan Association.

Blackwell was a member of the Advisory Board of Directors at Peoples Bank of South Carolina and a member of the board of directors of both the Florence Museum and Bruce Hospital.

On Dec. 21, 1978 Blackwell received the Distinguished Service Award from Francis Marion College.

Surviving are his wife, Mrs. Helene Carpenter Blackwell of Florence; two daughters, Mrs. Daniel E. (Anne) Ervin of Charleston and Miss Hayden Blackwell of Mt. Pleasant; two sisters, Mrs. W. Judson Sloan of Lyman and Mrs. Rod Berry of Pacolet.●

CURB HANDGUN VIOLENCE

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1981

● Mr. GOODLING. Mr. Speaker, 1 year ago, yesterday, John Lennon became the victim of handgun violence. Since that time, over 7,500 people have been killed by handguns. The President of the United States just narrowly missed becoming a statistic himself. And yet, no remedial action has been taken to limit such occurrences in the future.

Mr. Speaker, I am not speaking of action which would restrict the use of such weapons by law-abiding citizens, but steps which would curb the criminal misuse of these weapons.

One general point of agreement on this subject is the imposition of mandatory sentences upon those individuals who use a firearm in the commission of a crime. The final report of the Attorney General's Task Force on Violent Crime supports the concept of this legislation. And still the Congress has not seen fit to pass such a measure.

Mr. Speaker, on the occasion of the 1 year anniversary of the death of John Lennon, I call upon my colleagues to insist that appropriate action be taken in the near future to discourage such unnecessary acts of violence.●

POW LETTER

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1981

● Mr. DORNAN of California. Mr. Speaker, as chairman of the House Task Force on American Prisoners and Missing in Southeast Asia, I would like to bring to my colleagues' attention a symbolic letter from a prisoner of war, which I received from the Veterans of Foreign Wars.

Right now, on the other side of the world, an American fighting man, caged like an animal, begins or ends his day wondering why his fellow countrymen have forsaken him. As this holiday season approaches, I implore each and every one of you to reflect on this heart-rending plea, and extend your prayers to these brave men who are spending yet another holiday season in some barbaric prison camp in Laos, Cambodia, and Vietnam.

The letter follows:

A PRISON CAMP,
Southeast Asia, December 1981.

DEAR FELLOW AMERICANS: Another year has past and I am still being held against my will by my communist captors. This will be the eighth Christmas for some of us and up to seventeen for the rest.

I can close my eyes and picture the preparations that have been done for the Holiday Season. Gifts have been carefully selected and gaily wrapped; the tree has been trimmed with lights, tinsel, colored ornaments, with a shining star on top; the stockings have been hung on the mantel and a fire is softly dancing in the fireplace. A huge turkey with all its trimmings has been purchased, pumpkin pies and goodies galore have been baked, and nuts and fruit are in bowls around the rooms. Families and friends are wishing each other a joyous holiday while church bells ring out the music of Christmas.

When I open my eyes, I face the reality that I am still a forgotton Prisoner-of-War. No tree with all its glitter—only a cold cell, so dark and damp; no turkey with all its trimmings—just a small bowl of rice with seaweed broth and a bit of weak tea; no dancing fire—only a threadbare blanket to wrap my shivering body in. I silently sing songs of Christmas to myself and pray to God to help me endure the loneliness that engulfs me.

If only I could receive a picture from home. My children are no longer the toddlers I last saw. They have grown so much I can not picture what they must look like now. My lovely wife—how I long to hold here close and tell here that I love her. And my dear parents—the two wonderful people that taught me love, respect, and faith. How my dear family must suffer, not knowing if I am really dead as the Government declared, or if I am still alive and rotting away in this forgotten land. Oh, please God, take care of them for me and let them know in some way that I am still alive and love them very much.

Fellow Americans, I fought for you, so please fight for my release from this cell, so I may return to the Country and family I love so much. As you send out your Christmas cards this year, send one to the President and all elected Officials, urging them to take immediate action to bring us home. Our condition is deteriorating rapidly. Will we ever spend another Christmas with our loved ones? Our fate is in your hands!

STILL KEEPING THE FAITH,
A prisoner-of-War.●

PROVIDING FOR A WAIVER OF LAW PURSUANT TO THE ALASKA NATURAL GAS TRANSPORTATION ACT

SPEECH OF

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 8 1981

The House in Committee of the Whole House on the State of the Union had under consideration the joint resolution (H.J. Res. 341) providing for a waiver of law pursuant to the Alaska Natural Gas Transportation Act.

● Mr. PETRI. Mr. Chairman, I rise in opposition to the proposed waivers of law for the Alaska Natural Gas Pipeline System. I oppose this legislation for one simple reason: It requires consumers to bear a portion of the risks associated with the project.

Under the proposed waivers, consumers of natural gas in most of the country will be forced to pay a large portion of the costs of the pipeline whether or not they ever receive a single cubic foot of gas through it. That simply is not right. If the pipeline is economically viable, it should be possible to obtain private financing for it from those who stand to make a profit from it. If private capital is not forthcoming, then the project must not be sufficiently attractive and should not be built.

Everyone agrees that the initial price of Alaska gas shipped through the pipeline will be very high—at least $9 a thousand cubic feet in 1980 dollars, versus an oil-equivalent price of $8 a thousand cubic feet in 1980. I suspect the real reason for forcing consumers to pay much of the cost of the line regardless of whether any gas is ever shipped is to insure that the gas will be sold at that high price. Since consumers will have to pay a large part of that $9 a thousand cubic feet in any case, the additional price they will have to pay to actually get the gas will be relatively low. Supporters of this setup justify it on the grounds that over the 20 year life of the Prudhoe Bay gas field, the cost of the gas will decline in real terms, so that the average price of the gas over the 20 years will actually be about $5 per

thousand cubic feet. Thus they argue that although consumers are forced into this deal, in the long run it is a decent deal for them.

However, if it is true that this is such a good deal for consumers, it should be possible to sell the gas to distribution companies on the basis of 20 year contracts. We should not have to force consumers to take a good deal. The fact is that it may not be such a good deal after all. If energy prices in general do not rise over the next 25 years as fast as the project sponsors assume they will, then the fixed costs of the pipeline might still be too high to make economic sense 20 years from now, and the 20 year average price of the Alaska gas will not be a good deal at all. Or if the construction costs of the project are higher than anticipated, perhaps because of higher inflation than expected in the next 5 years, then the fixed costs of the pipeline will be higher than expected and again the 20-year average cost of the gas will be a worse deal.

Mr. Chairman, the simple fact is that this gas pipeline is a very risky project whose economics depend on a lot of assumptions about events over a period 25 years into the future. In fact, the risks are so great that private capital is not willing to bear them. So, what do the project sponsors do? They come to Congress asking us to shift those risks to our gas-consuming constituents, including little old ladies on fixed incomes and struggling small businesses, among others. It is a subsidy they are seeking, an insidious subsidy that they hope will be almost unnoticed and certainly not understood by the poor folks who are paying it. I submit that this is bad public policy, and I, for one, will not vote for it.●

INTERNATIONAL YEAR OF DISABLED PERSONS

HON. LARRY WINN, JR.

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1981

● Mr. WINN. Mr. Speaker, 1981, as you know, was designated as the International Year of Disabled Persons. This has generated a tremendous outpouring of concern and interest on the part of disabled and nondisabled citizens this year. Not only have attitudes changed, but people working together have made progress toward the following long-term goals:

First. Expanded educational opportunity;

Second. Improved access to housing, buildings, and transportation;

Third. Expanded employment opportunity;

Fourth. Expanded participation in recreational, social, and cultural activities;

Fifth. Expanded and strengthened rehabilitation programs and facilities;

Sixth. Purposeful application of biomedical research aimed at conquering major disabling conditions;

Seventh. Reduction in the incidence of disability by expanded accident and disease prevention;

Eighth. Expanded application of technology to minimize the effects of disability; and

Ninth. Expanded international exchange of information and experience to benefit all disabled persons.

Recently, I was pleased to introduce legislation which designates 1982 as the National Year of Disabled Persons. This would contribute to the momentum that has been building during the year. It is important, I believe, to assure the continuity of a movement which owes its strength to self-help and private sector initiatives. It is particularly important to take note of this in light of increasing budgetary restraints when people are being called upon to do more for themselves.

Interest and commitment remain high among the many groups involved in the promotion of the International Year of Disabled Persons throughout the United States. While the IYDP will end officially on December 31, all indications point to a desire on the part of these individuals to maintain and enhance the theme of partnership and community-based, grassroots efforts that have dominated 1981 in improving the lives of 35 million Americans with disabilities.

Mr. Speaker, I am also pleased to share the following speech given by Alan Reich, adviser to the U.S. delegation to the United Nations and president of the U.S. Council for the International Year of Disabled Persons, before the General Assembly of the United Nations recently. I have worked very closely with Alan over the past year, and would like to commend him for his leadership and steadfast attentiveness to the needs of disabled persons all over the world:

PREPARED STATEMENT BY ALAN A. REICH, ADVISER TO THE U.S. DELEGATION TO THE UNITED NATIONS AND PRESIDENT OF THE U.S COUNCIL FOR THE INTERNATIONAL YEAR OF DISABLED PERSONS, IN THE GENERAL ASSEMBLY OF THE UNITED NATIONS, DECEMBER 7, 1981

Mr. President, the United Nations, by proclaiming 1981 the International Year of Disabled Persons, has aroused the hopes and aspirations of fully a billion people comprising the world's "disability family." This family is made up of one-half billion persons who are disabled themselves plus at least an equal number of family members who also live with the limitations and challenges of our disabilities. Thanks to the vision and leadership of the member nations, the Secretary General and the secretariat, and the agencies of the United Nations system, the disability family now can look more optimistically to the future. the response to the challenge of the IYDP has been gratifying. But having accepted the challenge, and the responsibility, we now must intensify our efforts, for the serious problems of disability do not end with the IYDP.

By promoting its five-point IYDP program, the United Nations has stimulated commitment and purposeful action by governments, U.N. agencies, non-governmental organizations and concerned individuals throughout the world. While their responses have varied, reflecting differing social structures, stages of development, and levels of resources, several significant common themes have emerged. They include an outpouring of compassion, a recognition that disabled persons are an important resource, and the active involvement of disabled persons themselves.

Mr. President, I am pleased to have the opportunity to comment on the United States and worldwide responses to the IYDP challenge and on the implications for the future. In the United States the IYDP initiative has led to significant programs and results. As President Reagan stated in his IYDP proclamation on February 6, 1981, "all of us stand to gain when those who are disabled share in America's opportunities." At the Government level, 42 agencies have undertaken IYDP activities aimed at bringing Americans with disabilities more fully into the mainstream. Their efforts have included reviewing hiring practices, streamlining legislation as it relates to disability, and carrying out special information programs. Of equal importance, the Government has encouraged the private sector in the United States to take advantage of the IYDP opportunity.

The private sector—comprised of disability, business, religious, labor, youth, women's professional, and other organizations—has responded with vigor and enthusiasm. The concept of partnership—between the disabled and nondisabled; between government and the private sector; and between organizations at the National, State and local levels—has been a dominant theme. The IYDP mission in the United States, adopted jointly by the Government and the private sector, has been to increase public understanding of the needs and potential contribution of disabled persons and to accelerate progress toward long-term goals.

The corporate and disability communities together formed the U.S. council, funded by nongovernmental sources. Its purpose has been to carry the IYDP challenge of the United Nations to the towns and cities of America, where our 35 million citizens with physical or mental disabilities go about their lives. In more than 1,850 communities, partnership committees of disabled and nondisabled persons have been formed. They have identified needs, set goals, and undertaken programs to meet their own goals. The Governors of all 50 States, more than 330 national organizations, and 270 leading corporations have joined in this partnership program. Demonstrating tremendous corporate social responsibility, America's corporations have provided resources and enlightened leadership. They have realized that bringing disabled persons into the economic mainstream is in their own best interest. To cite one example of this corporate commitment, Xerox Corp. last month donated $3,000,000 worth of sophisticated reading machines for the blind to 100 university libraries.

In American communities, people from all walks of life have advanced the United Nations IYDP theme of "full participation of disabled persons." They have made public buildings and facilities more accessible, developed special transportation systems, modified churches and parks to accommodate disabled persons, facilitated voting by disabled individuals, passed new ordinances on housing for disabled persons, held job fairs to bring together employers and disabled job seekers, and they have carried out

The ordeal of the POW's and MIA's certainly did not end with the wars that they fought in. The aftereffects of starvation, disease, and torture linger today in the bodies and minds of so many of our POW's. Skin, respiratory, heart, and systematic diseases are abnormally frequent for them. For Americans held hostage by the Japanese, Koreans, and Vietnamese, anxiety neurosis and maladjustment are common problems. The suffering of these men continues today, so we cannot allow ourselves to forget their great sacrifices.

And perhaps for many men, the sacrifice and daily trauma of incarceration continues today at the hands of their captors, for there are over 2,000 soldiers labeled "Missing in Action" in Vietnam. The Vietnamese Government has been largely uncooperative in our attempts to account for these men. Perhaps they are still alive, left behind in Vietnam. The war may never end for some of our MIA's.

But the trauma of these missing soldiers is most strongly felt by their families and friends at home. Their families may never know what happened to the boys or husbands or fathers they loved. These unresolved questions are troubling, and deserve renewed investigation.

Mr. Speaker, we must never forget the sacrifice that our men in uniform have made to keep this country and the free world safe for democracy. We must always remember the dedication of American POW's who bravely faced the enemy, and who endured the worst possible circumstances. We shall remember the men who gave their lives and those who remain unaccounted for.

I trust that my colleagues will help me insure that on April 9, 1982, and every year to come, the American people will honor the many men who have given so much to their country by sacrificing a significant part of their lives upon the alter of freedom.●

ALASKA NATURAL GAS PIPELINE

HON. CLAUDINE SCHNEIDER

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1981

● Mrs. SCHNEIDER. Mr. Speaker, I must rise in strong opposition to the resolution of waiver of Federal law relating to the Alaska natural gas pipeline.

This bill makes a mockery of the democratic process in several ways. First, we are allowed only 1 hour of debate on a bill which will undoubtedly cost consumers billions of dollars. Second, no amendments are in order. Proponents will have you believe that this Nation's energy future rests on approval of this waiver. Not so. The Prudhoe Bay reserves represent one of this country's most precious resources. There is little question that this gas ought to be exploited, and certainly its use can help in reducing our crippling dependence on imported oil.

Unfortunately, we are not presented with a measure which allows for even decent methods for recovery. This bill will allow rich, multinational oil companies to bill their customers long before any gas is delivered. "Prebilling" is an unconscionable means of making the public, rather than those who will reap the huge profits, take the risk that the pipeline will not come on line.

Furthermore, the State of Alaska stands to make some $20 billion in severence taxes on Prudhoe Bay gas—that is $40,000 for every citizen of that State—without investing 1 cent. This measure only exacerbates the flow of capital from energy-consuming States to energy-producing States. To make hardworking natural gas consumers pay for a pipeline that will make the State of Alaska richer is to make a mockery of every principle of equity.

Mr. Speaker, the plain fact is that if this pipeline were such a good deal, private capital would be easily available, and private investors would rush to the breach. This resolution is on the floor today because the developer cannot live up to his promise to use private capital. There are solutions to this dilemma, but a multi-billion-dollar tax on consumers shouldn't be one of them. It will be a sad day for this House when we can be steamrollered like this.

In closing, I would like to share with my colleagues a transcript of Bill Moyers' commentary on the CBS Evening News last night. Mr. Moyers has given us a clear example of why most Americans think so poorly of their elected representatives.

BILL MOYERS COMMENTARY,
CBS EVENING NEWS

BILL MOYERS. Dan, if you want to know why so many people are fed up with both political parties and have stopped voting, and if you have a strong stomach, I have a case in point.

JOHN MCMILLIAN [on the telephone]. What's the count?

MOYERS. It starts with this man. His name is John McMillian. He's chairman of Northwest Alaska Pipeline Company. Four years ago, the federal government gave him exclusive rights to build a big pipeline to bring gas all the way from Alaska to consumers in 42 states. He got that franchise on the condition that the pipeline would be built with private funds. But now John McMillian wants to change the rules. He says he's having trouble getting the banks to finance the project, and he wants consumers to put up the money—before the project is finished and whether or not a drop of gas is ever delivered. That's right—he wants the government to force consumers to be his investors, to assume the risks of stockholders without voting rights or dividends. Senator Howard Metzenbaum of Ohio is the only member of the Senate Energy and Natural Resources Committee to vote against the pipeline bill.

METZENBAUM. How could anybody possibly vote for such a piece of legislation? How can anybody go home and explain that to their own constituents? It's wrong. It's a bad deal.

MOYERS. Lest you think it's just a liberal Democrat eating sour grapes, listen to a conservative Republican—Congressman Tom Corcoran from Illinois.

CORCORAN. Here we have probably, potentially the greatest consumer rip-off in the history of the United States. Thirty-seven billion dollars—and in the debate on our committee, we heard very little from those same people who have been arguing for years and vociferously in behalf of the Consumer Protection Agency. I think they took a walk on this one, probably for political reasons.

MOYERS. No wonder John McMillian is smiling. The government is giving him what he wants—lock, stock and barrel, with very little public debate. How did he do it? Pretend you're John McMillian and you want the federal government to change the rules after the game has already started. First, you make friends with the president, because only the president can submit the resolution to undo the rules agreed upon four years ago. And naturally, you hire the public relations firm of Peter Hannaford, former partner of Mike Deaver, one of the president's inner circle. Hannaford, you'll remember, purchased the consulting firm owned by National Security Advisor Richard Allen.

But once you get the Republicans on your side, what about the Democrats? You need their leadership to win the public debate on your proposal. First you hire former Vice President Walter Mondale to be a consultant to your firm. Then you contribute $5,000 to the Committee for the Future of America, Mondale's political action committee. But one high-powered Democrat is not enough—not for a big job like this.

MCMILLIAN [to secretary]. Where's Bob?

SECRETARY. Strauss. I'll call him. He's in Washington. He just got in.

MOYERS. That's right—Robert Strauss, former chairman of the Democratic party, and an old friend of John McMillian's. Robert Strauss is also the former chairman of the Democratic party, and a man who knows how to wheel and deal in Congress. Want more clout? How about another firm: White, Fine and Verville—one of whom served as the chairman of the Federal Power Commission under President Johnson. And the law firm of Charles Manatt.

Charles Manatt, the current chairman of the Democratic Party? Yes, Charles Manatt. And all the while you spread money around. Just look at the contributions that John McMillian has made, in just the last four years.

METZENBAUM. We've seen a magnificent lobbying effort in connection with this bill. You couldn't hire some of the lobbyists that were hired in this instance, you couldn't have the impact that's been had in this instance, without spending a lot of money. And I would say to you that when you spread that kind of money around, you can be certain it's going to have an impact. It's going to provide access, it's going to provide votes.

MCMILLIAN [on the telephone]. All you guys are coming in to raise funds for this.

MOYERS. But if you were John McMillian, you don't stop with using your own money. You ask other companies with an interest in the pipeline legislation to put up, too. And they do—$80,000 showered on Congress since January alone.

METZENBAUM. Not long ago, one of my staffers called a staffer for another senator and said, "Is the senator going to be with us on this issue?" And the response was, "Oh, no. He couldn't be with you. He took a lot of money from the oil companies during his campaign." That actually happened.

MOYERS. And presto—your bill breezes through Congress under rules so unusual

that debate was limited to only one hour. Yep: One hour to debate a project that will cost tens of billions of dollars.

CORCORAN. John McMillian is going to have a happy Christmas—and a lot of consumers for 20 years, in my judgment, are going to have to pay the price.

MOYERS. Shifting the burden of investment from corporations to consumers wasn't the only way to finance this project. But other alternatives were never considered, because John McMillian and the companies know the right people in the right place at the right price. So much for all that Republican talk about free enterprise. And so much for a Democratic Party controlled by lawyers and lobbyists, who have offered its soul to the company store. The two-party system is not only up for grabs—it's up for sale.●

PUBLIC LAW 94-142: HANDICAPPED CHILDREN'S EDUCATIONAL MAGNA CHARTA

HON. ARLEN ERDAHL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1981

● Mr. ERDAHL. Mr. Speaker, Recently, it has been alleged that Public Law 94-142 represents education's "Three Mile Island." Any Federal statute that has voluntarily been implemented by 49 States and which increased the access to educational opportunities for 4 million children does not warrant a metaphorical comparison with a nuclear reactor accident.

Since 1975, when the Education of All Handicapped Children Act—Public Law 94-142—was enacted, we have witnessed a tremendous growth in educational programs for all handicapped children in all States. Local school districts and States have been willing to embrace the intent of Public Law 94-142—the provision of a free appropriate public education for each handicapped child—in spite of the fact that Federal dollars for assisting with this intent has never exceeded 12 percent of the excess cost of educating handicapped children. Public Law 94-142 has impacted on all school districts and it has benefited approximately 4 million handicapped children.

Public Law 94-142 does not tell States and local school districts how to educate handicapped children. Rather it affirms a handicapped child's right to an education at public expense and outlines processes which should facilitate the provision of such an education: communication between parents and school officials, attention to a child's individual education needs, and opportunities for due process in cases of disagreement. These processes are characteristics associated with effective school systems. Thus Public Law 94-142 reinforeces a good educational practice.

We are all well aware of the shrinking dollars available for education. Where and how these dollars are used should be determined by State and local officials, however this is not incompatible with retention of a national mandate. The repeal or weakening of Public Law 94-142 or the reduction of Federal appropriations will not relieve States of the responsibility for educating handicapped children nor will it eliminate the rights of handicapped children. The responsibility for educating handicapped children at public expense was written into law in 39 States prior to Public Law 94-142 and is now found in every State. Moreover, if Federal funds for assisting in the education of handicapped children are significantly curtailed or stopped altogether, the immedicate effect will be an increased fiscal burden for State and local governments. The long-term effect will be reduced services to school-age handicapped children. The result of this reduction in services may be increased dependence in adulthood.

After several years of experience with Public Law 94-142, we should recognize and commend State and local efforts on behalf of America's handicapped children. It is time that we review the regulations for Public Law 94-142—published in final form in August 1977—and consider modifications in the regulations which will increase administrative flexibility for States but which will also reaffirm the right of a handicapped child to a free appropriate public education. The Education Department is conducting a thorough review of the regulations for Public Law 94-142 and has sought input from diverse groups concerning possible areas of regulation reform. This is responsible action. It acknowledges the benefits achieved through Public Law 94-142 and the need for adjustments in regulatory requirements. Such activity reflects a continued commitment to the original intent of the act. Public Law 94-142 has been and should continue to be an example of an effective local, State, and Federal partnership, a partnership which may need to be realined, but certainly not eliminated.●

HONORING MR. FRANK E. KLACKLE

HON. HAROLD S. SAWYER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1981

● Mr. SAWYER. Mr. Speaker, I have the privilege today to honor Mr. Frank E. Klackle, who will be retiring from the Michigan Cooperative Extension Service on December 31, 1981.

Mr. Klackle's unwavering dedication to the area of agriculture and his significant contributions to the fruit industry, deserves high recognition. He has constantly received distinguishing honors from the Michigan State University Hort Society and the International Dwarf Tree Association; Federal land bank, and was awarded the Fruit Man of the Year with the Pomester Club.

Mr. Klackle has displayed both his knowledge and leadership capabilities in the many facets of agriculture. He has served as township supervisor and became chairman of the Kent County Board of Commissioners in 1960. Mr. Klackle joined the Michigan Extension Service in 1961 and later became district horticulture agent for the west central district of Michigan. A member of the Kent County Farm Bureau for 33 years, Frank is held in the highest esteem by his professional colleagues in the fruit industry of Michigan.

I thank Frank Klackle for his outstanding service and wish him the very best in his retirement.●

ARMY REFUSES TO REENLIST A 31-YEAR-OLD HERO

HON. AUSTIN J. MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1981

● Mr. MURPHY. Mr. Speaker, recently a constituent approached me with a problem he was having with the military. Now, I am sure all of my colleagues here have had similar experiences. But this was not the standard military casework. The Army refuses to let this person reenlist. I should add that my constituent served 9 years in the U.S. Army before his honorable discharge. He rose to the rank of staff sergeant while in the service. This man had volunteered for three tours of duty in Vietnam. He proudly served his country for 29 months in Vietnam. He was awarded the Bronze Star, the Air Medal, a Meritorious Service Medal and numerous good conduct and campaign ribbons. He is only 31 years old and in excellent physical condition. But the Army refuses to let him reenlist because he was one of the air traffic controllers that was recently dismissed.

I have a copy of the memorandum from the Assistant Secretary of Defense, dated November 5, 1981. That states:

> Effective immediately, individuals who have been dismissed from Federal employment because of their participation in a strike against the Government of the United States or the Government of the District of Columbia will not be enlisted or appointed as members of the Armed Forces.

In all of my life I have never seen such a ridiculous and asinine action. How in the name of commonsense—not to mention fair play—can the Defense Department justify this action? What possible rationale can there be for this? Does the Defense Department consider these people somehow unfit for service?

I assume from reading the Defense Department memo that if this person had been dismissed from his job for any other reason other than going on strike, that the military would have accepted him.

Is this the way the administration chooses to honor veterans—especially Vietnam veterans?

In spite of the progress that has been made in recognizing the role of the nurse-midwife, barriers still exist which prevent many consumers from obtaining nurse-midwifery services. Our colleague, the gentlewoman from Maryland (Ms. MIKULSKI) has introduced two bills, H.R. 4636 and H.R. 4637, which would take important steps to correct this situation. H.R. 4636 would allow certified nurse-midwives to receive reimbursement under Federal Government health plans, and H.R. 4637 would allow nurse-midwives to receive medicare reimbursement for services to disabled women and for routine gynecological care delivered to elderly women. As a cosponsor of these bills, I urge our colleagues on the Post Office and Civil Service Subcommittee on Compensation and Employee Benefits; the Energy and Commerce Subcommittee on Health and the Environment; and, the Ways and Means Subcommittee on Health to proceed quickly with the consideration of this legislation.

In addition, I urge my colleagues to cosponsor House Joint Resolution 316, sponsored by the gentleman from Ohio (Mr. BROWN), which would designate the week of April 19, 1982 as National Nurse-Midwifery Week. House approval of this resolution would provide an opportunity to focus attention on the nurse-midwifery profession and, perhaps, serve as a catalyst in overcoming some of the obstacles still facing nursing-midwives.

Again, I commend Mrs. Phyllis Farley, Dr. Lubic and all of the dedicated individuals whose fine work is responsible for the success of the MCA Childbearing Center and I urge my colleagues to support legislative efforts that will firmly establish the nurse-midwifery profession.●

PROVIDING FOR A WAIVER OF LAW PURSUANT TO THE ALASKA NATURAL GAS TRANSPORTATION ACT

SPEECH OF

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 8, 1981

The House in Committee of the Whole House on the State of the Union had under consideration the joint resolution (H.J. Res. 341) providing for a waiver of law pursuant to the Alaska Natural Gas Transportation Act.

● Mr. BONKER. Mr. Chairman, the waivers of law for the Alaska natural gas transportation system set bad precedents and could encourage poor project management.

My opposition to these waivers does not mean I am opposed to the idea of transporting Alaska natural gas to the lower 48 States. I have supported in the past construction of a pipeline system to do that, and I still believe it should be built. However, these legal waivers are not the proper way to proceed.

In passing the Alaska Natural Gas Transportation Act, Congress specified that the project must obtain private financing. The ultimate test of its worth was left, as it should be, to the marketplace. That was a wise and proper judgment then; it remains so today.

The act also gave the President authority, which he has not exercised, to propose waivers of existing laws to expedite the project. Waivers are appropriate to simplify processes and procedures that could unnecessarily complicate and delay the project. Cutting redtape in that fashion is an excellent idea. It is inappropriate, however, to use that authority to waive substantive features of law and to set major precedents for Federal involvement in private energy transportation projects.

The proposed waivers also shield pipeline participants from some of the financial risk they would otherwise face. Full exposure to such risks helps hold pipeline owners, builders, and operators accountable for their actions and insure that sound, cost-effective work makes the pipeline the best possible deal for the consumers who must ultimately bear its cost.

My fellow Washington State residents and I are all too familiar with another large construction entity—the Washington Public Power Supply System—that commenced construction of five nuclear powerplants under circumstances that reduced the accountability of decisionmakers and shielded project participants from portions of the financial risks that such endeavors normally entail.

Waste, mismanagement, and general disarray now beset WPPSS, and its mammoth construction plan is in shambles. Costs have skyrocketed. Construction has stopped at two of the five plants, and their future is most uncertain. The State's voters, in the latest expression of frustration with the situation, simply stripped the agency of its independent authority to sell construction bonds.

As general debate on the waiver resolution noted, a Congressional Research Service analyst has concluded:

The WPPSS experience indicates that large, capital-intensive projects have a potential for serious financial crisis when management decisions are not subject to timely review. Caution suggests that such projects be provided with careful oversight, and perhaps formal review authority, by entities which will eventually be responsible for the costs of the project.

These waivers of law move us in the wrong direction on the Alaska natural gas transportation system. However worthy their purpose may be, they are a bad idea.●

HOUSE JOINT RESOLUTION 431

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1981

● Mr. SPEAKER. I will be voting today in support of House Joint Resolution 431. Our Nation, despite its commendable energy conservation efforts, remains dangerously dependent on foreign energy sources. At the present time, we still import 5 million barrels per day of crude oil and petroleum products. We are without a means of effectively opposing OPEC price increases, or reducing our vulnerability to the course of events in unstable regions of the world. Natural gas, and specifically Alaskan natural gas, is a very important part of our effort to reduce our dependence on imported foreign oil in general, and Persian Gulf oil in particular.

The natural gas of Prudhoe Bay, Alaska—26 trillion cubic feet of gas—represents 13 percent of total U.S. reserves, as well as additional potential reserves of 100 to 200 trillion cubic feet of natural gas. It is the largest gasfield discovered in the United States, and has the potential to replace 400,000 to 600,000 barrels per day of imported OPEC oil, an equivalent of our total current imports from Libya. We must not underestimate the role Alaskan natural gas can play in reducing our dependence on imports of foreign oil. For this reason, I am willing to put aside my reservations regarding the waiver package President Reagan has put before us.

The proposed waiver package does depart from traditional regulatory practices, allowing for the prebilling of consumers to permit the financing, through private means, of this $40 billion project. However, it has been made clear that these charges will not exceed $1.78 per household per month under the worst circumstances; a charge which does not seem excessive given the overall national benefit of this secure supply of energy.

We must not only consider how the success of this project will add to our national security by promoting energy independence; we must also consider how its failure, or even its costly delay, will effect our relations with Canada.

A failure on our part to approve this waiver package would be considered a gross breach of faith by the Canadian Government.

In response to commitments made by two Presidents, Canadian companies have undertaken the construction of their segment of the Alaska Natural Gas Pipeline System (ANGTS) with the understanding that they would be permitted to commence billing the American consumer at "full cost of service" as soon as their segment of the pipeline was completed.

Neither the Canadian Government nor Canadian firms can be expected to assume the financial losses which would accure to them if the American segments of the pipeline are not completed on schedule. The Canadians have already spent $680 million on the spurs of the ANGTS from Alberta, Canada, which are presently supplying our Western States, and soon will be supplying the Midwest, with significant amounts of Canadian natural gas. If we fail to facilitate the prompt completion of the ANGTS by approving this waiver package today, we risk jeopardizing our relationship with Canada, not only as a needed supplier of natural gas, but also as our close and supportive ally.●

F. D. R.'s WATERGATE: PEARL HARBOR—PART III

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1981

● Mr. McDONALD. Mr. Speaker, today in part III, Mr. Percy L. Greaves, Jr., concludes his expository on Pearl Harbor as it originally appeared in the February 1976 issue of Reason magazine. As I have pointed out in introducing parts I and II of this article, the full cost of Pearl Harbor that we still pay for today, may never be known. I do, however, wholeheartedly agree with the observation made by Mr. Greaves in concluding this article that the war that began at Pearl Harbor was: "* * * a war that sunk free enterprise even deeper than the New Deal had. Europe was made safe for socialism and Asia for Communism."

It is indeed notable and conclusive that those who covered up that day of deliberate provoked infamy were richly rewarded. It is a disgrace to this Nation what happened at Pearl Harbor, but it should be remembered that those living today who participated in this treasonous coverup have to live in the knowledge of their souls, that 100,000 Americans gave their last full measure of devotion, their lives; as well, there is the other 100,000 who suffered the wounds of battle, some to be crippled for the rest of their lives.

I fully realize that Mr. Greaves, along with historians like John T. Flynn deserve much credit for their service of exposure, but indeed, in just memory of those who served and gave their lives, the matter of Pearl Harbor should be more fully investigated and let all the chips fall where they may. The concluding section of Mr. Greaves' "F. D. R.'s Watergate: Pearl Harbor" follows:

THE WARNINGS MULTIPLY

All sorts of important messages then began flowing in. Some dealt with the destruction of codes. Another indicated the war would be against the United States and Britain, but not against Russia. Everyone in Washington privy to the coded messages was on the alert for the Japanese answer to the U.S. ultimatum of the 26th. A special phone was put in so that it could be phoned immediately to the Secretary of State. On the morning of December 6, a message was picked up, decoded and translated. It read:

1. The Government has deliberated deeply on the American proposal of the 26th of November and as a result we have drawn up a memorandum for the United States contained in my separate message No. 902 (in English).

2. This separate message is a very long one. I will send it in 14 parts and I imagine you will receive it tomorrow. * * * The situation is extremely delicate, and when you receive it I want you to please keep it secret for the time being.

3. Concerning the time of presenting this memorandum to the United States, I will wire you in a separate message. However, I want you in the meantime to put it in nicely drafted form and make every preparation to present it to the Americans just as soon as you receive instructions.

This "Pilot Message" was distributed to those entitled to see it shortly after noon. It is not exactly an invitation for responsible officers to disappear on normal weekend relaxations, as the public was later told they did.

Another message instructed the Japanese Washington Ambassadors:

Be absolutely sure not to use a typist or any other person. Be most extremely cautious in preserving secrecy.

The first 13 parts of the 14-part message came in Saturday afternoon, December 6. The Navy men went right to work on them. By the middle of the afternoon Army decoders were called back to help. These parts being in English did not need to be translated. Copies were ready for distribution before 9 p.m.

F. D. R.: "THIS MEANS WAR"

Top Naval officers were having a party that night. So a special young Navy lieutenant was detailed to the White House to deliver these messages to the President in a locked pouch immediately upon their arrival. When he did so he found the President waiting for him with Harry Hopkins.

At the time of the Congressional hearings this officer, then Comdr. Robert Schulz, was in the middle of the Pacific. He was flown back and was the only Navy witness the administration was unable to approach privately before his testimony. He testified in part:

The President read the papers which took perhaps ten minutes than he handed them to Mr. Hopkins. . . . Mr. Hopkins then read the papers and handed them back to the President. The President then turned toward Mr. Hopkins and said in substance—"This means war." Mr. Hopkins agreed, and they discussed then for perhaps 5 minutes the situation of the Japanese forces. . . .

The President mentioned a message he had sent to the Japanese Emperor concerning the [illegible]nce of Japanese troops in Indochina, [illegible] requesting their withdrawal.

Mr. H[illegible] then expressed a view that since war was undoubtedly going to come at the convenience of the Japanese, it was too bad that we could not strike the first blow and prevent any sort of surprise. The President nodded and then said, in effect, "No, we can't do that. We are a democracy and a peaceful people." Then he raised his voice and this much I remember definitely. He said, "But we have a good record. . . ."

During this discussion there was no mention of Pearl Harbor. The only geographic name I recall was Indochina. . . .

Then the President said that he believed he would talk to Admiral Stark. He started to get Admiral Stark on the telephone . . . but I believe the White House operator told the President that Admiral Stark could be reached at the National Theater . . . the President went on to state, in substance, that he would reach the Admiral later, that he did not want to cause public alarm by having the Admiral paged or otherwise when in the theater, where, I believe, the fact that he had a box reserved was mentioned and that if he left suddenly he would surely have been seen because of the position which he held and undue alarm might be caused and the President did not wish that to happen because he could get him within perhaps another half hour in any case. His words were in effect that he would reach the Admiral later. . . . The matter of it being another hour is my own observation based on the fact that the theater was eventually going to close that evening.

Later, when testifying, Admiral Stark could not remember that upon arrival home that night he had excused himself from the theater party, gone upstairs to return the President's call. After his original testimony he had to be reminded of this by a member of the theater party.

THE DAY OF INFAMY

Early on the morning of December 7, the 14th part came in as well as the message telling them to deliver it at 1 p.m. Washington time, which was dawn at Pearl Harbor. Other messages thanked the Ambassadors for the job they had done and bid them goodbye.

The inside story of December 7 was recorded in the Stimson diary:

Today is the day that the Japanese are going to bring their answer to Hull and everything in MAGIC indicated that they had been keeping the time back until now in order to accomplish something hanging in the air. Knox and I arranged a conference with Hull at 10:30 and we talked the whole matter over. Hull is very certain that the Japs are planning some deviltry and we are all wondering where the blow will strike. We three stayed together in conference until lunch time, going over the plans for what should be said or done. . . . Hull was to see the Japanese envoys at one o'clock but they were delayed. . . . I returned to Woodley to lunch and just about 2 o'clock, while I was sitting at lunch, the President called me upon the telephone and in a rather excited voice asked me, "Have you heard the news?" I said, "Well, I have heard the telegrams which have been coming in about the Japanese advances in the Gulf of Siam." He said, "Oh, no, I don't mean that. They have attacked Hawaii. They are now bombing Hawaii." Well, that was an excitement indeed. The messages which we have been getting through Saturday and this morning are messages . . . showing that large Japanese forces are moving up into Gulf of Siam. . . . The British were very much excited about it and our efforts this morning in drawing our papers were to see whether or not we should all act together. The British will have to fight if they attack the Kra Peninsula. We three all thought that we must fight if the British fought. But now the Japs have solved the whole thing by attacking us directly in Hawaii.

As soon as I could finish my lunch, I returned to the office and began a long conference which lasted until 6 o'clock. The news coming in from Hawaii is very bad. They seem to have sprung a complete surprise upon our fleet and have caught the battleships inside the harbor and bombed them severely with losses. They have also hit our airfields there and destroyed a great

small, private organization that U.S. cooperatives organized 11 years ago to provide short-term, technical assistance to cooperatives in developing countries at their request.

Several VDC volunteers have reported to me on their work overseas including:

Dr. Karl Falk, chairman of the board of First Federal Savings & Loan Association of Fresno, Calif., former president of Fresno State College, professor of economics there for 29 years, and chairman of the board of Cooperative Housing Foundation;

James E. Like, former controller of Lindsay Olive Growers and now a director of that cooperative, who has handled VDC projects in Liberia and Somalia and is now in Thailand, and

Pete Faria, a Tulare, Calif. dairyman, who returned to his native Brazil last year to recommend improved production practices so that low-income, co-op members could expand milk production.

The principal ingredient in VDC's success, I'm convinced, is the volunteered services of experienced, highly qualified men and women. Each is selected for particular skills that match the specific request VDC receives.

Another reason VDC seems to succeed is that nothing happens until a group of persons overseas or a government agency there asks VDC for help. No one else decides that they should receive help—not their government, not the U.S. Government, not someone trying to be helpful. They alone can initiate a VDC project.

To provide this volunteer, technical assistance, some funds are necessary to get the volunteers overseas and back and to sustain them while they're there. That's what AID and U.S. taxpayers provide, and I want to see that some of the money we propose to provide under this bill is used to fully finance VDC, to enable it to continue to expand its work around the world.

AID and VDC recently chose Dr. Stanley Krause to evaluate VDC's work on the spot. Dr. Krause retired from AID's Africa Bureau in 1980 after 28 years with AID and the Department of Agriculture. In his report, he says:

VDC's work is important.

Few AID programs could match such a favorable review.

VDC's work is highly cost effective.

Virtually all alternative forms of technical assistance have substantially higher costs.

VDC's volunteer's conduct of projects has been excellent.

The central core of VDC's program—the actual field execution of individual projects—has been superior.

VDC's work is aimed at "the poor majority."

Cooperative participants and eventual beneficiaries . . . fall comfortably within the worldwide definition of the poor majority.

Four national organizations of U.S. cooperatives provide leadership for VDC. These are Agricultural Cooperative Development International, American Institute of Cooperation, National Rural Elective Cooperative Association, and National Council of Farmer Cooperatives, and I commend them for their work.

I like this emphasis on technical assistance as the basis of foreign assistance. I like the use volunteered U.S. skills and experience. I like the emphasis on self-help. And I want to see that this organization and others like it are fully funded and have an opportunity to expand their work.●

H.R. 1465

HON. LARRY E. CRAIG

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1981

● Mr. CRAIG. Mr. Speaker, each of us, far too often, have heard from our State and local officials about the cost impaction of compliance in carrying out major congressional actions. H.R. 1465, which this body will consider shortly, is a response to the unprecedented expansion of Federal programs during the 1970's, which has imposed significant fiscal and administrative burdens on State and local governments. Undoubtedly, many of these costs are unintended.

Because Congress presently has no means of determining the cost of legislation on anything other than the Federal budget, it has become clear that Federal legislation can no longer be considered in isolation. As we well know, Federal programs cannot be simplified, nor spending reduced by merely shifting a greater burden of the cost to States and their local governments. By amending the Congressional Budget Act of 1974, H.R. 1465 would permit Congress to identify the possible hidden costs and consequences of pending legislation before it is enacted into law. This bill establishes a format and guidelines for preparation of State and local government cost estimates similar to those which CBO currently uses for Federal cost estimates. This can result in the drafting of more responsible, less costly legislation.

At a time when there have been recent reductions in Federal aid to States and local governments, assessment of the impact of Federal legislation is timely. H.R. 1465 offers an important step toward achieving the kind of fiscal accountability that is not only needed, but that the American people are now asking of all levels of government. I am pleased to voice my support for H.R. 1465.●

PROVIDING FOR A WAIVER OF LAW PURSUANT TO THE ALASKA NATURAL GAS TRANSPORTATION ACT

SPEECH OF

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 8, 1981

The House in Committee of the Whole House on the State of the Union had under consideration the joint resolution (H.J. Res. 341) providing for a waiver of law pursuant to the Alaska Natural Gas Transportaiton Act.

● Mr. WALGREN. Mr. Chariman, I urge support for House Joint Resolution 341 despite the doubts expressed by some of my colleagues, because I believe access to Alaskan natural gas is important for the national interest. A stable supply of natural gas is essential for our economy—indeed our way of life. Such a supply is especially important for the economy of the Northeast and the future of industries like steelmaking that are essential to my part of the country. This resolution would waive certain laws affecting the construction and operation of the Alaska natural gas transportation system. Natural gas is used by many residential and industrial customers in western Pennsylvania, and I am keenly aware of how important a readily available supply of natural gas can be to the lives and livelihoods of millions of people.

In 1968, reserves of 9 billion barrels of crude oil and 26 trillion cubic feet of associated natural gas were discovered at Prudhoe Bay on the North Slope of Alaska. These 26 trillion cubic feet of natural gas represent about 13 percent of this Nation's reserves. The Alaska pipeline will transport over 2 billion cubic feet of gas per day to the lower 48 States. This will displace 400,000 barrels of imported oil per day. Displacement of imported oil could increase to 600,000 barrels per day. Thus, this pipeline will help guarantee a steady supply of natural gas and help rid us of our dangerous dependence on unstable foreign sources of energy. A stable supply strengthens our economic and strategic security and helps us avert shortages—which inevitably make consumers pay more for their heating and cooking bills.

SAFEGUARDS FOR THE GAS CUSTOMER

The issue of "prebilling" residential and industrial users before Alaska gas flows through the pipeline is an issue that demands special scrutiny to make sure that sonsumers do not assume an unjust burden in building the pipeline. I am convinced that there are sufficient safeguards against abuse of the prebilling features.

No charge can be assessed to the customers for any one of the three segments until it is completed and commissioned. This includes a determination by the Federal Energy Regula-

tory Commission that each segment in question is ready for operation. The corporate investors in each segment must bear any financial loss that may be associated with the noncompletion of that segment, not the consumers. It is extremely unlikely that any one segment would be completed but the others not completed.

The FERC has clearly stated its intention to bring about the completion of all three segments simultaneously and that gas will flow immediately thereafter. Thus, there is little possibility that consumers would be prebilled for a partially completed pipeline that faces long and expensive delays. At the same time, only when the entire system is completed and gas flows to customers can corporate investors earn a return on the equity they invested. Corporate equity will remain at risk until the gas flows. This risk will help guarantee the scheduled completion of the pipeline.

COMMITMENT TO CANADA MUST BE HONORED

Approval of the waiver package also will fulfill an important U.S. commitment to Canada to go forward with this project which will be of great benefit to both nations. This commitment will not only guarantee the successful completion of the Alaska pipeline but it will assure the Canadians that the United States is a reliable partner in energy and other fields. The United States has negotiated a treaty with the Canadians, a commitment which has been reaffirmed by the Congress by Senate approval of the treaty in 1977 and congressional approval of a resolution indicating continued support in 1980.

USE AMERICAN STEEL

It is my hope that the sponsors of the pipeline will use American steel in this project; and as a member of the Congressional Steel Caucus and a representative of a major steel-producing area, I would like to reiterate the views of the House Energy and Commerce Committee. In choosing to act favorably on the waiver package, the committee relied in part on the assurances of the Northwest Alaskan Pipeline Co., in their November 19 letter, that U.S.-produced steel will be used to the fullest extent possible. Mr. John McMillian, chairman and chief executive officer of the company wrote us as follows:

I, and my partners in the Alaskan gas pipeline project, intend to purchase and use, on a priority basis, American-produced material to the maximum extent feasible and practicable, consistent with the requirements imposed upon us by the regulatory authorities. . . . I am confident that all of us, working together, can help create circumstances where our intent to purchase American steel can be achieved, in a manner totally consistent with our other obligations. To this end, I stand ready now, as I have in the past, to work diligently to ensure maximum participation by the American steel industry in providing material for the Alaskan Natural Gas Transportation System—both the pipeline and plant components.

Our committee intends to follow and to monitor the progress of the company in fulfilling this assurance.

The entire Alaska Natural Gas Transportation System will use 2.3 million tons of steel. With the American support for and investment in this massive project, it seems only appropriate to me to seek assurances that American steel will be used to the widest extent possible—particularly at a time when our steel industry has 60,000 steelworkers out of work and 20,000 people on short work weeks.

There are those who argue that this bill is a risky one, and I concede that there may be some risks. There are, in this legislative business, very few courses of action that do not have risks. A much larger risk, however, would be to become complacent about our energy supply. Embargoes and shortages—as we painfully learned in the not-so-distant past—can happen any time. A greater risk is to make ourselves vulnerable to abrupt and fickle circumstances that make us unable to heat our homes, prepare our meals, run our factories, and warm up our schools. I urge support of the resolution.●

GROWING SUPPORT FOR THE NONDISCRIMINATION IN INSURANCE ACT

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1981

● Mr. DINGELL. Mr. Speaker, I want to report that there is growing support for enactment of my bill H.R. 100, to eliminate discrimination on the basis of race, color, religion, sex, or national origin in insurance and annuities. In the House, over 100 Members are now cosponsoring this legislation. In the Senate, 23 Senators are cosponsoring S. 888, title V of which contains the full exact text of H.R. 100. Many organizations have already announced their support for this legislation, including the Leadership Conference on Civil Rights, American Association of University Professors, AFL-CIO, National Women's Political Caucus, NAACP, American Association of University Women, American Civil Liberties Union, Women's Equity Action League, Mexican-American Legal Defense Fund, National Organization for Women, Women USA, and many other groups.

Several of the trade associations, representing much of the insurance industry, have opposed H.R. 100 because it would ban the industry's widespread practices of sex discrimination in insurance and annuities. Yet the representatives of these trade associations acknowledge that they no longer dispute the principle that discrimination on the basis of race, color, religion, or national origin is improper and unjust and should not be countenanced.

But there are many others involved in insurance and annuities who believe that sex discrimination also should be deemed improper and unjust. Thus, the vast majority—over 95 percent—of employees, both in government and in private industry, are covered in connection with their emploment, by defined-benefit annuity pensions plans which provide periodic benefits in single life annuities and/or by group life insurance plans which provide equal insurance benefits, without sex differentiation either as to the benefits or as to the employees' contributions to the plans. Also, the National Association of Insurance Commissioners has urged the adoption of legislation and regulations to eliminate some forms of sex discrimination in insurance. Some States are attacking sex discrimination in an entire category of insurance. Thus, Hawaii, Massachusetts, Michigan, and North Carolina recently adopted State laws forbidding sex discrimination in auto insurance, and in four other States (Florida, Louisiana, New Jersey and Pennsylvania) the State Insurance Departments adopted regulations or orders to do the same. In Florida, the State appellate court held that such regulation was beyond the State Insurance Department's delegated authority, and in the other three States the regulations are now in abeyance until pending court suits are completed. In addition, there have been many court decisions in suits brought by employee beneficiaries holding that sex discrimination in insurance and annuities, as to benefits as well as to employee contributions, violates title VII of the 1964 Civil Rights Act and/or the Constitution.

An excellent analysis of the issues, which should be very helpful to Members of Congress and the general public, written by Diana Steele, Esq., who participated in several of these cases, was recently published by the Women's Rights Project of the American Civil Liberties Union. I request that this article be printed in the RECORD immediately after my remarks today.

There is also new thinking becoming evident within the insurance industry itself. For example, the Teachers Insurance and Annuity Association and College Retirement Equities Fund (TIAA-CREF), which administers the annuity and insurance programs for over 3300 colleges, universities and other institutions, recently announced, after extensive litigation, its willingness to inaugurate new gender-neutral rate schedules. Over 20 State Insurance Departments approved those schedules, and even the New York State Insurance Department, which first approved and then disapproved the new schedules, recently approved gender-neutral rate schedules limited to future contracts.

An even more significant expression of support for the legislation con-

ing to have the FALN prisoners declared POW's.

It will be recalled that several members of the People's Law Office active in the NLG figure prominently in the declassified FBI report on the foreign contacts of the Weather Underground Organization (WUO) and that Cunningham, Deutsch, and Haas were formerly active with the WUO's overt arm, the Prairie Fire Organizing Committee (PFOC).

In its international work, the NLG reconfirmed its support to revolutionary terrorist organizations. An observer representing the Popular Front for the Liberation of Palestine (PFLP) was present distributing PFLP literature and encouraging NLG activists to take out subscriptions to its journal. The PFLP activity took place in association with distribution of literature from the Association of Arab-American University Graduates (AAUG), cofounded by Detroit NLG activist Abdeen Jabara, a leader of the International Committee's Mideast Subcommittee.●

DANGERS OF ALASKAN GAS WAIVER PACKAGE

HON. EDWARD R. ROYBAL

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1981

● Mr. ROYBAL. Mr. Speaker, earlier today I voted against House Joint Resolution 341, providing for a waiver of law pursuant to the Alaska Natural Gas Transportation Act. My reason for doing so is very simple: It makes absolutely no economic sense to the American consumer.

Under the prebilling provisions of the waivers, the American public is being asked to assume the risk that all major segments of the pipeline will be completed in a timely and cost-efficient manner. If this project is not completed, 60 percent of the users of natural gas will be saddled with a $37 billion debt to be paid over a 20-year period. This will add as much as $72 a year to the average bill of an American natural gas consumer without a drop of gas being received in return.

Even if the project is completed on time, there is no guarantee that the natural gas will be marketable at a competitive price in its initial 10 to 15 years. The Energy Committee's own staff report indicates that financing of the project may well cause the price of gas to soar so high that its users may find it cheaper to convert to oil. This will not only result in an increase in oil use and oil imports, but also increase the share of the cost to the consumers who are unable to switch to other types of energy.

The only clear winners from the waivers are the oil companies, which stand to receive a 50-percent rate of return on their investment; the pipeline companies, which stand to receive a 25-percent rate of return; and the State of Alaska, since it will receive $20 billion as its share of the royalties with no share of the risk whatever.

It has been suggested that approval of this package will insure the construction of the pipeline, thus providing jobs for unemployed Americans. The committee's own staff analysis suggests otherwise. There is no doubt that domestic industries would be used for the construction of that portion of the pipeline in the lower 48 States. However, that represents only 15 percent of the total project. The use of 54-inch pipe for the Canadian portion of the pipeline guarantees that no American steel manufacturer will be used, since no American firm manufacturers pipe of this size. The remaining portion of the pipeline in Alaska will use 48-inch pipe. Only one plant in the United States makes that size of pipe and out of 12 companies worldwide that were studied by the sponsors of the project, the American plant was ranked at the bottom of the list.

Let me be clear about one thing, Mr. Speaker: I do not consider this a vote on the merits of the Alaskan pipeline. This is a vote on a particular set of waivers which we had to accept or reject without amendments.

It is my opinion that a set of waivers can be drafted which will encourage the construction of the pipeline without imposing such a one-sided economic risk on the American consumers of natural gas. For example, we could place a limitation on consumer liability to that of the project sponsors and in the case of the Alaskan portion, to that of the Alaska equity commitment. Thus, the liability of the American consumer would be limited to the risk that will be taken by those who will benefit the most. If they are not willing to take a risk, the consumer should have no liability. Second, a buy America provision could be included, thus insuring that despite the merits of the economic risk, at least the project will provide employment for some Americans. Third, since under the waivers, the processing plant will be included in the cost to consumers, consumers could at least be given credit for the natural gas liquids produced at the plant.

Finally, Mr. Speaker, I am against House Joint Resolution 341 because the experts say it is untenable. Chase Manhattan, Citibank, Morgan Guarantee, and Bank of America, which together probably constitute the best and shrewdest financial analysts in the world, have indicated that even if we approve this waiver package, they are not sure financing will be available. In other words, the Nation's—and probably the world's—major financial institutions are saying that this project may be so uneconomical that even with a guaranteed consumer payback, they may be unwilling to lend the money for it. I submit, Mr. Speaker, that if it makes no economic sense for the banks, it makes even less economic sense to the average American consumer, and my vote reflects this.●

HAPPY BIRTHDAY

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1981

● Mr. CONTE. Mr. Speaker, our day here would not be complete unless we took a moment to wish our colleague, our Speaker and our very dear friend from Masachusetts a happy birthday.

This has been an arduous year. A year filled with many important and many difficult decisions for all of us. But through it all—even while disagreeing on certain issues—we knew we had an honest, just, and capable leader at the helm.

Mr. Speaker, I am deeply proud to count myself among your many friends in this House and I know they all join me in wishing you all the joys that life can hold on this, your birthday. May the year ahead bring you all the blessings you so richly deserve.●

LANHAM TRADEMARK ACT

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1981

● Mr. PATTERSON. Mr. Speaker, I am today introducing legislation to amend the Lanham Trademark Act of July 5, 1946.

Section 45 of the Lanham Trademark Act (15 U.S.C. 1127) currently states that it is the intent of the act "to protect registered marks used in (intrastate) commerce from interference by State, or territorial legislation."

Notwithstanding this provision of the law, several States acting through real estate commissions have issued regulations which materially interfere with the use of franchise trademarks registered with the U.S. Patent Office. Specifically, these regulations have attempted to prohibit the use of real estate signs on which a national franchise logo is printed in type face larger than the name of the franchisee. Court challenges to this State interference with a federally granted trademark have been met with mixed success. At the present time the lack of uniformity in the case law has created an unsettled economic environment which is why I am introducing this legislation today.

At the heart of this matter is the ability of the franchisee to compete freely and fairly under the trademark licensed by the franchisor. Franchising as a method of distribution has generally resulted in competitive innovation in the marketplace and plays an increasingly important role in the U.S. economy. For example, the U.S.

When his country needed him in time of war, he answered the call and then bravely volunterred three times to go to war for this Nation. Now, once again, he wishes to serve his country in the armed services. But the Defense Department insists on following a vindictive policy.

I am curious as to what they will be doing in the case of military reservists. If a fired air traffic controller is currently serving a tour of duty in the reserves, will they be prevented from reenlisting when their tour is up? To be consistent, the Defense Department would have to discharge them now. But with this latest action, I wonder if the Department knows how to establish and follow a fair and consistent policy.

The bureaucrats in the Defense Department who thought up this ridiculous rule should be dismissed. Of course, they could always enlist and serve their country in the armed services.

In addition to basic unfairness of this policy, I am appalled by how petty it is. There has been no great rush by fired controllers to enlist. Probably only a handful out of the thousands who were dismissed are seeking to enlist or reenlist. Why does the Reagan administration go to such extreme and petty lengths? These men and women have already been fired and they cannot be employed as civilian Government workers.

The administration may be attempting to further punish those air traffic controllers who went on strike but in the end they are only bringing shame and disgrace on themselves by pursuing this petty policy and doing a great dishonor to our Vietnam veterans.●

BOOK ON MANAGING THE CONSULTANT

HON. JAMES K. COYNE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1981

● Mr. JAMES K. COYNE of Pennsylvania. Mr. Speaker, I would like to bring to the attention of my colleagues a recently released book written by one of my constituents entitled "Managing the Consultant—A Corporate Guide," which aims to provide guidance for both the public and the private sector in the effective utilization of consultants. Mr. John McGonagle, vice president of Helicon Inc., a management consulting firm in Doylestown, Pa., and author of "Managing the Consultant," points out that—

Business and the Federal Government waste millions of dollars each year on consultants. For example, even today Cabinet Departments are asking for studies duplicating those already done by Congressional Committees and government auditors.

As Government officials, we realize the need for program evaluations, target studies, and other projects to provide us with a sufficient amount of precise information on which to base public policy decisions. But we must obtain this information without wasting the taxpayers' dollars. It is our responsibility to be effective vehicles for necessary governmental change, and at the same time remain within budget restraints. Mr. McGonagle's book will enable us to gain the needed expertise so that we can successfully meet the challenge to become more cost effective.

I recommend McGonagle's book for anyone in a management or decision-making position, whether it be in the public sector or private.

"Managing the Consultant—A Corporate Guide" was released November 13, 1981, by Chilton Book Co.●

PROVIDING FOR A WAIVER OF LAW PURSUANT TO THE ALASKA NATURAL GAS TRANSPORTATION ACT

SPEECH OF

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 8, 1981

The House in Committee of the Whole House on the State of the Union had under consideration the joint resolution (H.J. Res. 341) providing for a waiver of law pursuant to the Alaska Natural Gas Transportation Act.

● Mr. GREEN. Mr. Chairman, I support House Joint Resolution 341, a resolution to approve waivers of law relating to the Alaska Natural Gas Transport System (ANGTS). Though I was originally skeptical about the consumer prebilling financing mechanisms which can be considered by the Federal Energy Regulatory Commission (FERC) under the waivers, after careful review I feel the energy security created by the access to the huge reserves of natural gas in Alaska is important enough to warrant passage of the waivers.

The pipeline, which will originate at Prudhoe Bay in Alaska, will transport at least the equivalent of 400,000 barrels of oil per day. Natural gas is one of the cleanest, safest sources of energy available today, and to ignore this huge source of secure and environmentally sound fuel would be unreasonable. Though today we are facing a situation with abundant energy supplies, few of us can forget the natural gas shortfalls of only several years ago. Our current energy oversupplies should not blind us to the continuing energy vulnerability of this country. Indeed, the upturn in gas supplies from the lower 48 States is often referred to as the "gas bubble", in recognition of the prospect that it may well represent a temporary surge as the result of termination of Federal pricing policies that discouraged development of gas supplies for the interstate market.

The gas from Prudhoe Bay will be under the control of the United States, meaning use of this gas will move us away from OPEC vulnerability and toward energy independence. Substituting the Prudhoe Bay gas for OPEC oil will lower our balance of payments by at least $7 billion in the first year the pipeline is in operation. A large, dependable supply of domestic energy will improve the balance of payments, and get us out from under OPEC domination.

This large supply of clean, Alaskan natural gas will almost certainly go untapped without approval of these waivers, because without the waivers, the project probably cannot be financed. No cheaper alternatives have been found, and delay of this project for even 1 year will add $3 billion to its cost. For all intents and purposes, failure to approve this package will result in failure to build ANGTS, and to achieve the measure of energy independence it will provide

As I indicated earlier, the consumer prebilling portion of the waiver package is an unusual means of financing. I would stress that these waivers only give FERC the discretion to allow prebilling—they do not mandate prebilling. Under the waiver proposal, FERC could decide to allow prebilling to occur under the following circumstances: After a date selected by the FERC as a reasonable date for completion of the entire project—probably 1987; after completion and testing of at least one of the three basic segments of the pipeline; and after the project's sponsors have invested their risk capital without return. In the very worst, and highly unlikely scenario, in which the two most expensive portions of the pipeline were completed but the entire project failed, the average consumer would pay less than $1 per month to pay off the project's debt. In addition, prebilling will lower the actual project cost and the consumers' bills when the project is complete.

As I have pointed out, without the waivers, Alaskan natural gas will almost surely lie idle. I believe our country needs the environmentally sound fuel and the economic and energy security this pipeline will provide, and I support the waiver package.●

FOREIGN LANGUAGE SKILL IMPORTANT

HON. HENRY B. GONZALEZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1981

● Mr. GONZALEZ. Mr. Speaker, on August 4, I introduced H.R. 4389, to establish the National Commission for Utilization and Expansion of Language Resources, and today I would like to speak in support of my legisla-

Department of Commerce estimates that today one-third of all retail sales are made through franchised outlets. The success of franchising in our economy is due, in part, to the ability of a franchisee to use a franchisor's trademark. Local interference with a national trademark undercuts a franchise system's competitive effectiveness and is contrary to the spirit of the Lanham Trademark Act.

In the real estate industry, franchising allows participating brokers to retain their independence through ownership of their own local business while providing competitive techniques which permits franchisees to compete effectively with larger, well-established firms and national conglomerates; offers a viable alternative to the almost irresistible trend toward consolidation and concentration of the industry; gives the smaller broker access to advertising media and large-scale purchasing power, otherwise only available to much larger corporations; offers affiliated brokers the opportunity to participate in a nationwide referral system and to use sophisticated sales and management tools; fosters new entrants into the industry by giving them good will of the name that is otherwise unavailable; and improves quality of service to consumers by establishing and upgrading standards of performance.

The new trend of franchising in real estate has proven to be too successful to some competitors who have vested interests in the older established order. Real estate commissions throughout the country are generally composed of nonfranchised brokers—they regulate their own competition. A number of these real estate commissions have attempted to issue regulations aimed at blunting the competitive effectiveness of franchised brokers. Many of these regulations require changes in the signs used by franchised brokers; for example, several States have adopted a regulation that requires a franchisee to display his own name in print as large as and as bold as the print used for the franchisor's name—commonly called a 50-50 ratio rule. Different States have adopted different ratio rules, making it unduly expensive and difficult, if not impossible, to maintain a consistent standard and identity on a nationwide basis. Ratio rules interfere with the use of federally registered trademarks in interstate commerce. These regulations purport to protect the public from deception, but the public record is devoid of evidence that the public is being or has been harmed by the present sign configuration used by reputable real estate franchisors. Other States have considered and rejected the ratio rules as being anticompetitive, arbitrary, and onerous and have opted for more meaningful and workable rules. Because reputable franchisee organizations require their franchisee to disclose the fact of the independent relationship in all advertising, business cards, documents, and so forth, these ratio rules are unnecessary.

Furthermore, these arbitrary ratio rules have not demonstrably elevated the public awareness, but rather have operated as a restraint of trade by stifling competition. The regulations have generally singled out franchised brokers as targets without affecting the status of other brokers who use various trade names to operate their businesses.

If changes for signs and other materials are required to be made for all franchised brokers, the expense will run in the tens of millions of dollars. Consumers and the taxpayers will ultimately pay the price for this abuse of regulatory power, through less competition from franchised brokers and the eventual passthrough of increased operating costs. This patchwork problem faced by the franchisees requires a Federal solution—a national policy.

The bill I am offering to amend the Lanham Trademark Act will clarify and specify the intent of Congress that State and local governments may not dictate the design of a registered trademark. I want to make clear that this legislation will in no way interfere with the power of a State or community to prohibit the display of advertising of any kind, or to limit the dimensions of signs, or their location, or to prohibit deceptive advertising, or unfair competition. It is directed only at unwarranted interference with the arrangement and design of a registered trademark.

Many years ago Congress recognized that trademarks foster full and fair competition. Because a healthy national economy relies on full competition, Congress determined that Federal regulation of such trademarks was necessary. The intent of the Lanham Trademark Act is being clearly frustrated by 50 separate State regulations that prevent the use of real estate franchise trademarks as registered. The proposed amendment to the Lanham Act makes it clear that the States may not regulate the use in commerce of registered trademarks in a manner different from that manner contemplated in the certificate of registration with federally registered trademarks.●

PROVIDING FOR A WAIVER OF LAW PURSUANT TO THE ALASKA NATURAL GAS TRANSPORTATION ACT

SPEECH OF

HON. WILLIAM R. RATCHFORD

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 8, 1981

The House in Committee of the Whole House on the State of the Union had under consideration the joint resolution (H.J. Res. 341) providing for a waiver of law pursuant to the Alaska Natural Gas Transportation Act.

● Mr. RATCHFORD. Mr. Chairman, I would like to offer my strong opposition to House Joint Resolution 341, a measure which would waive several provisions of the Alaska Natural Gas Transportation Act. I believe these waivers, if approved, would not only run counter to the current administration's laissez-faire energy policy, but would also ask the consumers to bear much of the risk and little of the benefit involved in financing and building the pipeline itself.

I do not intend to discourage the actual construction of the pipeline. The natural gas reserves in northern Alaska represent an estimated 13 percent of America's known reserves. The returns for the companies constructing the pipeline should be substantial. Why, then should residential and industrial users of natural gas be asked to finance the project before it is completed? If the potential return from the pipeline is as great as its advocates claim, why is the prebilling option deemed essential for construction?

The Northwest Alaska Pipeline was given the exclusive rights to build the pipeline from the Prudhoe Bay to bring gas to the lower 48 States, as long as the project was privately financed. The head of the pipeline consortium even told this body that Government and consumer support would not be necessary. Now, the builders want to change the rules in the middle of the game, to allow American gas consumers to be billed for pipeline gas before the gas is delivered. Of course, the consumers would have no say in the operations of the company, or the actual construction plans for the pipeline, even though they would become partners in the project once prebilling was started. In short, the users of the pipeline gas are being asked to assume the risks involved in building—and the risks are apparently many—without enjoying any real return on their investment.

As far as the natural gas itself is concerned, I question whether it should be tapped at this time. The Alaskan reserve, once it is exhausted, cannot be replaced, and I do not think we will be in great need of this gas in the near future. My own State of Connecticut would benefit minimally from the project, as only one-quarter of 1 percent of the gas would be used in Connecticut. The additional cost per year to residential gas consumers due to prebilling, however, would be approximately $20. Furthermore, the high price tag on the pipeline—up to $50 billion, according to some analysts—could only drain already-pressed financial markets of vital investment capital. Construction of the pipeline could mean less investment in domestic industry. I think it would only be fair to add the resulting lost of American jobs to the pipeline's price tag.

Mr. Speaker, I find this proposal, frankly, quite disturbing. The lobbying effort for it has been massive, and

the other Chamber has already surrendered the rights of the consumer to the builders of this project. I hope my colleagues here today will recognize the injustice of this proposal, and leave the pipeline to succeed or fail on its own merits. The people of Connecticut, or any other State, should not be asked to subsidize this venture, and the Congress should not give in to this greedy proposal.●

THE GHOST AMENDMENT

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1981

● Mr. DORNAN of California. Mr. Speaker, an article appearing in the Los Angeles Times for December 8, 1981, indicated that our colleague, Hon. PETE MCCLOSKEY, had told the steering committee of the "Women For" group in Los Angeles that he intended to offer an amendment to the foreign aid bill, H.R. 3556, which will cut off all foreign aid to any nation that refuses to sign the nuclear nonproliferation pact. He noted that this would have the effect of cuting off all U.S. aid to Israel, one of our most loyal friends and dependable allies.

I waited patiently all day to offer a counter amendment but Mr. MCCLOSKEY never appeared to submit his amendment. In case he entertains thoughts about submitting his amendment this spring. I submit my perfecting amendment for my colleagues analysis:

Amendment offered by Mr. DORNAN of California to the amendment offered by Mr. MCCLOSKEY of California. In the last line of the amendment, immediately before the period, insert the following: ", except that this section shall not apply with respect to any country (1) with which the United States has a mutual defense treaty, or (2) with which the United States has a long standing friendship or has mutual interests, as determined by the President".●

PROVIDING FOR A WAIVER OF LAW PURSUANT TO THE ALASKA NATURAL GAS TRANSPORTATION ACT

SPEECH OF

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 8, 1981

The House in Committee of the Whole House on the State of the Union had under consideration the joint resolution (H.J. Res. 341) providing for a waiver of law pursuant to the Alaska Natural Gas Transportation Act.

● Mr. TRAXLER. Mr. Chairman, I oppose House Joint Resolution 341 which waives portions of existing law governing the financing and construction of the Alaska natural gas pipeline. This legislation places the financial risks of the pipeline in the laps of American consumers, with no guarantee that consumers will ever see even 1 cubic foot of this natural gas. This is a bad bill for gas users.

Under these waivers, the pipeline consortium will be able to bill their present consumers for the cost of constructing each of the three segments of the pipeline, regardless of whether the whole pipeline is ever completed. The first year costs to Michigan residential consumers for natural gas could be as much as $149, on top of their already growing bills, and it could raise the gas bills to industries by as much as $28,000 per year.

Natural gas users who live in outstate Michigan have just recently seen their gas bills go up by 50 percent, subjecting them to virtually the highest gas rates in the country. This tremendous increase resulted from an arrangement by one utility company to purchase expensive Algerian natural gas. To ask these consumers to help bear the financial risks of this $43 billion project, I believe, is unconscionable. Even if the pipeline is ever completed, the new gas is estimated to cost some $18 per thousand cubic feet, which is four times the average price today.

Furthermore, this legislation would limit the authority of the Federal Energy Regulatory Commission to adjust the project's rates or regulate its construction. It also eliminates public hearing requirements. This bill forces consumers to bear hugh financial risks, and then provides no protection or recourse against exhorbitant charges. Consumers are, in essence, being forced to invest in this pipeline company, but they receive no stock or voting rights in return for their investment.

The bottom line is that House Joint Resolution 341 is a subsidy to the big oil companies, pipeline sponsors, and banks. It is the biggest anticonsumer bill to come before the Congress, and it should be rejected as unfair and intolerable. For these reasons I am voting no.●

VOLUNTEER DEVELOPMENT CORPS

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1981

● Mr. VENTO. Mr. Speaker, oftentimes during our consideration of authorizing and appropriating legislation, the major attention is focused upon the big issues with big price tags or of a controversial nature. While debate swirls around these issues, other, less expensive but vital programs go unnoticed. So it is with the foreign aid legislation which we are now considering.

Included in this essential legislation, is funding for the Volunteer Development Corps, a private, nonprofit organization providing short-term technical help to cooperatives and Government agencies in developing countries at their request. The VDC had provided invaluable assistance to countries throughout the world. From expanding milk production in Brazil to improving recordkeeping for a cooperative in Fiji, American volunteers have provided their skill and expertise to overseas cooperatives and other organizations.

The FDC fills a needed role and is a positive factor in our Nation's foreign policies. Congress must support this valuable program by providing adequate funding.●

A STEP TOWARD ENERGY INDEPENDENCE

SPEECH OF

HON. THOMAS B. EVANS, JR.

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, December 8, 1981

● Mr. EVANS of Delaware. Mr. Speaker, the House today took a major step toward achieving this Nation's long-sought-after goal of energy independence by passing House Joint Resolution 341. This measure will facilitate the construction of a natural gas pipeline from Alaska, through Canada, to the lower 48 States. This will enable us to tap the tremendous amount of gas we have discovered in Alaska. Estimates show that nearly 13 percent of our total natural gas reserves are located in Alaska.

Some consumers who will eventually draw gas from the pipeline—primarily in the West, Midwest, and upper Northeast—may be asked to pay higher prices for their gas in advance of the pipeline's construction. This is unfortunate, but it seems a small price to pay if it helps us lessen our dependence upon foreign oil from people such as Libya's Col. Mu'ammar Qadhafi.

Some may also point to the fact that the measure we have passed today is inequitable, since not every section of the country will be asked to pay for the potentially higher gas prices which could result from the construction costs of the pipeline. In my own State of Delaware, for instance, 99 percent of our natural gas needs are provided by Transco, a Texas based company which draws its gas from the Southwest, Southeast, and Gulf of Mexico. Company officials say they will not be taking any gas from the Alaska pipeline nor be involved in its construction; therefore, they have noted, the resolution passed today will not directly affect the prices most Delawareans pay for natural gas.

Is this unfair? I think not. It does not seem to me to be inconsistent with fairness that those consumers who will benefit most from the Alaska pipeline construction be asked to possibly help finance its construction. Nor do the claims of inequity take into account consideration of future circumstances

which may result in higher prices for those consumers who will not be receiving Alaskan natural gas.

In the final analysis, we must all look to the greater good. Twice before, in times of severe energy crises, the Congress has marched up the hill voicing determination to decrease our dependence on foreign oil. Twice, we have marched right back down again. I applaud the Members of this House who have demonstrated their courage in finally taking a major step toward energy independence for all Americans.●

RADAR EXPANDS EROS MISSION

HON. CLINT ROBERTS

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1981

● Mr. ROBERTS of South Dakota. Mr. Speaker, on November 12, 1981, the House of Representatives took a positive step toward further exploration of our Nation's energy resources and at the same time expanded the mission of the EROS Data Center, near Sioux Fall, S. Dak. In the Department of Interior appropriations bill we have provided for the funding of side-looking radar flights over portions of our country.

Side-looking radar is a technology that, when used in conjunction with other existing data, provides tremendous information about the geological makeup of our country. Test flights of side-looking radar have already been conducted and analyzed. These tests have shown radar's advantages for geological information-gathering purposes due to its technological ability to penetrate dense cloud and ground cover.

The appropriation of $3 million for radar overflights will not only help provide the information for detecting oil, coal, and other mineral resource deposits, it will help in mapping our vast plains and mountains.

In addition to helping America reach energy and mineral independence, the House's appropriation for this program expands the role and mission of the EROS Data Center. the EROS Data Center presently houses and provides information to industry, government, and the public from NASA, Landsat, infrared and other high-aerial photographic technology. Side-looking radar will produce another set of data that will need to be disseminated and stored at EROS.

The recent Space Shuttle launch furthers the use of this new technology. A form of side-looking radar was carried aboard the Shuttle and its use from that altitude was tested. Support of this type of technology is needed. Energy independence will involve many forms of exploration. Radar is an investment in America's future and independence. Preliminary results of the Shuttle tests are positive and to illustrate this I have included an article on the Space Shuttle findings found in the Washington Post, December 9, 1981. The article follows:

[From the Washington Post, Dec. 9, 1981]

SPACE SHUTTLE'S FINDINGS DELIGHTING NASA SCIENTISTS

(By Thomas O'Toole)

As short as it was, the second flight of the space shuttle last month produced enough of the first radar "photographs" of Earth's surface to cover 10 million square kilometers, a region the size of the United States.

The abbreviated three-day flight of astronauts Joe Henry Engle and Richard Truly also generated infrared images of 80,000 kilometers of Earth's surface across four continents, discerning different types of soil and rocks for geologists.

It produced spectacular photographs of the tops of thunderclouds around the world, took the first measurements from space of fish schools in the Yellow Sea, the South China Sea and the Mediterranean, and was the first attempt from space to measure carbon monoxide pollution in the northern and southern hemispheres.

"We had planned to do these experiments over five days and we only got three," the National Aeronautics and Space Administration's Dr. Jim Taranik told a news conference yesterday. "In spite of that, we think this entire mission was nothing short of an outstanding success."

While it will be months before the results are known from the six experiments carried in the shuttle's cargo bay, the scientists who designed the experiments were delighted with the way they worked.

The only experiment that did not work was an attempt to see how fast sunflower seeds grew in weightlessness.

"And the only reason it didn't work was that the mission was too short," Dr. Allan Brown of the University of Pennsylvania said. "We really needed two more days to prove the results of our experiment."

The most successful experiment carried by the shuttle was clearly the shuttle imaging radar, whose six-foot-wide antenna was able to penetrate storms, the dark of night and even the cover of vegetation to return radar "photographs" of 10 million square kilometers of the United States, Africa, Asia, the Middle East, Europe and Mexico.

So sharp were the radar photos that the shallow slopes of the cliffs bordering the Corinthian Canal in Greece could be discerned from space. So sensitive was the radar that images it made of the Mediteranean Sea just off Sardinia showed patterns on the sea surface made by the winds.

"This was the longest radar strip of the Earth ever taken," said Dr. Charles Elachi of California's Jet Propulsion Laboratory, where the radar was developed for the Pentagon to map rough terrain. "This is going to be a very useful tool for geologists in the future."●

EFFECTIVE DATE OF H.R. 4420

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1981

● Mr. RANGEL. Mr. Speaker, as chairman of the Ways and Means Oversight Subcommittee, I introduced H.R. 4420 which reflects the subcommittee's recommendations regarding small issue industrial development revenue bonds. This bill contains an effective date applying to bonds issued after December 31, 1981. I have been advised that the Ways and Means Committee will not be reviewing the subcommittee's recommendations or acting on H.R. 4420 before the end of this year. Accordingly, I wish to clarify, for the record, the meaning of the effective date of H.R. 4420.

The Oversight Subcommittee did not intend that its recommendations ever be enacted with a retroactive effective date. I, therefore, wish to announce my intention, in the event the Ways and Means Committee marks up or otherwise considers H.R. 4420, to offer an amendment making the effective date prospective. In the interim, I do not intend the pending status of H.R. 4420 to constrain bond counsel with respect to rendering opinions as to the tax-exempt status of bonds issued under section 103 of the Internal Revenue Code. I have conveyed this statement in a letter to Ways and Means Committee Chairman ROSTENKOWSKI in order to avoid any future questions about this issue.●

ALARMING TRENDS IN WORLD MILITARY SPENDING

HON. CLAUDINE SCHNEIDER

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, December 9, 1981

● Mrs. SCHNEIDER. Mr. Speaker, all Members of the House recently received a copy of Ruth Leger Sivard's "World Military and Social Expenditures, 1981." I urge all our colleagues to take the time to read and carefully study the contents of this alarming booklet. Since World War II, the growth of military spending as opposed to social outlays has steadily increased. Ms. Sivard's research into the effects of this trend are invaluable in setting national priorities and must be seriously considered. I would like to reiterate her major conclusions for the benefit of all Members:

The world arms build-up has reached a new level of danger. Warning signals come from the political arena as well as from the military. One sign is a growing militarization of political authority. In the Third World, the governments of over 50 countries are dominated by the armed forces.

The obsession with weapons and with military solutions to global problems has pushed arms budgets to $550 billion a year. About $100 billion of this outlay goes to the growing stockpile of nuclear weapons, which already contains over one million times the explosive force of the Hiroshima bomb.

History's most expensive arms race contrasts with the steady deterioration of the civilian economy. Both military superpowers, tied up in an intense arms competition, have lost status in the commercial market, as well as within their own military alliances.

Public reaction takes two forms. In the developing world, there is increasing polarization and more violence, as military-political power resists social change. In Europe and America, the nuclear threat has become a

real game. That may also be true here in the House.

UPDATE ON ALASKAN NATURAL GAS PIPELINE LEGISLATION

(Mr. CORCORAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CORCORAN. Mr. Speaker, I have asked for this time this morning in order to address the issue of where we find ourselves in terms of the situation on the Alaskan natural gas pipeline waiver legislation.

As you may remember, yesterday after the House acted on the House joint resolution involved, I objected to the unanimous consent request by our distinguished colleague, the gentleman from Arizona, to substitute the House-passed version into the Senate version. I did that for reasons which later on today I will discuss; but the point of my remarks at this time is to report that, indeed, we will have more time to debate this issue.

Because of my action, the House was left with one of two options; first, to send the measure to the Senate for further action there or second, to convene an emergency meeting of the Committee on Rules so that the House today or at some future point could consider on the merits the Senate-passed joint resolution on the Alaskan gas pipeline. The second option was exercised and that committee will be bringing us a rule on Senate Joint Resolution 115.

That rule is a good rule. I intend to support the rule. We will finally get full debate on this measure and I hope on that basis we will kill this turkey for good.

REPORT ON FOREIGN TARIFF AND NONTARIFF BARRIERS AFFECTING U.S. EXPORTS OF ALCOHOLIC BEVERAGES—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read, and, together with the accompanying papers, referred to the Committee on Ways and Means:

To the Congress of the United States:

In accordance with Section 854(a) of the Trade Agreements Act of 1979 (P.L. 96-39), I hereby submit to you a report on foreign tariff and nontariff barriers affecting United States exports of alcoholic beverages.

RONALD REAGAN.

THE WHITE HOUSE, *December 10, 1981.*

APPOINTMENT OF CONFEREES ON H.R. 4241, MILITARY CONSTRUCTION APPROPRIATIONS, 1982

Mr. GINN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4241) making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1982, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate.

The SPEAKER. Is there objection to the request of the gentleman from Georgia? The Chair hears none, and appoints the following conferees: Messrs. GINN, BEVILL, HEFNER, ADDABBO, LONG of Maryland, CHAPPELL, ALEXANDER, WHITTEN, REGULA, BURGENER, EDWARDS of Oklahoma, LOEFFLER, and CONTE.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. It had been the intention of the Chair to recognize the Committee on Appropriations to bring up the continuing resolution. The chairman is here; but as the Chair understands, the Republicans have requested a half an hour delay.

Mr. WHITTEN. That is my understanding, Mr. Speaker. They have not done it directly, but I have been so advised.

The SPEAKER. Then we will go forward with the rule on the Alaskan pipeline.

The Chair recognizes the gentleman from Louisiana (Mr. LONG).

PROVIDING FOR A WAIVER OF LAW PURSUANT TO THE ALASKA NATURAL GAS TRANSPORTATION ACT

Mr. LONG of Louisiana. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 296 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 296

Resolved, That upon the adoption of this resolution it shall be in order to take from the Speaker's table the joint resolution (S.J. Res. 115) to approve the President's recommendation for a waiver of law pursuant to the Alaska Natural Gas Transportation Act of 1976, and to consider said joint resolution in the House.

The SPEAKER. The gentleman from Louisiana (Mr. LONG) is recognized for 1 hour.

Mr. LONG of Louisiana. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Tennessee (Mr. QUILLEN) for purposes of debate only, and pending that, I yield myself such time as I may consume.

(Mr. LONG of Louisiana asked and was given permission to revise and extend his remarks.)

Mr. LONG of Louisiana. Mr. Speaker, House Resolution 296 provides that it shall be in order to take from the Speaker's table Senate Joint Resolution 115 to approve the President's recommendation for a waiver of law pursuant to the Alaska Natural Gas Transportation Act of 1976 and to consider the joint resolution in the House.

This is not an unprecedented rule, Mr. Speaker. Special orders, or rules, have been used on numerous occasions to provide for the taking of a Senate bill or resolution from the Speaker's table and thereafter considering the measure in the House or in the Committee of the Whole. In fact, such procedure, is routinely provided in rules when a House bill is being considered for which there is a Senate-passed companion measure being held at the Speaker's table. This Senate hook-up, as it is commonly referred to, has been a routine parliamentary technique used by the Rules Committee to expedite the flow of legislation in the House. The rationale has been simply that once the House has perfected and passed a legislative measure, that no single Member of the House should be able to impede the will of the House by objecting to a unanimous-consent request to bring up the Senate measure and passing it or perfecting it by striking the Senate text and inserting in lieu thereof the House-passed measure.

As my colleagues know, on Tuesday, December 8, 1981, the House debated House Joint Resolution 341, the Alaska gas pipeline approval resolution. On Wednesday, the House passed the resolution by a vote of 233 to 173. After passage of House Joint Resolution 341, a unanimous-consent request was made to take the Senate companion measure, Senate Joint Resolution 115, from the Speaker's table for consideration. An objection was heard to that request. Consequently, the only means by which the House would be able to take up the Senate bill and thus complete the procedural requirements of its earlier decision would be by the adoption of a rule. The Committee on Rules met late yesterday afternoon and by a rollcall vote of 13 to 1 ordered a rule reported that would make in order the consideration of Senate Joint Resolution 115 in the House.

The rule simply provides for the consideratioin of the joint resolution. The procedure outlined in section 8 of the Alaska Natural Gas Transportation Act of 1976 would govern the actual parliamentary situation. I would also like to point out to my colleagues that section 8 of the act specifically states that—

This subsection is enacted by Congress as an exercise of the rulemaking power of each House of Congress, respectively, and as such it is deemed a part of the rules of each House . . . and it supersedes other rules only to the extent that it is inconsistent therewith . . . and with full recognition of the constitutional right of either House to change the rules (so far as those rules relate to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.

Consequently, a special order providing for the consideration of the joint

resolution which is in itself a temporary amendment to the rules of the House is perfectly in order.

For the benefit of Members, I would like to outline the procedure for consideration as provided in the Alaska Natural Gas Transportation Act of 1976. The joint resolution would be considered for 1 hour with the time equally divided between those favoring and those opposing the resolution. No amendment to, or motion to recommit the resolution would be in order. In other words, there would be 1 hour of debate and then an up-or-down vote on the proposition.

Mr. Speaker, the Committee on Rules listened yesterday to a variety of arguments both favoring and opposing the joint resolution and the procedure for considering it. It was the decision of the committee that the procedure specified by the rule is perfectly in order and that this procedure allows the House to carry out its will in the most expeditious manner. At the same time the rule allows Members opposed to the substance of the joint resolution additional time to debate the matter and if they can so convince their colleagues to overturn the earlier decision of the House.

Mr. Speaker, this is a fair and equitable rule and I urge its adoption.

□ 1045

Mr. QUILLEN. Mr. Speaker, I yield myself as much time as I may use.

(Mr. QUILLEN asked and was given permission to revise and extend his remarks.)

Mr. QUILLEN. Mr. Speaker, I agree with the gentleman from Louisiana. This is a good resolution. We should consider the Senate version. The gentleman has ably described the provisions of the resolution, and we should get down to the business of approving the measure.

Remember back in 1973 when the consumers of this Nation were down on their knees begging for energy? We do not want that to happen again. The pipeline should be built, and this waiver is necessary in order to get the construction underway.

Mr. Speaker, I urge the adoption of the resolution.

Mr. Speaker, at this time I yield 10 minutes to the gentleman from Illinois (Mr. CORCORAN).

(Mr. CORCORAN asked and was given permission to revise and extend his remarks.)

Mr. CORCORAN. Mr. Speaker, first of all I want to thank the gentleman from Tennessee (Mr. QUILLEN) for yielding me this time in order to discuss this rule and to explain to my colleagues why, because of an action I took yesterday, we are presently in the position we find ourselves concerning the waiver package for the Alaska natural gas pipeline.

Mr. Speaker, after my objection to the unanimous-consent request of our distinguished colleague from Arizona (Mr. UDALL) one of our other colleagues called me mischievous. Others probably thought worse things but said nothing.

Well, Mr. Speaker, I would, of course, prefer to be known as a nice guy and an effective legislator, but when it comes to a choice, I prefer the latter. For some, I hope my role yesterday was that of a bad guy in a white hat; and for others I hope there was a kinder verdict.

Now, Mr. Speaker, let me address this rule and why it is being considered. After my action yesterday, the House was faced, in my judgment, with two options: First, send House Joint Resolution 341 passed by the House with a vote of 223 to 173 to the Senate for further consideration of the pipeline waiver package; or second, convene an emergency meeting of the Rules Committee so that the pipeline waiver package passed by the Senate, Senate Joint Resolution 115, could be considered by the House at some point prior to December 21, the date on which action must be taken or the waiver proposal dies.

It was this second option which was employed, and that is why we are considering this pending rule which I support.

Now why did I object yesterday? As I said then and reiterate today, I regretfully chose to take that unusual parliamentary opportunity because of the shabby procedural treatment that this matter of considerable public policy importance has been given since the completion of its consideration under the normal committee process. Our committee chairmen could not have been more fair. We had 7 days of public hearings, with 63 witnesses; however, once that process had been completed there was an obvious attempt to railroad this legislation through the House with very limited debate, and under the most unusual circumstances, whereby debate would be held on one day and the vote would be taken the next day.

Now, Mr. Speaker, I realize that we do that on occasion with the suspension calendar, where we have debate on one day and the vote the next day. I do not particularly like this procedure, but at least the public interest is protected by two factors: First, only legislation which has little or no controversy is ever placed on the so-called suspension calendar; and second, a two-thirds vote of the Members voting on the question is required before a measure on suspension can pass this House.

Mr. Speaker, you and I both know that neither of these tests is met with the Alaska natural gas pipeline waiver package. There is controversy about this legislation, and it increases day by day if not hour by hour. Second, a two-thirds vote was not required to pass House Joint Resolution 341, but only a simple majority, and indeed if a two-thirds vote had been required, the Alaska natural gas pipeline waiver package would have been rejected by this House yesterday.

Second, I chose to exercise my right to object yesterday because, on more than one occasion during the course of consideration of House Joint Resolution 341, attempts were made by both opponents and proponents of this resolution to, by unanimous-consent, get additional time for debate. And on all occasions those requests were denied by overenthusiastic proponents of this waiver package, who may find that when the final history is written on this controversial legislation, that their action—which produced my reaction yesterday—may well be the final legal point on which this proposed waiver package will be toppled in the U.S. Supreme Court. I have always felt that a good legislator is characterized by three things: First, knowledge of the issue; second, knowledge of the rules of procedure; and third, a sense of fairplay. I think it would be interesting if, in the final action on this question, it was a failure on the third count—fairplay—that proves to be the Achilles heel of the Alaska natural gas pipeline wavier package.

Let me say finally, Mr. Speaker, that dispite the problems ve have had up to this point on this measure, this is indeed a good rule. As I said a moment ago, there is clearly now a legal cloud on the Alaska natural gas pipeline waiver package, and it may well be defeated already by virtue of what could happen in future court decisions. I say this because in my judgment the Alaska Natural Gas Transportation Act itself, established in 1976, provides in section 8D(5)B:

> • • • it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to or, thereafter within such 60-day period, to consider any other resolution respecting the same Presidential decision.

Nonetheless, we have finally been granted under this rule what has been requested on several occasions by myself and others in a variety of ways. We are finally going to get some additional time to debate this legislation on the merits. That is what I have been seeking since the House resolution was sent from the committees of jurisdiction to the House. I hope my colleagues will consider very carefully the arguments both for and against this waiver package and recognize that we are not talking about access to the natural gas in Alaska; we are not talking about the project itself—that has already been established. We want to keep the proposal alive. We want to get that gas at Prudhoe Bay on the north slope of Alaska down to the lower 48 States, but we don't need it in 1986 and we don't need it under the financing scheme that is contained in these waivers. There are other, much better, ways of providing legislative assistance to this project which many of my colleagues and I will be discussing when we debate S.J. Res. 115.

I urge my colleagues to support this rule.

Mr. BETHUNE. Mr. Speaker, will the gentleman yield?

Mr. CORCORAN. I yield to the gentleman from Arkansas.

Mr. BETHUNE. Mr. Speaker, I would like to say to the gentleman that he should be complimented for the action that he has taken here. I do not see any reason for the gentleman to be apologetic. Insofar as anyone would say that the gentleman is mischievous because he has stood up for the right as he sees it here in this Chamber is making an unwarranted accusation.

Frankly, it occurs to me that the debate on this very complex matter has been rather truncated, and I cannot find any reason to suggest that the gentleman is doing anything other than being extremely responsible. If this proposal can stand the light of day, then it should be passed; and if it cannot, than it should be defeated. I cannot see any harm ever in discussing issues, and when people begin to protest about fair and open debate about a bill, I get more and more suspicious.

I said yesterday, after some study, that this gas deal stinks, and the more we stir it, the more it stinks. I appreciate the gentleman giving us this opportunity to look into this matter in all its ramifications. We owe it to the people of this country.

Mr. CORCORAN. I thank the gentleman for his comments.

The SPEAKER pro tempore. (Mr. FORD of Tennessee). The gentleman has 1½ minutes remaining.

Mr. JOHN L. BURTON. Mr. Speaker, will the gentleman yield?

Mr. CORCORAN. I yield to the gentleman from California.

Mr. JOHN L. BURTON. Mr. Speaker, I would like to thank the gentleman, and associate myself with the remarks of my good friend from Arkansas. I commend the gentleman on what he is doing. The gentleman is protecting the people of this country against the special interests, and he is to be commended for it.

Mr. CORCORAN. I thank the gentleman.

Mr. QUILLEN. Mr. Speaker, will the gentleman yield?

Mr. CORCORAN. I yield to the gentleman from Tennessee.

Mr. QUILLEN. Mr. Speaker, since we have our good friend from California on this side of the aisle, I will yield 1 additional minute to the gentleman from California (Mr. JOHN L. BURTON).

Mr. JOHN L. BURTON. I thank the gentleman from Tennessee.

Mr. CORCORAN. I thank the gentleman from Tennessee on both counts, for his recognition of our friend from California and also the additional 1 minute.

Let me conclude by saying I do support this rule. I support the rule because it accomplishes, despite the cloud that now rests on the legislation, what we have been seeking all along, and that is a full opportunity to debate this issue, to look at the pros and to look at the cons, look at the arguments and the merits of this measure, to be given an opportunity, as every Member of this House ought to be afforded, to evaluate the legislation on the basis of the merits, not simply on the basis of other considerations outside the purview of this chamber.

So I would hope that as we have found increasingly on this legislation from the first time that the Members of Congress voted, and that occurred in the Senate Energy Committee, where the vote was 14 to 1, and the next vote was the Senate itself, and the vote there had about 15 percent in opposition, the next vote was the House Interior and Insular Affairs Committee, about 20 percent in opposition, the next vote was the House Energy and Commerce Committee, and we had about 28 percent in opposition. Yesterday we had over 45 percent of the Members of this House voting in opposition. I hope we would keep on that trend line.

I hope that, as I have seen, my prediction will be fulfilled; that as more and more Members of Congress see this legislation, they like it less, and they are going to reject it overwhelmingly.

Mr. LONG of Louisiana. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from New York (Mr. OTTINGER).

(Mr. OTTINGER asked and was given permission to revise and extend his remarks.)

Mr. OTTINGER. I thank the distinguished gentleman from Louisiana for extending this time to me.

Mr. Speaker, I would like to say that at last the Rules Committee has provided for an opportunity to debate this matter while the Members are here, and I think we are here again because of the efforts to steamroll this matter through the House, having the debate at a time when there were no votes scheduled on Tuesday, when a great many of the Members would not be available to hear the debate, and then having the vote yesterday without the possibility for any debate. I think we are really here because of the efforts of the proponents of this legislation to try and cut off a reasonable consideration of this legislation.

□ 1100

If the gentleman from North Carolina (Mr. JOHNSTON) and the gentleman from Alaska (Mr. YOUNG) had not sought to prevent us from having even a 5- or 10-minute consideration of this matter before it was considered in the House, I do not think we would be here.

Mr. YOUNG of Alaska. Mr. Speaker, will the gentleman yield?

Mr. OTTINGER. I will yield briefly.

Mr. YOUNG of Alaska. I think, as the good gentleman knows, the law is very specific. There is only 1 hour of debate. We would have been breaking the law. That is a law which the gentleman voted on, by the way. He voted in favor of it. I have the record on how he voted in 1976 and 1977. In fact, the gentleman voted for this rule. So, do not say it was a discourtesy on my behalf. We are following the law.

We have got the rule here today, and the gentleman is having time to debate it now. He had this well orchestrated and I commend him for his tactics. It was well done.

Mr. OTTINGER. I would resume my time and point out to the gentleman that while he was insisting on the rules yesterday and the day before with respect to consideration of this, when the rules did not work in his favor he ran to the Rules Committee and tried to get a new set of rules on which this ought to be considered.

I am going to have to oppose this rule, not because I am not appreciative of the Rules Committee for attempting to provide adequate debate, but because I think that what they have done is to provide an illegal procedure that will subject this matter to challenge in the courts. The statute says that is shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to or thereafter within such 60-day period to consider any other resolution respecting the same Presidential decision.

We had a consideration of this matter yesterday and a vote was had; so that we either have a situation now where we are reconsidering that vote today, which is against the statute, or we can say the Senate resolution is a different resolution and we are considering that anew, in which case we are in violation of the second part of this statute.

Now, as the distinguished gentleman from Louisiana pointed out, the statute does provide that these are rules matters and they can be changed, but I would like to point out that section 8(g)(2) of the Alaskan Natural Gas Transportation Act states that the waiver is effective only, "upon enactment of a joint resolution pursuant to the procedure specified in subsections (c) and (d) of this section, * * * within the first period of 60 calendar days of continuous session of Congress."

The rule we are considering now does not directly change these procedures. It merely provides for consideration of Senate Joint Resolution 115. In fact, it ignores these procedures. Hence, the Senate Joint Resolution 115 is being passed pursuant to other procedures, and I think a legal challenge will clearly be raised. Senator METZENBAUM and myself have announced that we will in fact proceed against these waivers in court if they are approved according to these defective procedures which are being provided.

I think that the result of all this is because of the tremendous steamroller that was attempted to be put through

to try and benefit the gas and oil companies at the expense of the people of the United States—in this case, the consumers—and I am very alarmed at the degree to which the very real energy crisis that faces us has been used to effect that kind of transfer from the people, from the taxpayers, from the consumers, to the energy companies.

We have passed all kinds of tax breaks for the energy companies.

The SPEAKER pro tempore (Mr. FORD of Tennessee). The time of the gentleman from New York has expired.

Mr. LONG of Louisiana. Mr. Speaker, I yield 2 additional minutes to the gentleman from New York.

Mr. OTTINGER. I thank the gentleman for yielding to me.

We have provided subsidies through the Synthetic Fuels Corporation for the energy companies, and now we are trying to say that we are going to have consumer guarantee for a project which the energy companies themselves are not prepared to finance. As I pointed out in debate yesterday, this includes not just a pipeline but a $4.5 billion processing plant which the oil companies are not prepared to build for themselves.

The gentleman from Alaska has said that Alaska is now considering making some contribution to this project. They stand to gain about $20 billion from it. If they were prepared to contribute to this project, I do not know why they did not put their money up front and have a deal where perhaps the consumers would not have to bear this kind of risk.

Lastly, let me say this is not a question of whether a pipeline will be built or will not be built. That is the way it has been presented to us. I consider that a form of blackmail; either you take these waivers, which even the proponents have said really are disadvantageous and undesirable, and they would not like to support it if they have no alternative, or have no gas pipeline at all. We can pass new waivers. The gentleman from Illinois has a bill, which I do not particularly favor, which would deregulate Alaska gas and allow the project to be financed that way. The President could send up new waivers, so the way this is presented to us as an all our nothing package I think is simply unfair.

But, I think what we are faced with now is a procedure, because of the steamroller put through to get these benefits to the energy companies, which is illegal and is going to subject it to legal challenge. The banks certainly are not going to put up the money with a lawsuit pending.

I recommend that we defeat this package and start over again to provide a fair and equitable way to bring the natural gas down for the benefit of the people of the United States.

Mr. QUILLEN. Mr. Speaker, it is estimated that the Prudhoe Bay field will supply 5 percent of the needs of consumers of America for the next 25 years. Right now, we are getting oil from Libya that could be replaced by natural gas in our homes and in our factories. Why do we have to deal with a country that is threatening to kill our President?

I think our foresight action today should be centered on energy self-sufficiency. Approval of this measure is getting the job done. It is getting the pipeline built. It is getting the natural gas to the consumers of this country, and we should be looking to self-sufficiency from one of the sources of this great country.

Mr. Speaker, I yield 4 minutes to the gentleman from Iowa (Mr. LEACH).

(Mr. LEACH of Iowa asked and was given permission to revise and extend his remarks.)

Mr. LEACH of Iowa. Mr. Speaker, first I would like to congratulate again the leadership of the mischievous gentleman from Illinois (Mr. CORCORAN) on this bill. I would like to stress that this bill has philosophical as well as practical problems. On philosophical grounds, a free enterprise society implies risk taking—by entrepreneurs, not consumers.

The waiver package denies this philosophy in a novel, unprecedented approach that deserves a second look.

On practical grounds—and this is where the bill's advocates feel their arguments are strongest—we ought to look carefully at what the implications are. Practically speaking, if we give this carte blanche guarantee to the construction companies, it will cause the cost of construction of this pipeline to go up because there will be no incentives whatsoever to hold the costs down. The companies will proceed with construction with a guarantee that they can pass on any cost to the consumers, whereas otherwise that guarantee would not be as ironclad without the waiver package.

Second, the package will cause the price of the natural gas produced in the lower 48 States to go up as well because, with the higher price of natural gas from Alaska based on the cost of this pipeline, it is inconceivable that the producers in the lower 48 States are not going to push to have their prices go up by the same amount.

Incredibly, for the first time in modern history in this country, there is very serious talk in the oil industry that the price of natural gas will exceed the cost of crude oil. That has never happened in modern times, but it is going to happen if this waiver package goes throgh despite the fact that we have abundant reserves of natural gas in this country, despite the fact that natural gas is cheap to produce in contrast with crude oil. Apparently you do not have to be an Arab to act like a shiek.

In this respect, it should be stressed that when we began consideration of this pipeline, we had a very different assessment of what this country's natural gas reserves were. Today it looks as if we are in very decent shape with respect to natural gas production; we simply will not be needing to import natural gas in large amounts.

Finally, it should be noted that what is at stake is not just increased consumer costs to homeowners, but jobs themselves. This is not just a consumer ripoff bill; it is a job-jeopardization bill as well. The cost of production of products as diverse as corn, tractors, and backhoes are going to go up, thus severely undercutting our competitive position abroad. After all, the one competitive advantage we have over the Japanese, Germans, and others in international heavy industry trade today is the cheaper cost of natural gas in this country.

This is thus above all a question of equity, and what is really at stake is a transfer of wealth and people from energy-consuming States to energy-producing States.

The waiver package represents a classic special interest issue which should not be approved.

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield?

Mr. LEACH of Iowa. I yield to my colleague.

Mr. SMITH of Iowa. Mr. Speaker, I think something else has not been pointed out here, and I would like to have the gentleman's comment on it. Eventually, we are going to reach the point where gas is priced comparable to oil. At that time, if the cost of the pipeline has already been paid for by consumers, they are still going to get the same price for the gas but they will not be paying for the full cost of the pipeline from that price they are receiving for gas at that time. So, what we are really doing is transferring onto consumers an additional cost of the pipeline instead of delaying and taking it out of that price that is comparable to oil at a later time.

Mr. LEACH of Iowa. The gentleman makes a valid point, but I would like to stress that recent projections in the oil industry are that for the first time natural gas prices may go even higher than oil prices; at stake is not just comparability in pricing but higher costs for natural gas. Such a prospect is unjustified. Natural gas and crude oil are two different products, and all of us in this country ought to look very seriously at the ramifications of new pricing projections.

Mr. CORCORAN. Mr. Speaker, will the gentleman yield?

Mr. LEACH of Iowa. I yield.

Mr. CORCORAN. Mr. Speaker, I thank the gentleman.

I want to compliment both gentlemen from Iowa for their contibutions. One of the interesting aspects——

The SPEAKER pro tempore. The time of the gentleman from Iowa has expired.

Mr. QUILLEN. Mr. Speaker, I yield one-half minute to the gentleman from Iowa.

Mr. LEACH of Iowa. I yield to the gentleman from Illinois.

Mr. CORCORAN. Let me make the point that one of the provisions is the so-called regulatory certainty provisions. Ordinarily when you have the consumers paying on a construction work in progress rate procedure, you have the opportunity through the Public Utility Commission to get a refund, to get credit for the construction, of the money that they have paid in for the contruction of the project. With regulatory certainty, the regulatory agencies involved in the 48 States, as well as the Federal regulatory commission, will not be in a position to do that after the FERC acts on the waivers on the ill-advised decision that is before us.

Mr. QUILLEN. Mr. Speaker, I yield 5 minutes to the gentleman from Alaska (Mr. YOUNG).

(Mr. YOUNG of Alaska asked and was given permission to revise and extend his remarks.)

Mr. SHARP. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Indiana.

Mr. SHARP. Mr. Speaker, I thank the gentleman for yielding.

First of all, this is not construction work in progress. This is a postconstruction payment that is possible under this after a date is set by the Federal Energy Regulatory Commission, and after completion of one or two segments of the project.

Second, all of these costs that might at any time go to the consumers are regulated by the Federal Energy Regulatory Commission. People are acting as if it does not exist. After this Congress completes its action, FERC must go through a very elaborate process and determine whether a certificate ought to be granted for this pipeline, as it must on any pipeline in this country, and under the same standards. That is the fundamental protection of American consumers.

Third, people are acting as if the Federal Government is suddenly going to become indifferent to this project once it is completed.

□ 1115

We established under ANGTA, the law that got this process started, the Office of the Federal Inspector, a very aggressive operation that is designed to supervise every financial decision made, every contract made, and every business arrangement made by this pipeline to help the Federal Regulatory Commission determine what actual costs can legitimately go to the consumer.

Mr. Speaker, let me say to the Members that people have got a good many wrong ideas about this. I am delighted that we have this rule and that we are going to have 2 hours of debate because maybe we will have an opportunity to straighten out some of the more outlandish kinds of statements about what is going on here. I do not deny that we have a tough judgment that we are facing on this project and in the way we are proceeding. That is true. But we at least ought to try to be faithful to the American people and the American press on what some of these issues are—and, by the way, they ought to be faithful in return—and see that both sides get heard.

Mr. YOUNG of Alaska. Mr. Speaker, I thank the gentleman from Indiana (Mr. SHARP) for his eloquent and factual statement.

I have never seen an issue that has been so distorted and so maligned by the media and by those who are frankly opposing this under the guise of consumership.

What upsets me, as our good majority leader pointed out, is how short our memories are. In 1973 I stood in this well and argued for the Alaskan oil line, and everybody said, "It is going to cost the consumer. Let's not build it. We don't need it."

Where would we be today if we did not have the Alaska oil line? Where would you be? What is this glut or overamount of gas that we have now? From all the reports, all we know is that we are still importing 3,465,000 barrels of oil a day. That is more than we imported in 1973.

How many of your homes and your schools and your factories were shut down in 1973 and 1974 because we did not have natural gas or oil? I did not know that all of a sudden in this country, with people out there in the service stations paying $1.45 a gallon for gasoline and with the highest heating bills that have ever been paid in history, that all of a sudden there is now a surplus of energy. I would like to see where it is. There is a lot of hot air around here, I will tell you that, but that is the only surplus of energy I see.

Mr. JOHN L. BURTON. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Alaska. Not right now.

Mr. Speaker, let me say that the Rules Committee is doing this body a great service by bringing this bill back to the floor. I am upset and disturbed that for the first time in 50 years, to my knowledge, we have never accepted the other body's identical bill. Let us think about that for a moment. A precedent was set yesterday by this House.

I worked on the Alaska Natural Gas Line Act in 1976, as well as the rest of the Members, and the intent of this act was—in fact, it spells it out—that if both bodies act in the affirmative, it shall go to the President. Because of a technicality used by my good friend, we are now hung up on this issue again. But hopefully my colleagues who voted for this bill yesterday will recognize it for what it is.

It is a proconsumer bill. It is a waiver package that will provide the Nation with 100 years of energy, not 25 years of energy.

Some people ask me, "Well, why can't the pipeline be built another way?" I will tell the Members something. There is not going to be another waiver package. There will not be a pipeline built via Canada. There will be a pipeline built to Tidewater, and the gas will be sold to the highest bidders, which will be the Orient. Then when your people are cold and your schools are shut down and your factories are shut down, ask yourselves, "Did I truly help the consumer?" I say that you did not.

I compliment the Rules Committee. I urge the committee as a whole to again give this Nation the right to be self-sufficient in the energy it so badly needs. If we do not do that, all of us should hang our heads in shame because we have done ourselves a great disservice under guise of protecting the consumer. By voting against this, we are really hurting ourselves in the long run.

Mr. LUJAN. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from New Mexico.

Mr. LUJAN. Mr. Speaker, I want to compliment the gentleman from Alaska (Mr. YOUNG) for that statement and for what he said in these statements that have been made that we do not need this. The gentleman will remember that years ago, in the fifties perhaps, we thought we had a lot of oil, and we started implementing ways of limiting it.

The SPEAKER pro tempore. The time of the gentleman from Alaska (Mr. YOUNG) has expired.

Mr. QUILLEN. Mr. Speaker, I yield 1 additional minute to the gentleman from Alaska (Mr. YOUNG).

Mr. LUJAN. Mr. Speaker, will the gentleman yield further?

Mr. YOUNG of Alaska. I yield to the gentleman from New Mexico.

Mr. LUJAN. Mr. Speaker, I thank the gentleman for yielding.

We started limiting the amount of oil that could be pumped out of wells in the United States. What happened? Because the companies had to go someplace else and recover their expenditures quicker, we got left holding the bag, and that is why we have the shortage of oil that the gentleman speaks of.

Mr. YOUNG of Alaska. Mr. Speaker, the gentleman is absolutely right. And I will tell the Members that the same thing could happen again. If we have a surplus of gas, let us use it. Let us not let Qadhafi make his threats good. Let us use our gas in this Nation where we need it. Let us use it on the east coast and in the Midwest where we need it. Let us use our Alaskan gas.

Mr. LONG of Louisiana. Mr. Speaker, I yield 4 minutes to the gentleman from Oregon (Mr. WEAVER).

Mr. WEAVER. Mr. Speaker, I thank the gentleman from Louisiana (Mr. LONG) for yielding me this time.

First, I want to commend and compliment the gentleman from Illinois (Mr. CORCORAN) for acting responsibly to his constituents and the people of this country by exercising his right to object to a unanimous-consent request. The gentleman brought about this debate, and I want to thank him very much for that very excellent contribution.

I would like to say that this rule should be defeated for the very simple reason that the original law passed in 1977 is defective. Its waiver provisions are obtuse, and it contains many other provisions that actually harm the possibility of constructing this pipeline.

I think that every Member of this House—and I would not question this for a minute—wants that natural gas out of the Prudhoe Bay field to benefit our people. There is no question of that. But let us defeat this rule and bring in new legislation to cure the defects of the existing law.

First of all, the oil companies who own the gas, Exxon, Arco, and Sohio, are prohibited from being a part of the pipeline under the law. This waiver would allow them to go 30 percent. That is not enough. Now, the pipeline promoters will have in the end almost no capital involved in this; almost none of their money will be involved. The risk will be entirely on the consumer because of the various tax depreciation and investment tax credit advantages and the front-end loading on rates.

Let me tell the Members what this means to the consumer. The testimony from the people who are promoting the pipeline was that the gas will cost $17 a thousand cubic feet in the first year, 1987, if the pipeline is completed. That is $80 a barrel for oil. That is proconsumer? Eighty dollars a barrel for oil, $17 a thousand cubic feet?

What if they do not buy it? Even if they do not buy the gas, they are going to have to pay for the pipeline anyway, and that $17 is mainly paying for the pipeline.

So I say let the oil companies put up the money, build the pipeline, and risk their own capital. Let them pledge the gas and oil in the Prudhoe Bay field, and then if they want to, under the free enterprise system, build this pipeline.

There are alternatives, however, that could be much, much cheaper. One alternative mentioned in the hearings was building methanol plants at Prudhoe Bay and shipping the liquid methanol down the existing oil pipeline. That has not been thoroughly explored. Good heavens, when we have a chance of saving $20 or $30 billion, should that not at least be explored?

By killing this rule and allowing new legislation to be developed to allow for the exploration of new alternatives, allowing the oil companies to put up their collateral to finance it through the free enterprise system, we will be doing everyone a service.

Is there a danger that the pipeline will be killed if we defeat this rule? No. Sohio, Arco, and Exxon have all said they are reinjecting the gas into the fields without the loss of a cubic foot, and they can do that indefinitely. So there is no hurry. The gas is not going to go away. We are going to have it when we need it down the line. It will not be ready for 7 years anyway.

So let us explore the alternatives, Mr. Speaker, and defeat this rule.

The SPEAKER pro tempore. The Chair will state that the gentleman from Louisiana (Mr. LONG) has 14 minutes remaining, and the gentleman from Tennessee (Mr. QUILLEN) has 6½ minutes remaining.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from Colorado (Mr. BROWN).

(Mr. BROWN of Colorado asked and was given permission to revise and extend his remarks.)

Mr. BROWN of Colorado. Mr. Speaker, I rise as an advocate of expanding our natural gas supplies and as one who acknowledges the very sincere efforts of the sponsors of this measure to expand our energy independence. I also rise as one who is opposed to this measure.

This measure includes in it a provision that would transfer the gas conditioning plant from the private sector to the public utility sector. The gas conditioning plant is that portion of the project that takes the gas and makes it pipeline quality, putting it in shape to traverse through the pipeline. It is an important part of the project. It is normally a part that is handled through the private enterprise sector. To transfer it over to the public utility sector is an assault on free enterprise. it is not necessary to reduce the scope of free enterprise in this Nation for the advancement of this project.

The project should stand on its own feet, and we make a great mistake, I think, in the diminution of the free enterprise system by this waiver.

A second consideration I would hope all Members would look at is the price. This gas, at the lowest estimate I have heard in this Chamber, will cost $8 a thousand cubic feet. The highest estimates from the committees of reference indicate that it could cost $19 per thousand cubic feet. Decontrolled gas right now sells from $5 to $6. This gas is not a good buy for anyone.

At this point, Mr. Speaker, I would like to yield to my colleague, the gentleman from Illinois (Mr. CORCORAN), for an inquiry regarding the position of the Republican leadership on this measure.

Mr. CORCORAN. Mr. Speaker, I thank the gentleman from Colorado (Mr. BROWN) for yielding.

First of all, let me report that I have not heard from the President of the United States. I have not been taken to any woodshed or anything of that nature.

Second, I think it is interesting to note that of the Republican leadership, the Republican leader, the gentleman from Illinois (Mr. MICHEL), voted against this waiver package yesterday. The second man on the totem pole, our friend, the gentleman from Mississippi (Mr. LOTT), did vote in favor of the project. However, the third person on the totem pole, the chairman of the House Republican Conference, the gentleman from New York (Mr. KEMP), voted against this project.

I think the reason that happened is that we have finally gotten the leadership of the House, as well as many Members, to evaluate this measure on the merits. When we look at the economics of the case, I think we have to conclude, as I will be debating further on when we consider the joint resolution in debate, that on the economics of the case this particular financing mechanism for the project—not the project itself but the financing mechanism itself—should be rejected so we can find other alternatives. And there are many other alternatives which we have been denied the opportunity to examine.

Mr. OTTINGER. Mr. Speaker, will the gentleman yield?

Mr. BROWN of Colorado. I yield to the gentleman from New York.

Mr. OTTINGER. Mr. Speaker, I congratulate the gentleman from Colorado (Mr. BROWN) and associate myself with his remarks.

I would just point out that the gas-processing plant that consumers are being asked to pay for is no small matter. It is $4.5 billion.

Mr. LONG of Louisiana. Mr. Speaker, I yield 6 minutes to the gentleman from Indiana (Mr. SHARP).

(Mr. SHARP asked and was given permission to revise and extend his remarks.)

Mr. SHARP. Mr. Speaker, I need to refer to a couple of things that have been mentioned in debate: First of all, the claim that is likely to be raised in court should the waiver package be passed, and that somehow this procedure today violates the statute and, therefore, involves reconsideration of the resolution as the statute denies.

Let me say to the Members that that is a tortured interpretation of the statute. It would nullify the intent of the statute, and I think it is very important that we just make that clear here on the record so that when the efforts of the opponents are made to bring it up in court, there will at least be a note made here at this point.

The Senate resolution and the House resolution are identical except for the number. ANGTA never contemplated that the House-passed and Senate-passed resolution could not be merged for Presidential signature. It would be contrary to the intent of ANGTA to prevent the resolution contemplated in it from being enacted on such a technical misreading of the

statute ANGTA clearly contemplated the enactment by each House of such a resolution, and obviously did not contemplate the failure of such a resolution on the grounds that adopting the number of the other legislation one would constitute a separate resolution.

What the language of ANGTA intended was that the defeat of the waiver would not allow the same procedures to be used on a second waiver within the same period, not that the same waiver, once passed, could not be sent to the President for his signature.

The opponents of this rule are clearly making a procedural argument in order to thwart the will of the House and achieve the defeat of a measure the House has already adopted.

If ANGTA can be read the way these Members would have it be read—to prevent the adoption of the very resolution it allows—then ANGTA was defective. Any statute should be interpreted to remove unintended defects, and certainly should be by the Congress itself. We should not interpret ANGTA against ANGTA's clear, and undisputed purpose: The effective enactment of a waiver resolution.

The rule would allow us to correct this erroneous interpretation of the statute by providing for consideration of the Senate-passed resolution identical to the House resolution passed just yesterday. I urge all Members to support the rule and then to support the passage of the Senate resolution, the same resolution they passed yesterday.

I do not think that the procedural argument, however, is relevant to what most of us are trying to consider.

Let me address very quickly just one or two of the issues that we will have time in the hour of debate to raise. Let us take the most recent one, the gas conditioning plant. As it stands now and as it would stand if we reject this waiver package, our consumers are going to pay for this gas-conditioning plant, and they are going to pay for it without any Federal supervision, without any cost controls from the Office of the Federal Inspector, and without any review of the Federal Energy Regulatory Commission.

The oil companies, if they build this, can milk the consumers for whatever they want out of it.

All right, that is the way it stands now. That is the way some of these critics want to leave it. They argue that we should not let it under the waiver package become subject to utility regulation, as they say. Such regulation is good for the consumers, I say to the Members. The Office of the Federal Inspector is going to be in there supervising every contract that is let for the conditioning plant. The Federal Energy Regulatory Commission is going to have to advise and determine whether or not those legitimate costs can be passed to the consumers.

Right now the consumer is without protection if we reject this piece of the waiver, because its unregulated costs can be added to the wellhead price of Alaskan gas.

Mr. Speaker, we are going to want to deal with the price question, but my time is very limited now. There are gross distortions on the price questions involved in here, and I would like to address this because it is very important. It has to do with the preliminary tariff schedule, which is likely to be changed so that our consumers are not facing anything like the claim of $19 per thousand cubic feet.

□ 1130

The average that virtually everybody has agreed to on the studies of this project is that the cost of gas, including this very expensive transportation system, is going to range between $4.50 per 1,000 cubic feet and $5.50 per 1,000 cubic feet over the 20-year average. That is going to be, unless something goes terrifically wrong, a good deal for consumers unless you think oil prices are coming down. I certainly hope they do, but we have been through a painful decade in which that has not been our experience.

Let me say something about the process of consideration. There has been a lot of talk as if there is some deliberate effort to exclude the American people from consideration and hearing of this issue. There had been some talk as if there has been an effort to prevent the Members of this House from having the best information. I do not particularly like the truncated debate we have been forced into, but the Members of this House voted overwhelmingly for the rules we are under. The Members of the other body voted overwhelmingly. The reason they did that is because one of the hardest lessons we have learned from the 1970's is that government indecision on the local level, to the State level, to the Federal level, has denied us important energy resources. Our consumers have paid and paid and paid every time they did not have energy available.

My colleagues can look around at the billions of dollars, billions I think our consumers are being overcharged, and some of it can be traced to indecision in this body because we could not make a timely decision. So in 1977 the overwhelming majority of Republicans and Democrats in the House and the other body said we are starting on a tough project here, we will not allow it to be botched up in court every 2 weeks. We cannot allow the Congress to take 1 year and 2 years to reconsider every issue, and they established the procedures that we are voting on today. This was not me, not the Democratic leadership, not the Republican leadership, not the President of the United States. This body made that determination in good faith.

Second, the procedures we are operating under were triggered by the President of the United States after rather extended and torturous consideration within the administration, after consideration and consultation with Democratic and House Republican and Democratic leaders in both bodies. They started this project. They rejected the first proposals and they rejected them because some of us who are standing here defending the propsal said there is no way we will support the waiver package that the American banks want, the waiver package the the pipeline sponsors want, the package that the oil companies wanted. It was an outrage. It was a ripoff. A lot of the debate is aimed at that original package, but that is not even before us. A lot of the claims about the consumer guarantees are in reference to the original package that is not under consideration because many of us privately and publicly rejected it, because the President rejected it and, instead, sent what we are considering right now.

So let us understand where we are. Let me quickly conclude about the process to give my colleagues my best judgment. We knew the time was short, so our subcommittee on both the original package and the package that we are now voting on, sought out over 75 consumer, business, labor organizations in this country. We sought out the news media to take a look at this issue. We had a devil of a time getting everybody to come in and give us a judgment. We invited every human being in this country to testify that anybody suggested might want to testify, and heard from everybody that requested to be heard, and for 7 days we heard 63 witnesses. Overwhelmingly, the conclusion was there is not another alternative around. This project is the only feasible choice. You can delay today and you will cost the American consumers, if this project goes forward at all, at least $3 billion in construction costs, next year. You may cost them 5 years of delay, and then you will have to explain to them how many billions more that is going to cost. Nobody knows for sure.

I would like to answer in more detail, and I will have the time in the next hour, some of the specifics about the economics of this project, the specifics about how the regulatory system works, and how it will work, after the waiver is passed.

Mr. LONG of Louisiana. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. SCHEUER).

(Mr. SCHEUER asked and was given permission to revise and extend his remarks.)

Mr. SCHEUER. Mr. Speaker, we have heard a great deal of discussion about the cost to consumers of this project. I too have grave misgivings about the costs. I wish we had made a better deal on the waivers and had not had to saddle consumers with the cost of this project before it is constructed.

But as Grover Cleveland said once a century ago, we are faced with a condition and not a theory. The condition is that we must choose not between this deal we are looking at and a better deal, which I would have liked. It is this deal or total uncertainty, and the very great likelihood of doing nothing for a long period of time.

This would deeply complicate and exacerbate our relationship with Canada. A succession of American Presidents have given them our assurance that we are going to go ahead with this project and they have acted in reliance on that, and they would be deeply aggrieved if we let our commitment lapse.

Second of all, it would injure significantly our ability to eyeball the Arab sheiks, the Persian Gulf oil sheiks, either in terms of an increase in the price of oil or the likelihood of another oil embargo. We can say well, go ahead with your oil embargo your continuous OPEC price increases, our American consumers have pulled in their belts a hitch, our automobile drivers have reduced our consumption of energy, by 19 or 20 percent in the last year. This Alaskan project will give us an amount of oil equal to our Libyan imports today, equal to one-third of our Saudi imports today. Think of the value of that to our country. Think of the value to us of diminishing our reliance on Persian Gulf oil, on foreign oil, which is recycling over $100 billion a year from our economy to the OPEC countries, over $100 billion a year.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. TAUKE).

Mr. TAUKE. Mr. Speaker, first I want to commend the gentleman from Illinois (Mr. CORCORAN) for his brilliant leadership on this issue. I commend the Rules Committee for bringing us a rule which will allow us to more fully discuss the question.

I believe it is very important for the Members of the House to recognize that this waiver package is before us because the gas that will come from Alaska may not be marketable. The question about the marketability of the gas is the major risk for the investors in this project. It is because those investors are unwilling to assume the risk and cannot find adequate financial backing for this risky project that we are being asked to make waivers.

We do not need to take the word of the gentleman from Indiana or the gentleman from Illinois or anyone else about the risks that are involved in this project. If there were no risk on the marketability of this gas; if, in fact, as the gentleman from Indiana suggests, the price would be only $4.50 or $5 per 1,000 cubic feet, we would not be here today because the banks of the world would be willing to finance this project.

But because there is substantial danger that the price will be $13 to $20 per 1,000 cubic feet that we are here trying to transfer risk away from investors to consumers.

The choice before us, then, is how we finance the project. We can look either to the Federal Government, to the producers of the gas, to the consumers of the gas, or to the State of Alaska. We have chosen not to look first to the State of Alaska or the producers of the gas. Instead, we have decided to look first to the consumers.

I suggest to my collegues that that is the issue. When we provide waivers, should we provide waivers to provide that the risk be transferred to consumers first, or should we look first to the State of Alaska and to the producers of natural gas. I submit that it is extremely important that we first look to the State of Alaska and to the producers of the gas and then look to the consumers rather than the other way around. That, I believe, is the issue before us.

Mr. QUILLEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Speaker, I would like to comment, and I thank the gentleman for yielding, on this comment about the State of Alaska being involved. The State has a commission. We are looking to the investment and we are very interested in the conditioning plant. That is our big goal.

It is ironic to me, if the gentleman will pay attention to this, that he is asking the State—and I have never asked the State of Iowa to participate in something that will help the State of Alaska, I have never seen this happen before, but all of a sudden we are looking to the State of Alaska. We want to deliver the gas to the American market.

I will tell you this, my friend, I will tell you this, the State of Alaska, if this waiver package is not passed, will participate in building the pipeline, but it will not go to the gentleman's consumers.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

In controlling the time on this side of the aisle I support the rule but, in order to be fair, I have yielded over 20 minutes to the opposition to Senate Joint Resolution 115 because I think fairness should prevail. In doing that, I stress again to the Members that the consumers of this Nation demand energy self-sufficiency.

There have been those who have spoken out on the floor against the rule. However, I want to ask the gentleman from Illinois, Mr. CORCORAN, if, in fact, he did not make the statement that he supports the rule.

Mr. CORCORAN. Mr. Speaker, will the gentleman yield?

Mr. QUILLEN. I yield to the gentleman.

Mr. CORCORAN. I emphatically support the rule and I also want to express my thanks to the gentleman from Tennessee, Mr. QUILLEN, and the other members of the Rules Committee for their very favorable consideration and very courteous treatment on this particular issue.

Mr. QUILLEN. I thank the gentleman.

The SPEAKER pro tempore. All time of the gentleman from Tennessee (Mr. QUILLEN) has expired.

Mr. LONG of Louisiana. Mr. Speaker, I yield 5 minutes to the gentleman from Arizona (Mr. UDALL).

(Mr. UDALL asked and was given permission to revise and extend his remarks.)

Mr. UDALL. Mr. Speaker, when we debated this identical resolution a couple of days ago I said it was a close call for me on the merits of this issue and it really is. PHIL SHARP and I have fought a lot of fights on the side of consumer organizations, and I have not yet been named Exxon Man of the Year, as I pointed out.

It is a close call, and I appreciate the debate. But I resent the insinuations we have had here all this morning about how some steamroller was going on, that some evil people had prevented the Members of this House from learning the real truth about this matter.

Let me just refer to a couple of things, if I may. The President of the United States, after a long administration study, on October 15 said, "Here is a package of waivers," and sent it to the Congress. The Senate of the United States, and it is not easy to fool all of those folks over there, voted on November 19, 75 to 15, something on that order, to approve the waiver package. This House yesterday voted 233 to 173 for this waiver package, the exact same bill that we are going to have before us.

The Rules Committee, a well-known legislative forum that meets upstairs in this building, yesterday heard all of these desperate charges the consumers had that the time had not been made available for adequate debate, and then voted by 13 to 1 to take this up again.

Let me remind my colleagues that what we have before us, except for the Senate resolution on one bill and the House resolution on another bill, is exactly the bill we voted on yesterday. We can argue the merits and we will be getting into that a good deal. But I want to discuss the procedures, so do not let anybody tell you around here anybody has been rolled or anybody has not had a fair procedure.

I went to the Speaker to try to get another week delay on this when it appeared we would be here next week. I tried to get the vote put off and asked unanimous consent so that they would have another day. So do not let anybody tell you that you have not had due process around here. You have had due process and this House today ought to put this thing to rest. We ought not to say today when we act that we do not like this procedure.

But the one point I wanted to make is that we get along here on trust and good will and unanimous consent. Yesterday was the first time in my 20 years here when a unanimous-consent request by the manager of a bill, where you had passed the House bill, gone to the Speaker's desk and asked unanimous consent to take the identical Senate bill, and that unanimous-consent request was objected to. So as a result we have had an hour debate under the rule and we are going to have another hour of debate on the identical resolution which we approved yesterday. I hope we will put it to rest.

Mr. DINGELL. Mr. Speaker, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from Michigan.

Mr. DINGELL. I thank the gentleman for yielding. Every single argument now being used by the opponents of this bill is based on an analysis generated by the staff of the Committee on Energy and Commerce. The analysis was prepared so that everybody would have a full chance to not only understand the arguments for this proposal, but also the arguments against this proposal. Yet after having considered those arguments, the Committee on Energy and Commerce, having full information on this matter, voted overwhelmingly to recommend to the House that this proposal be approved.

There has been full debate. There has been full information. The system has functioned properly and well and the matter has been handled honorably. We ought to dispose of it for good and all and end the frivolity of considering the matter twice simply to satisfy the particular concerns of a particular Member.

Mr. UDALL. Our committee went into this at great length and approved it by a very large vote also, 32 to 9.

I want to make a couple of important points. I will try to get to my good friend from New York (Mr. OTTINGER) when we get in the House, if he does not already have time.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. UDALL. I yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate my colleague yielding. Will we have any new information in this additional hour that we will be debating that we did not have yesterday?

Mr. UDALL. Not that I am aware of. We have tried to respond to all of the charges that have been made.

I will review for the gentleman a couple of pieces of additional information.

Mr. ROUSSELOT. I would like to hear.

□ 1145

Mr. UDALL. We need energy. We are in trouble. This natural gas supply that we are going to get will, in the first stage, before we really go all the way provide energy equivalent to 10 nuclear plants. It is equivalent, in energy terms, to building 10 nuclear plants at a cost of $22 billion at today's prices.

Well, there are some other facts, but I want to take a moment to put this in focus, if I can, a little bit.

There is this basic principle of utility law that we all support and which has worked will. We tell the phone company, we tell our light or gas company, "We are going to give you a monopoly, and the risk is going to be on the company and the investors, and if you will dig down and put up your money, we will let you build a plant and give you a monopoly, and then you can begin to charge the consumers."

So, ordinarily, there is a fundamental rule that you do not charge the consumers until the plant is built and it is ready to deliver electricity or gas or whatever it is.

Here we have said, "This is a kind of unusual instance."

The SPEAKER pro tempore. The time of the gentleman from Arizona (Mr. UDALL) has expired.

Mr. LONG of Louisiana. Mr. Speaker, may I inquire as to how much time is remaining?

The SPEAKER pro tempore. The gentleman has one minute remaining.

Mr. LONG of Louisiana. Mr. Speaker, I yield the 1 additional minute to the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. I thank the gentleman.

This is a project that is going to cost $22.5 billion in 1980 dollars. It is needed. We are going to get this gas down here some way. We are saying that under very unusual circumstances, beginning in 1986, if and when one of the major components of this is already in operation, and when $20 or $30 billion of private capital has gone into this, then we may at that point have a little bit of prebilling so that consumers, particularly in the upper Middle West in this country, are going to have a long-term supply of natural gas.

So this is a fair bill. These waivers are waivers that we ought to support and uphold. I would urge the Members to support the rule, and I would urge the Members to pass the resolution again this afternoon, and maybe we will not have to be back here tomorrow to pass it a third time.

The SPEAKER pro tempore. All time has expired.

Mr. LONG of Louisiana. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. UDALL. Mr. Speaker, pursuant to the provisions of House Resolution 296 just adopted, I call up from the Speaker's table the Senate joint resolution (S.J. Res. 115) to approve the President's recommendation for a waiver of law pursuant to the Alaska Natural Gas Transportation Act of 1976.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 115

Resolved by the Senate and House of Representatives of the United States of American in Congress assembled, That the House of Representatives and Senate approve the waiver of the provision of law (Public Law 95-158, Public Law numbered 688, Seventy-fifth Congress, second session, and Public Law 94-163) as proposed by the President, submitted to the Congress on October 15, 1981.

The SPEAKER pro tempore. Pursuant to section 8(d)(5) of Public Law 94-586, the gentleman from Arizona (Mr. UDALL) will be recognized for 30 minutes, and the gentleman from Illinois (Mr. CORCORAN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Arizona (Mr. UDALL).

PARLIAMENTARY INQUIRY

Mr. DANNEMEYER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. DANNEMEYER. Mr. Speaker, it is my understanding that the division of time on this issue was to have been 15 minutes on the pro side and 15 minutes on the con side on the Democrat side, and similarly on the Republican side. That was the understanding I had with the gentleman from Arizona, the gentleman from Indiana and the gentleman from Illinois (Mr. CORCORAN). If I heard the Chair correctly, I think he indicated something different with respect to that understanding.

It is my understanding the gentleman from New York (Mr. OTTINGER) would have the 15 minutes on the con side from the Democrat side of the aisle.

The SPEAKER pro tempore. The gentleman from Arizona may yield time. Under the statute, the proponents are given 30 minutes and the opponents are given 30 minutes. If the gentleman from Arizona would like to yield 15 minutes of his time, he may do so.

Mr. UDALL. Mr. Speaker, we propose on this side to yield half of our 30 minutes to those opposed and half to those who are in favor.

The SPEAKER pro tempore. The gentleman from Illinois may yield 15 minutes of his time.

Mr. CORCORAN. First of all, Mr. Speaker, we are under a rule at this point rather than a statute; but, second, I do intend to yield 15 minutes to the distinguished gentleman from New Mexico (Mr. LUJAN) for those who are in support of this resolution.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Arizona (Mr. UDALL).

Mr. UDALL. Mr. Speaker, we have arranged so that the gentleman from Illinios, who has been very fair about

yielding time, will give 15 minutes to Members designated by the gentleman from New Mexico (Mr. LUJAN), or others who are in favor of the resolution. On this side, with our 30 minutes, the gentleman from Indiana (Mr. SHARP) and I have agreed that the gentleman from New York (Mr. OTTINGER), and other Members on my committee who want time, half of our time will go to the opponents of the resolution.

Mr. OTTINGER. Mr. Speaker, who will control the opponents' time?

Mr. UDALL. I understand that I control 30 minutes and the gentleman from Illinois controls 30 minutes. We will treat the gentleman fairly. In fact, if the gentleman will confer and tell me which speakers, a total of 14 or 15 minutes, we can come to some agreement.

The SPEAKER pro tempore. The gentleman from Arizona (Mr. UDALL) is recognized.

Mr. UDALL. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. SEIBERLING).

(Mr. SEIBERLING asked and was given permission to revise and extend his remarks.)

Mr. SEIBERLING. Mr. Speaker, we all have the deepest respect for our distinguished colleague, the gentleman from Arizona (Mr. UDALL), and he is always fair. But let me say that the situation under which these waivers were discussed in the Interior Committee—and I cannot speak for the Commerce Committee—was most unusual. In the first place, there were no hearings in the committee as such. The hearings were combined hearings by both committees, and only a small number of members in each committee attended those hearings. I happen to have been one who attended the majority of all of the hearings and heard the witnesses. Most of the members on our committee did not. And, what is more, when we had the debate in the Interior Committee, we never did get to a discussion of the merits of this particular set of waivers. The discussion was very brief and was largely on peripheral matters. There was no comprehensive presentation of either the effect or the purpose of the waivers.

So I do not think that most of the members of the Interior Committee really understood the issues behind this.

Now, let me just make one other point in my 2 minutes, and that is there is not only no assurance that if these wiavers are approved the financing plan will go forward, but if they are disapproved there is no reason why the proponents of this pipeline system cannot come back to us and present a set of proposals that is more in line with the interests of the consumers both in terms of getting gas in the future and getting it at a reasonable price.

The price in 1987 for gas coming out of this pipeline will be the equivalent of $98 per barrel of oil. Is that what consumers want? Certainly not. Of course, as the gentleman from Indiana (Mr. SHARP) says, over the following 20 years, the costs will be spread out and the average price will be much less. But the FERC, if we vote down this package of waivers, could be directed by the Congress to require that the costs of the financing be spread out so that they will be the same at the start of the 20-year period as at the end. If we do that, then instead of paying $17 per 1,000 cubic feet, comsumers will pay $4.50 or $4.95, or whatever the average price turns out to be.

Mr. CORCORAN. Mr. Speaker, I yield myself 3 minutes.

(Mr. CORCORAN asked and was given permission to revise and extend his remarks.)

Mr. CORCORAN. Mr. Speaker, I am delighted to be at this point in our legislative process on this matter. I think, in the debate involving the rule we did go a little bit far afield beyond the rule itself, perhaps, to discuss the issues of the resolution involved, but I think under the circumstances, that was certainly appropriate; and now we are at a point where we can examine this question very closely.

One of the key considerations that led to my opposition to the waiver package is the economic gas supply situation in many of the lower 48 States today, particularly those supplied by interstate markets.

The second consideration, the one which gets all of the attention, of course, is the anticonsumer aspect of the waivers, having to do with "regulatory certainty," having to do with the pre-billing procedures, and of course there are other such significant provisions in the waiver package.

But all of them are not flawed; it is the waiver package as a whole which is ill-advised and, unfortunately unamendable that is a bad deal. The basic condition which starts the chain of mischief that they could cause to 60 percent of the gas consumers in the United States is the economic market condition in the gas industry today. We have a glut of gas today and we will have this surplus in the interstate market for the next decade.

And the primary consideration, in my judgment, why so many Members, once they learn more and more about this issue, conclude, as I did during the course, not at the outset of our committee hearings on this matter, but during the course of those hearings, that this particular waiver package, this particular financing scheme was ill-advised, has to do with the market conditions.

We are not, let me say to my colleagues in the House of Representatives in the 1970's. This is not 1973 or 1974 or 1976, or what have you, where we had the shortage of supply in the interstate gas market. In fact, in a very ironic twist, today what we have is a shortage of supply in the intrastate gas markets. That is why in Louisiana, and Texas, and Oklahoma they are bidding up the so-called deep gas to $10, $11, and $12. The way to correct that problem is to deal with the National Gas Policy Act of 1978, not the gas at Prudhoe Bay in Alaska.

The urgency of the need is the overriding consideration. The need factor is the compelling factor in this argument against the waiver package. As I pointed out in the debate we had yesterday, the U.S. Geological Survey has shown about a 20-percent increase in the amount that is available compared with their exhaustive study in 1975. The point of all this is that with the high cost of transporting the gas from Alaska, from the Prudhoe Bay field on the North Slope of Alaska, which will amount to $15 a thousand cubic feet added to the price that is provided for in the Natural Gas Policy Act of $3, we are talking about $18 gas in 1986 coming into a market that is in a glut condition. So it will not be marketable. Now, that is not going to last for 20 years or 30 years. But in 1986 it will be glutted. They will not be able to sell it, and the result is that the consumers will be asked to pay off the debt which represents 75 percent of the financing project. That is why these waivers are bad, and that is why they are potentially the greatest consumer ripoff in the history of the United States.

Mr. Speaker, I intended to yield 15 minutes to the distinguished gentleman from the Interior Committee, Mr. LUJAN; however, in his absence, I yield 15 minutes to the distinguished gentleman from Alaska (Mr. YOUNG).

The SPEAKER pro tempore. The gentleman from Alaska (Mr. YOUNG) is recognized for 15 minutes.

□ 1200

Mr. YOUNG of Alaska. We will alternate it, Mr. Speaker.

Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. DANNEMEYER).

The SPEAKER pro tempore. Without objection, the gentleman from California (Mr. DANNEMEYER) is recognized for 5 minutes.

There was no objection.

Mr. DANNEMEYER. Mr. Speaker, over the last several days I have been almost amused by that savior of the consumer, Ralph Nader, who has been prowling about seeking to work his mischief certainly on behalf of the consumers of the country.

I rise in support of these waivers because I happen to believe that the adoption of them is definitely in the interest of the consumers of this country.

I would like to talk for the few moments that have been allotted to me at this time about our dear savior of consumers, Mr. Nader, and put in perspective something of what the gentleman has contributed to the shortage of energy in this country.

Our problem in terms of shortage of oil and natural gas is traceable back to

about 1959 when at that time President Eisenhower adopted a policy of limiting imports to not more than 12 percent of our annual usage. We felt that to exceed 12 percent usage of imported oil would establish a dependence on foreign nations that was contrary to our national interest.

The small producers, in Texas, Oklahoma, and Louisiana liked that because it insulated them from the cheap foreign oil which was selling for under a dollar a barrel.

Domestic oil in this country was selling for about $1.90 a barrel in 1969.

Soon, about that time, in 1969, Mr. Nader began to wonder about and figure out that, well, he would advance the cause of consumers in this country by raising the percentage we could import and so bring in more of this cheap foreign oil.

Now at that time, the Seven Sisters, the major producers and marketers of oil in the country and the world, did not particularly object to import quotas preventing an increase above 12 percent, because frankly, they were selling most of that foreign oil from the Middle East and Europe and doing pretty good at it. But Mr. Nader and his friends convinced people in this Congress that we should raise the import quota about that time because it would help the environment to burn some of that sweet crude from Libya—my colleagues all remember Libya, the source of current trouble on the international scene—and so they beat the drum and we began importing quantities of foreign oil that raised our annual use from 12 percent up to about 35 percent and then 40 percent, and then most recently I think the highest point in the seventies was around 45 percent of our oil came from foreign nations. We painfully remember what those foreign nations did to us once they had the addict on the line.

First, they jumped the price in 1973 by a factor of four, from about $3 a barrel to $12, and then in 1979 they did it to us again by raising the price up to what it is today, in the mid thrities—and so, the savior of consumers of America, as a result of the policies he sold to all of us in the beginning of the seventies, established our dependence on foreign oil and permitted that choke to come around the neck of the American economic system.

Now Mr. Nader is wandering about this country telling the media that he wants to help the consumers of this Nation from being taken advantage of again. After what he brought us in the seventies, do we want more of the same, more dependence on foreign sources of oil?

Tragically I hope we do not go that course. I hope we do not follow that distinguished gentleman's statement as to what course the Nation should take. I hope we have the courage quite frankly to do in America what our major competitors in the world, the Soviets, have set about to do. It is strange that history would work out this way. The Soviet Union is currently in the process of building a pipeline from Siberia to Western Europe, to transmit its natural gas.

If I remember correctly, the price they finally negotiated was about $5.50 per thousand cubic feet delivered in West Germany.

The SPEAKER pro tempore. The time of the gentleman from California (Mr. DANNEMEYER) has expired.

Mr. YOUNG of Alaska. Mr. Speaker, I yield one additional minute to the gentleman from California.

Mr. DANNEMEYER. The question is, there is a Communist society, they are a bureaucracy gone amuck. If they were to build that pipeline, the question arising in our society is, Can we in our system build one here? Not to run gas from one foreign nation to another, which the Members will recall from their geography passes over Poland and Germany and parts of it into Czechoslovakia, but do we have the perspicacity in this country to build this pipeline from Alaska down to the lower 48 States where the consumers are? I hope we do. I happen to believe it is in the public interest. It is in the national interest that we get on the road to energy independence and 5 percent of our natural gas supply from this pipeline is reason enough why we should grant these waivers, because they waive nothing more than requirements that were put in this law in 1977 that should not have been put in there to begin with.

No Federal money is involved. We should give this package a chance to see if the banking community will put up the money to build it.

Mr. YOUNG of Alaska. Mr. Speaker, I yield 2 minutes to the gentleman from New Mexico (Mr. LUJAN).

The SPEAKER pro tempore. Without objection, the gentleman from New Mexico (Mr. LUJAN) is recognized for 2 minutes.

There was no objection.

(Mr. LUJAN asked and was given permission to revise and extend his remarks.)

Mr. LUJAN. Mr. Speaker, it seems to me the problem here is very simple if we look at the options that we have.

We have the option of either building a gas pipeline coming down from Alaska or we have the option of not building it.

It would seem to me the option of building it is the desirable option, otherwise, how would we get gas out of Alaska?

That first decision is a very, simple one.

Once we decide that we are going to build that Alaska gas pipeline, we have two options: Who will build it? Does the Federal Government finance it or do we finance it through the private sector?

Again, the decision is very easy. Most of us would agree that it is not an acceptable solution for the Federal Government to build it, it should be built by private industry.

Having made those two decisions, we must have, as we know, in order to be able to finance this line prepayment agreements, and those prepayment agreements call for prepayment as segments are completed.

Mr. SHARP. Mr. Speaker, will the gentleman yield?

Mr. LUJAN. I yield to the gentleman from Indiana.

Mr. SHARP. I thank the gentleman for yielding.

The designation of this waiver has been wrong all the way through. It is a post construction waiver. We cannot charge anything until one of the three parts has absolutely made the deadline. Their commitment is to be done on the date not that they set but the Federal Government sets. That is the agreed upon date.

Mr. LUJAN. That segment of the line, I must add, must be able to handle the transportation of the gas. You cannot use it during the middle of construction. The orders are, as a matter of fact, that there will be a very short period of time or maybe no period of time where there will be any billing after construction. The orders are that maybe the three will come together and so you start paying as the gas starts flowing.

Mr. UDALL. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Speaker, I want to take this opportunity to clarify a few misconceptions that people have about this bill and this project, and what we are doing here today. Because the waiver package has been presented to us as a case of, "Do you favor the pipeline?", or, "Do you not favor the pipeline?"

It has been presented as an all-or-nothing-at-all project. It has been portrayed an, "Are you with me?", or "Are you against me?" question. That is not the case at all.

The question that is before us today is: Whether or not the waivers which were presented to us by the administration, are the proper inducements that should be given to the producers and to the contractors to expedite the construction of this pipeline.

So the onus is on us, those who believe that these waivers are not proper and are not necessary, to present alternatives. To say that the Congress should reject this proposal and come back within two months with a new set of waivers that will more fairly reflect the ability of those who are participating in this project to contribute to it.

What could those set of waivers look like? Well, first of all, what about producer financing. Instead of allowing the Prudhoe Bay gas producers to obtain equity in the project, let us put together producer financing, whereby the producers do not invest in the

project, but loan the money to the sponsors to complete the project.

Then a 50 percent, that is right, a 50-percent rate of return on equity is likely to be more negotiable and the consumers will be spared.

Since about 40 percent of the profits in the U.S. manufacturing sector is oil company revenue, why not divert their interest from acquiring every conceivable energy and non-energy resource in this country for themselves such as Mobil-Marathon or Mobil-U.S. Steel. What is this money going to be used for? Why not have them help in the construction of this project and have the oil companies become the lenders to finance the project? I think producer financing is appropriate because 98 percent of the increase in the net worth of the Fortune 500 companies in 1980 went to oil companies.

Second, as for regulatory certainty, let us give the lenders regulatory certainty consistent with FERC's role of protecting both consumers and sponsors

Third, the package should include Buy American requirements. The Canadians put something in their bill fulfilling the 1977 agreement which made it impossible to use American steel in the construction of their portion of the pipeline. Let us consider a waiver which says that we will use American steel for our portions of the pipeline.

Any package should contain a decontrol clause. Secretary Edwards said that he wants to decontrol natural gas including gas from Prudhoe Bay. Should we give the producers an additional windfall profit on top of the subsidy provided by consumer financing of this pipeline?

Why has this package not included Alaskan participation? Do we not want to discuss Alaskan participation? The State of Alaska under this waiver package will receive a 12-percent severance tax on the Alaskan gas. This amounts to $20 billion going to the State of Alaska, as a result of this deal. Which means every Alaskan gets $40,000 under the waiver package.

Do we want to discuss that in this House, or, do we want to accept this package of waivers?

There are several serious questions that have to be raised. This Congress is on record, as saying either one way of the other: Whether we oppose or support this pipeline, if we reject this particular package of waivers.

What we would be saying is that there is a better way of doing it, that we do not have to accept the $50 billion pig-in-a-poke. If the sponsors and the Alaska gas producers have evidenced more willingness to take risks, and they have not; if the sponsors would promise to build the pipeline if this waiver package is approved, they have not; if the sponsors would promise never to come back for more waivers or more financial support, they have not, then the waiver package would be more acceptable. But they have not been willing to come forward with that kind of guarantees. They have not been willing to give us that kind of assurances. Even if the sponsors would promise that they would use American steel, and they have not; we would be more willing to support or to consider this kind of financing of the project. But, I am not favorably disposed toward a package which gives to us an all-or-nothing-at-all, take-it-or-leave-it, are you with me or agin me.

I support the construction of this pipeline, but I do not support giving a blank check of the American consumer to the pipeline and to the oil companies. We cannot commit the American consumer to pay for this line without any controls and without any opportunity on the part of the consumer over the next 10 years. We should allow them to be able to come back and take a look to see: Whether or not this is the kind of project that we should have put our imprimatur on.

I think, as we stand here today, we have an opportunity. We have an opportunity, which thankfully has been given to us a second time. We have the opportunity to send the bill back to the committees of jurisdiction. We should send this package to send the waiver back to the Interior Committee and back to the Energy and Commerce Committee, to let them craft and to construct a set of waivers, which will more adequately meet the needs of the people in this country.

The SPEAKER pro tempore. The time of the gentleman from Massachusetts (Mr. MARKEY) has expired.

Mr. YOUNG of Alaska. Mr. Speaker, I yield one-half minute to the gentleman from Massachusetts (Mr. MARKEY) if he will yield to me.

Mr. MARKEY. I yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. The gentleman has caused me a great deal of concern here. He made the comment that every Alaskan got $40,000. My wife is right now on the phone asking me where her $40,000 is and it is disturbing.

Mr. MARKEY. Tell her it is in the pipeline, it is on the way.

Mr. YOUNG of Alaska. I am really worried about that. I am worried about where the $40,000 is.

Mr. UDALL. Mr. Speaker, I yield 1 minute to the gentleman from Indiana (Mr. SHARP).

Mr. SHARP. First of all, Mr. Speaker, we had better clarify about the State of Alaska. They have the gas. They have the oil. If we do not like that, folks, we are going to have to find some mechanism to take over their gas and oil. That is not what we are debating here today. We are debating the pipeline. There is nothing in this waiver package that gives some additional incentives or some additional advantage to Alaska that they do not now have.

Second, concerning all this talk about the producers getting involved in this project, I would ask: is that not wonderful, coming from people who, by the way, have usually tried to restrict producers?

What is in this waiver package is there precisely to allow the producers to put their money in so that the American consumer will not have to put any money in, so the Federal Government will not have to put any money in. It is to ask Exxon to step forward and take a risk on their capital, and if they are wrong to lose the money.

That leads to one of the key protections that is still here, that people act as if does not exist.

We are in no way guaranteeing that this pipeline is about to be financed by this waiver package. We hope that it is going to be attractive to private investors. But it is possible that they are going to make calculations—they darn well better—on the economics. They have to take the risk.

PARLIAMENTARY INQUIRIES

Mr. CORCORAN. Mr. Speaker, may I inquire how much time we have remaining?

The SPEAKER pro tempore. The gentleman has 12 minutes remaining and the gentleman from Alaska (Mr. YOUNG) has 6 minutes remaining.

□ 1215

Mr. YOUNG of Alaska. Mr. Speaker, a further parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. YOUNG of Alaska. Mr. Speaker, a point of information. On my records, I had 15 minutes yielded to me. There have been only two people speak, one was for 6 and one was 2 and that is 8; is that not correct?

The SPEAKER pro tempore. The gentleman yielded 5 plus 1 minute to the gentleman from California; 2 minutes to Mr. LUJAN.

Mr. YOUNG of Alaska. To Mr. LUJAN, that is 8.

The SPEAKER pro tempore. The gentleman also yielded half a minute to the gentleman from Massachusetts.

Mr. YOUNG of Alaska. And that gives me 6½?

The SPEAKER pro tempore. That leaves the gentleman 6½.

Mr. YOUNG of Alaska. I just want to make sure, because there are other people waiting.

Mr. CORCORAN. Mr. Speaker, I yield 2 minutes to my colleague, the gentlewoman from Illinois (Mrs. MARTIN).

Mrs. MARTIN of Illinois. Mr. Speaker, I am not going to speak to my colleagues on the other side of the aisle. The supposed watchdogs of the consumer have taken a long walk on this bill that makes the long march look like a stroll. Instead, I am going to speak to Republicans.

I grant that yesterday I felt vaguely uncomfortable, since being on the same side as Ralph Nader is not a normal point of view for many of us who are avowedly, openly, and happily

conservative. This particular bill is, however, in essence the best part of conservatism. The waivers would allow the big companies to put in their money. They will also allow consumers to put in their money without a guarantee that they will ever get the gas.

Now, there is a thought that occurs to me. If the banks do not want to risk this much, if the Exxons do not want to risk this much, does that not perhaps indicate that they do not trust that very market, that perhaps there might not ultimately be a market? That is the nature of risk and success.

I might not care if the pipeline companies make 50-percent profit on their investment; but I do care if the consumers have to virtually underwrite the construction of the pipeline with no guarantee that they will ever get gas in their homes in return.

I will add one thing: only one Member on the opposition side has suggested these waivers will cause a lower price. No one, except that one, has made that foolish error, because what we are really doing is giving consumers the opportunity to invest their money without choice, to get no return, and to pay higher gas prices, and that is a lousy way to run a business or a country.

Mr. CORCORAN. Mr. Speaker, I yield 2 minutes to my friend, the gentleman from Iowa (Mr. LEACH).

Mr. LEACH of Iowa. Mr. Speaker, I would like to make briefly just one general and one specific observation. In the general sense, in recent years Congress has been called upon to bail out certain large corporations that have gotten into financial trouble. This bill is a novel precedent: We are asked to bail out, through burden-passing to the consumer, large corporations that are financially healthy. This is legislative nonsense.

Finally, one part of this bill calls for consumers to accept the burden of building a gas-conditioning plant in Alaska. Gas processing plants have been built many times in this country, but this is the first one that the consumers are asked to take the risk of paying for. Part of the reason, frankly, is that we have an overbuilt gas-processing industry. Yet it is interesting to point out that during the debate on the rule this morning the gentleman from Alaska indicated, in response to a question, that his State was considering certain burden-sharing for the people of Alaska—that they might consider helping build this gas-conditioning plant. If that is the case, this bill before us today should be defeated because that is a change which should be made in a new bill to come up in the future.

This bill is before us without the right to amend, which is certainly not common coming from the committees of jurisdiction which reported it. If the gentleman from Alaska is going to assure us that maybe the people of Alaska would consider building this processing plant, then all I would say is we must defeat this bill because this costly plant represents $4 to $5 billion worth of new information.

Mr. YOUNG of Alaska. Mr. Speaker, will the gentleman yield?

Mr. LEACH of Iowa. I would be happy to yield to the gentleman from Alaska.

Mr. YOUNG of Alaska. I would like to stress again, this is unfair to ask the State to do it. The State is looking at this project. They are very much interested in it; but if the gentleman would like to mandate it all on the state of Alaska, if you do, you would be breaking constitutional law and the gentleman knows that.

Mr. CORCORAN. Mr. Speaker, I yield 2 minutes to the gentlewoman from Rhode Island (Mrs. SCHNEIDER).

(Mrs. SCHNEIDER asked and was given permission to revise and extend her remarks.)

Mrs. SCHNEIDER. Mr. Speaker, I must rise in strong opposition to the resolution of waiver of Federal law relating to the Alaska natural gas pipeline.

This bill makes a mockery of the democratic process in several ways. First, we are allowed only 1 hour of debate on a bill which will undoubtedly cost consumers billions of dollars. Second, no amendments are in order. Proponents will have you believe that this Nation's energy future rests on approval of this waiver. Not so. The Prudhoe Bay reserves represent one of this country's most precious resources. There is little question that this gas ought to be exploited, and certainly its use can help in reducing our crippling dependence on imported oil.

Unfortunately, we are not presented with a measure which allows for even decent methods for recovery. This bill will allow rich, multinational oil companies to bill their customers long before any gas is delivered. Prebilling is an unconscionable means of making the public, rather than those who will reap the huge profits, take the risk that the pipeline will not come on line.

Furthermore, the State of Alaska stands to make some $20 billion in severance taxes on Prudhoe Bay gas—that is $40,000 for every citizen of that State—without investing one cent. This measure only exacerbates the flow of capital from energy-consuming States to energy-producing States. To make hardworking natural gas consumers pay for a pipeline that will make the State of Alaska richer is to make a mockery of every principle of equity.

Mr. Speaker, the plain fact is that if this pipeline were such a good deal, private capital would be easily available, and private investors would rush to the breach. This resolution is on the floor today because the developer cannot live up to his promise to use private capital. There are solutions to this dilemma, but a multibillion dollar tax on consumers should not be one of them. It will be a sad day for this House when we can be steamrollered like this.

In closing, I would like to share with my colleagues a transcript of Bill Moyers' commentary on the CBS "Evening News" last night. Mr. Moyers has given us a clear example of why most Americans think so poorly of their elected representatives:

[CBS Evening News, Dec. 8, 1981]

BILL MOYERS COMMENTARY

Bill Moyers: Dan, if you want to know why so many people are fed up with both political parties and have stopped voting, and if you have a strong stomach, I have a case in point.

John McMillian: [on the telephone] What's the count?

Moyers: It starts with this man. His name is John McMillian. He's chairman of Northwest Alaska Pipeline Company. Four years ago, the federal government gave him exclusive rights to build a big pipeline to bring gas all the way from Alaska to consumers in 42 states. He got that franchise on the condition that the pipeline would be built with private funds. But now John McMillian wants to change the rules. He says he's having trouble getting the banks to finance the project, and he wants consumers to put up the money—before the project is finished and whether or not a drop of gas is ever delivered. That's right—he wants the government to force consumers to be his investors, to assume the risks of stockholders without voting rights or dividends. Senator Howard Metzenbaum of Ohio is the only member of the Senate Energy and Natural Resources Committee to vote against the pipeline bill.

Metzenbaum: How could anybody possibly vote for such a piece of legislation? How can anybody go home and explain that to their own constituents? It's wrong. It's a bad deal.

Moyers: Lest you think it's just a liberal Democrat eating sour grapes, listen to a conservative Republican—Congressman Tom Corcoran from Illinois.

Corcoran: Here we have probably, potentially the greatest consumer rip-off in the history of the United States. Thirty-seven billion dollars—and in the debate on our committee, we heard very little from those same people who have been arguing for years and vociferously in behalf of the Consumer Protection Agency. I think they took a walk on this one, probably for political reasons.

Moyers: No wonder John McMillian is smiling. The government is giving him what he wants—lock, stock and barrel, with very little public debate. How did he do it? Pretend you're John McMillian and you want the federal government to change the rules after the game has already started. First, you make friends with the president, because only the president can submit the resolution to undo the rules agreed upon four years ago. And naturally, you hire the public relations firm of Peter Hannaford, former partner of Mike Deaver, one of the president's inner circle. Hannaford, you'll remember, purchased the consulting firm owned by National Security Advisor Richard Allen.

But once you get the Republicans on your side, what about the Democrats? You need their leadership to win the public debate on your proposal. First you hire former Vice President Walter Mondale to be a consultant to your firm. Then you contribute $5,000 to the Committee for the Future of America, Mondale's political action committee. But one high-powered Democrat is not enough—not for a big job like this.

McMillian: [to secretary] Where's Boo?

Secretary: Strauss. I'll call him. He's in Washington. He just got in.

Moyers: That's right—Robert Strauss, former chairman of the Democratic party, and an old friend of John McMillian's. Robert Strauss is also the former chairman of the Democratic party, and a man who knows how to wheel and deal in Congress. Want more clout? How about another firm: White, Fine and Verville—one of whom served as the chairman of the Federal Power Commission under President Johnson. And the law firm of Charles Manatt.

Charles Manatt, the current chairman of the Democratic party? Yes, Charles Manatt. And all the while you spread money around. Just look at the contributions that John McMillian has made, in just the last four years.

Metzenbaum: We've seen a magnificent lobbying effort in connection with this bill. You couldn't hire some of the lobbyists that were hired in this instance, you couldn't have the impact that's been had in this instance, without spending a lot of money. And I would say to you that when you spread that kind of money around, you can be certain it's going to have an impact. It's going to provide access, it's going to provide votes.

McMillian: [on the telephone] All the guys are coming in to raise funds for this.

Moyers: But if you were John McMillian, you don't stop with using your own money. You ask other companies with an interest in the pipeline legislation to put up, too. And they do—$80,000 showered on Congress since January alone.

Metzenbaum: Not long ago, one of my staffers called a staffer for another senator and said, "Is the senator going to be with us on this issue?" And the response was, "Oh no, He couldn't be with you. He took a lot of money from the oil companies during his campaign." That actually happened.

Moyers: And presto—your bill breezes through Congress under rules so unusual that debate was limited to only one hour. Yep: One hour to debate a project that will cost tens of billions of dollars.

Corcoran: John McMillian is going to have a happy Christmas—and a lot of consumers for 20 years, in my judgement, are going to have to pay the price.

Moyers: Shifting the burden of investment from corporations to consumers wasn't the only way to finance this project. But other alternatives were never considered, because John McMillian and the companies know the right people in the right place at the right price. So much for all that Republican talk about free enterprise. And so much for a Democratic party controlled by lawyers and lobbyists, who have offered its soul to the company store. The two-party system is not only up for grabs—it's up for sale.

Mr. UDALL. Mr. Speaker, I yield 3 minutes to the gentleman from Michigan (Mr. DINGELL.)

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Mr. Speaker, I have listened to the confusion which abounds in this particular debate now for 2 days. All I can say is there is vast confusion and it needs a great deal of correction.

First of all, the $40,000 per capita state royalty, share and severance taxes going to Alaska is no different than the state royalty share and severance taxes that any other State would get on minerals to which state royalty share and severance taxes would apply. It is a red herring of the purest sort.

Second of all, this is one of the biggest projects that has ever been constructed in history. Amassing the amount of capital necessary to finance this project is enormously difficult.

Now, we are accused of having some kind of extraordinary process. It is an extraordinary process, but it is an extraordinary process which was established by the Congress when we passed the Alaska Natural Gas Transportation Act of 1976. We said at the time that we were going to watch every turn of the road to see to it how the project would be financed and constructed.

We put in place a Federal inspector of the pipeline. He will watch to see to it that matters are fairly carried out.

We said if there are going to be any changes in the original understandings, they would have to come back to Congress and have the changes approved.

We said that the changes would not be subject to amendment or we would have worse confusion on the floor than we have today; but we said they had to be approved by both the House and the Senate and we are engaged in that process today. Everyone understood when we passed the Alaska Natural Gas Transportation Act of 1976 that that was going to be the way it was going to be done.

Now, great confusion centers around the question of prebilling. Prebilling and the other provisions of the waiver before us still afford protection for the consumer.

Now, I have heard a lot of people complain that the consumers are going to get it in the neck. Well, when anybody in this society gets it in the neck on anything, it is the consumer, because the consumer is the guy that ultimately pays and there is no way this body can shelter him from that if we are going to get the gas.

Parenthetically, I would like to observe to my colleagues, we need the gas. Over 10 percent of domestic gas reserves are in Alaska. If we have a shutoff and we have cold factories, cold schools and cold homes in Ohio or any of the other States in this Nation, you would see many of the Members who were here today complaining about this bill demanding that we rush out and bring that gas down. However, it won't be an easy process, because putting together a package of this kind is monumental in difficulty because the project is monumental in size.

Now, how does the prebilling work? It is really very simple. At a given point, FERC issues the final certificate and sets a date certain by which the project should be completed. If FERC chooses to allow possibility of prebilling, if the date certain has passed, and if a segment is completed and other segments are not completed, then there can be billing to allow the payment of some of the costs of constructing the completed segment, but only those costs which are prudent expenditures subject to scrutiny by FERC and the Office of the Federal Inspector of the Alaska Pipeline.

Now, that is what happens. Those are proposals which protect the consumer.

Now, if you do not allow for prebilling, what happens? Probably the whole project will go down, and we will have to start over again. If that occurs, we will see the cost of this project, which is now on the order of $40 or $50 billion, jump to God knows what.

According to the committee staff analysis, the cost of Alaskan natural gas, over the life of the project is expected to be about $5.50 per Mcf in 1982 dollars. With the way gas prices are increasing, Alaskan gas is going to look like a very good buy. I have heard talk about the price of Alaskan gas being equivalent of $97 per barrel oil. Let me just tell you that by the turn of the century you are going to be looking at something like $97 oil because that is what OPEC is going to fix your prices at. Do not look for energy prices to go down.

If you are concerned about the consumer, if you want to see that he gets gas and if you want to see that he gets it under fair prices and under terms where it will be watched by the Federal Inspector, FERC and other agencies, then I say support this proposal.

If you want to see the Alaskan price skyrocket, if you want to see the project's interest costs skyrocket, if you want to see the capital cost of the project skyrocket, then vote down these waivers and you will see your consumers not get the gas, and if they do get it, they will get it at a price that will curl your hair.

Mr. UDALL. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. SCHEUER).

(Mr. SCHEUER asked and was given permission to revise and extend his remarks.)

Mr. SCHEUER. Mr. Speaker, we have just heard my colleague, the gentleman from Michigan, describe the cost to us in terms of increased energy costs across the board, whether it is coal, gas, or oil, in terms of energy equivalent costs, the increased cost to us of deferring this gasline.

Let me give you another cost. In 1980, when we were beginning to resume filling our strategic petroleum reserves, Sheik Yamani of Saudi Arabia, their Energy Minister, reportedly instructed President Carter to cease and desist filling those strategic petroleum reserves under pain of an embargo by Persian Gulf oil producers.

And what did our President do, rightly or wrongly, under the pressures of our then desperate dependence on Persian Gulf oil? He blinked;

and promised Sheik Yamani that we would cease and desist filling our strategic petroleum reserve. And he did just that.

Now, such a state of supine acquiescence to the whim and fancy of a Persian Gulf oil sheik to my mind was a disgraceful, shameful posture, for the United States to adopt.

I am not suggesting that any other President at that time could have taken a more firm, more honorable position for our country, because that was the de facto state of total dependency that we were in.

□ 1230

But I say to my colleagues I do not know if we could quantify the cost to us of that dependence in terms of increased oil prices which reflect, as my colleague from Michigan said, in all other energy prices, and in the ability of the United States to withstand an embargo.

Mr. UDALL. Mr. Speaker, I yield 30 seconds to the gentleman from Indiana (Mr. SHARP).

Mr. SHARP. Mr. Speaker, I would like to reinforce something the gentleman from New York has said. A previous Secretary of Energy, the Secretary of State, and the present Secretary of Defense have indicated the strategic importance of our getting this resource that belongs to us and that will come through a friendly nation to the lower 48.

We have not emphasized the national security aspects of this project as much as perhaps we should have, but I can tell you this: The national security community of this country believes this waiver package ought to go through.

Mr. UDALL. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. MILLER).

Mr. MILLER of California. Mr. Speaker, I rise in opposition to the waivers. Like my colleague who spoke earlier, the gentleman from Massachusetts (Mr. MARKEY), I am very much opposed to the process by which we have to consider these waivers. It seems if one ever wants to get Congress to act, the first thing one does is create a crisis that is larger than life. Preach doom and gloom to the Congress of the United States. Go out and hire yourself a corps of lobbyists, the best that can be found, and pretty soon one can get the Congress to consider an all-or-nothing package, and that is what has happened here.

There are alternatives to this. Maybe the alternative is not for Mr. McMillan to continue to have the exclusive right to build this pipeline. Perhaps he is not able to do it. But perhaps there are other parties who can do it. I think we have to consider whether or not the producer should do it, since the estimates that we are all working off that have been provided to both committees are that those producers will receive the 50-percent rate of return. If, in fact, that is possible, I question whether or not they would be able to raise the capital in the private market. I would think they would be able to.

I do not think we ought to be voting on this package and have the Representative from Alaska tell us that the State of Alaska is considering or has under consideration whether or not and the extent to which they will participate. We ought to know the extent to which they participate, because we are certainly mandating the extent to which the consumers in the lower 48 will participate.

I can appreciate that it is a windfall and it is a wonderful thing. Under their severance tax, they will get $20 billion. But let me tell the Members: Apparently without the consumers in the lower 48 underwriting this pipeline, they will not get anything from the severance tax, because the gas will be reinjected into the ground, and the oil companies told us they can reinject it there until hell freezes over.

So could we not ask them to continue to help the consumers participate in the construction of this project?

(On request of Mr. PHILLIP BURTON and by unanimous consent, Mr. MILLER of California was allowed to proceed for 1 additional minute.)

Mr. PHILLIP BURTON. Mr. Speaker, will the gentleman yield?

Mr. MILLER of California. I yield to the gentleman from California.

Mr. PHILLIP BURTON. Mr. Speaker, I would like to commend my distinguished colleague, the gentleman from California (Mr. MILLER).

This proposal stinks. It was brought up in the Interior Committee. We spent less than 1 minute per each billion dollars involved in this proposal. We spent something less, or thereabouts, a half hour or so, maybe 35 minutes. The Interior Committee was to be called back. We had a couple of rollcalls. It was uncertain when we left, in the first instance, whether this matter might even be put over for a day or two, so we had a chance to examine its parameters. I went back to the committee room, finding out I had arrived in time just to cast my vote.

Whenever you have a project of this enormity rushed through in this way, it has got to have a certain commonsense judgment odor about it. It stinks.

Mr. YOUNG of Alaska. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. MOORHEAD).

The SPEAKER pro tempore. Without objection, the gentleman from California (Mr. MOORHEAD) is recognized for 2 minutes.

There was no objection.

(Mr. MOORHEAD asked and was given permission to revise and extend his remarks.)

Mr. MOORHEAD. Mr. Speaker, I fully support the pipeline waiver package. I believe that the national security, both physical and economical, is necessary in this plan. We are at the present time dependent upon OPEC oil. We are dependent upon energy from other parts of the world. Everything that we can do to get our country in a better energy situation is certainly helpful to us, and I think helpful to the consumer.

If we can get enough energy to take care of the basic needs of our country and our own resources, you are going to see the price the consumer has to pay for energy from throughout the world coming down, and there will be a limitation on the amount that we have to pay for our own energy that we get from our own resources.

If we delay another 5 years in developing this pipeline, we are going to find that the cost of the pipeline doubles again, and if anyone thinks that it is not the consumer who will pay for it, they are sadly mistaken. It is the consumer who always has to pay the price of developing any product.

I think it is in the consumer's interest that this project be developed and that it be developed now, and we protect our national security against those people who might in the future want to stop all access to energy that we might have, and want to hurt us economically.

Mr. Speaker, adequate supplies of natural gas are essential to the economic and environmental well-being of the country. Natural gas is our most important energy source for stationary applications, supplying nearly 40 percent of the energy requirements for industry and agriculture, 41 percent for residential and commercial buildings, and 15 percent of the energy used by electrical powerplants. In my State of California our recent annual energy consumption was 6.4 quads, or 30 percent of our total energy needs.

Let us make no mistake about it, natural gas is our cleanest burning fossil fuel. It is more environmentally acceptable, as far as I know, than any other source of energy with the possible exception of hydroelectric power and certain other renewables. With natural gas we have none of the environmental side effects of oil, coal, nuclear power, or synthetic fuels. For example, in my State of California, the California Air Resources Board has calculated by substituting natural gas for residual oil in California utility boilers, average emission reduction would result on the order of 95 percent for particulate matter, 50 percent for oxides of nitrogen, and 99.8 percent for oxides of sulfur. There is a clear, measurable, beneficial effect with the respect to the use of natural gas as far as our environment is concerned.

We should be doing everything that we possibly can to encourage the private sector to produce and distribute clean burning, and efficient natural gas for the benefit of U.S. consumers. This Presidential waiver package is a step in the right direction. It is a step in the direction of encouraging the

production and distribution of a very important domestic source of energy. I urge my colleagues who are concerned about these matters to vote to favorably report Senate Joint Resolution 115.

Mr. CORCORAN. Mr. Speaker, I yield I minute to my friend on the Committee on Energy and Commerce, the gentleman from Iowa (Mr. TAUKE).

Mr. TAUKE. Mr. Speaker, the chairman of the subcommittee and the chairman of the full Committee on Energy and Commerce have done remarkable work in trying to put into this legislation all the protections that can be afforded. But even with that very strong effort, this legislation, this waiver package, is fatally flawed.

The reason the proponents want to talk about Ralph Nader and our general energy problem rather than talk about the real issues in this legislation is because they do not have answers to the real issues. First, there is a real marketing problem, a real risk of marketing $13 to $20 gas. That is why there is not financing for this in the private sector. That is why we need this waiver package. That risk is real. They refuse to talk about it. Second they do not tell us why the consumer should be asked to pick up this risk, rather than the State of Alaska, or the producers, who will profit from this waiver package.

I believe it is fair to say that the defeat of this legislation will not close the door on the Alaska pipeline; rather, it will open the door to permit the State of Alaska to build that processing plant and permit the producers to help finance this project.

Mr. UDALL. Mr. Speaker, may I have an indication of the time remaining?

The SPEAKER pro tempore. The gentleman from Arizona (Mr. UDALL) has 11½ minutes remaining, the gentleman from Illinois (Mr. CORCORAN) has 5 minutes remaining, and the gentleman from Alaska (Mr. YOUNG) has 4½ minutes remaining.

Mr. UDALL. Mr. Speaker, I yield 2 minutes to the gentleman from Connecticut (Mr. MOFFETT).

(Mr. MOFFETT asked and was given permission to revise and extend his remarks.)

Mr. MOFFETT. Mr. Speaker and colleagues: I basically want to concur with the remarks of the gentleman from Massachusetts (Mr. MARKEY) in the hope that this pipeline will someday be built, but I think it is interesting, and I do not have a great deal of time, so I will just try to tick them off here, what we have done on energy this year and how this fits into it. We finished the job on decontrolling oil, a big boon to the companies. They are now drilling on the New York Stock Exchange floor, as our distinguished chairman, the gentleman from Michigan (Mr. DINGELL), often reminds us, for oil. We have given more massive tax breaks to the industry in the tax bill which was supposed to be something to get the economy going again. We have opened up wilderness areas.

What about alternatives to oil? We have cut conservation as a body now. Some of us have not voted for it, but slashed conservation, solar, wind power, weatherization of the inner city.

How about regulations that are designed to help with alternatives to oil? Applicance efficiency standards, on the way out. Thermostat settings, gone. How about real national security protection? The rationing bill that took 5 years has now been taken down off the shelf and ripped up, thrown away. We do not even need that. The emergency allocation bill, despite the good efforts of the chairman of the subcommittee, is now weakened, because we did not have the votes to do something stronger. And we are rushing toward deregulation of gas. This is just a little stop along the way to do yet another thing without thinking it through.

I think we should address this problem in the proper fashion, in the committee, as the gentleman from Illinois (Mr. CORCORAN) and the gentleman from Massachusetts (Mr. MARKEY) and others have suggested, and if we put a waiver package together, do it with the full participation of the elected representatives of the people.

Mr. YOUNG of Alaska. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. COATS).

The SPEAKER pro tempore. Without objection, the gentleman from Indiana (Mr. COATS) is recognized for 2 minutes.

There was no objection.

(Mr. COATS asked and was given permission to revise and extend his remarks.)

Mr. COATS. Mr. Speaker, contradictions seem to abound here today as to just what this waiver package does and does not do. We have heard from several, "Why don't the producers participate in this? Why don't they get involved? Why don't they put up some of their money?" Well, that is exactly one of the components of what we are trying to do with this waiver package.

The previous law said they could not be involved, they could not put up their money. We are simply saying let us pass the waiver package so they will participate in this process. They are going to have to put up a minimum of $7 billion of equity which cannot be prebilled to the consumer in any way. Until the gas flows and is marketable, there will be no return on that particular investment.

We also heard today about the risk to the consumer. Of course there is a risk to the consumer. There is a risk in obtaining any energy source in this country and paying for it. The consumer will ultimately do that. But what is the greater risk? The greater risk the American people have demonstrated so vocally over this decade is continuing dependence on OPEC oil. What is that risk to the American consumer and what is the risk of not having energy supplies available to our people in this country, domestic energy sources, as an alternative to the blackmail that we have suffered under during the 1970's? What is the risk of the economic decline and disaster that faces this country if we face another oil crisis as we did in 1973? Those risks abound. Of course risks are faced in doing this. But we must move forward. We must demonstrate to the American people that we are willing to utilize and find our existing resources, and domestic resources, to give us energy options available for the future to run this country so we do not have to continue this dependence on OPEC, Libyan oil, and so forth.

Mr. SHARP. Mr. Speaker, will the gentleman yield?

Mr. COATS. I yield to the gentleman from Indiana.

Mr. SHARP. Mr. Speaker, the gentleman has made a very important point that seems to be overlooked by the proponents. If the investors come in and meet the market test, put their money in, they stand to lose a lot of money if this does not work. They are not absolved of that risk by the waiver package.

Mr. UDALL. Mr. Speaker, I yield 4 minutes to the gentleman from New York (Mr. OTTINGER).

(Mr. OTTINGER asked and was given permission to revise and extend his remarks.)

Mr. CORCORAN. Mr. Speaker, will the gentleman from New York yield to me?

Mr. OTTINGER. I yield to the gentleman from Illinois.

Mr. CORCORAN. I appreciate the gentleman yielding.

Mr. Speaker, I have been pleased to work with the gentleman on this project. I want to say in rebuttal to what has been said that the real risk here is that the consumers will never indeed get anything to consume. That is the problem. There will not be any gas to consume, so why should they pay for it?

Mr. OTTINGER. Mr. Speaker, I was going to acknowledge very strongly the fairness of the gentleman from Arizona (Mr. UDALL) and my chairman, the gentleman from Michigan (Mr. DINGELL) and the gentleman from Indiana (Mr. SHARP) in trying to handle this in a way in which everybody would get their say, trying to put the debate off, trying to get the extra time that we wanted so that this could be heard. Unfortunately, there were objections made on the other side to their efforts. I think they made every effort to consider this fully and fairly.

Second, I would like to express my appreciation to the gentleman from Illinois (Mr. CORCORAN) for his fine leadership against these waivers, including his procedural tactic yesterday to permit full consideration today.

I would like to say, in answer to the comments of the gentleman from California (Mr. MOORHEAD) and the gentleman from Indiana (Mr. COATS) that the consumer has to pay anyway for these costs: The consumer does not have to pay anyway, regardless of whether or not a project is built. The consumer pays the final costs ordinarily if he gets something in return. One of the objectionable parts of this package is that the consumer has to pay whether or not he gets any gas.

These gentlemen also indicated there are going to be outside investments by banks, the oil companies, and maybe even the State of Alaska. But nobody has been willing to put up one cent of his money—the banks, the oil companies, the State of Alaska, or anybody else—unless they get a guarantee from the consumer, which is what these waivers seek.

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They say, "unless we go through with this waiver package that has a consumer guarantee, we are not willing to put up a cent." That really is one of the very basic issues involved here.

We are told that there is very little chance that this pre-billing will take place because it is not required unless target dates are not met. Take a look at every major construction project we have had—military, Department of Energy, any others. They all get delayed, and the provision here is if they do not meet the time schedule set by FERC, then the consumer has to kick in; thus, the consumer has to kick in if the Canadian segment of the project is delayed and the rest of the project is not completed. He has got to kick in whether or not the pipeline is eventually completed or not.

Let me recall to the Members also that this pre-billing provision is open-ended. We talk about the possibility of a $5 average gas price or $19 maximum gas price, but let us take a look at the oil pipeline. When it started out, it was supposed to cost $900 million, and ended up costing $9 billion. With respect to every other major construction project we have seen, we have seen similar escalation, and I bet the Members that the $19 per cubic feet is probably going to be a low price before we are finished.

Certainly the risks of this project are very substantial. I put in a budget resolution calling for an end of all energy subsidies and allowing the free market to take its place in energy. As I understand it, that is the basic philosophy of many of those on the other side, that we ought to have a free market. There is no question that these waivers are a denial of the free market. It is not a Federal subsidy; it is a federally mandated consumer subsidy, regardless of whether or not people get any gas.

I think we can put together a better waiver package. I think if we kill this, we definitely ought to make other arrangements to get the gas. The argument made about national security, about the overwhelming need to get this gas is true in itself but does not justify these waivers. It is the same argument that was used for subsidies for synthetic fuel, for the Clinch River breeder reactor, for every other boondoggle the energy industry has wanted to put on the backs of the taxpayers and consumers of this country.

These arguments are nothing more than blackmail: "You take this lousy package"—everybody who is a proponent of it says that it is a lousy package—"or take nothing."

That, it seems to me, is an argument we ought to finally reject. Let us get ourselves a fair deal in which the consumers will be treated properly to get the gas from Alaska, not be blackmailed into providing more subsidies for the oil companies as a condition of getting this gas.

Mr. CORCORAN. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Arkansas (Mr. BETHUNE).

(Mr. BETHUNE asked and was given permission to revise and extend his remarks.)

Mr. BETHUNE. Mr. Speaker, I am sure that Members have noticed that lately there is a new refrain on Capitol Hill. It goes something like this: "We need the government's help to facilitate private sector financing, and if we do not get it, some enterprise, some venture is going to fail."

That is the new song of corporate America. It is the new song of business, business people, who ordinarily complain and rail against Government's involvement in private enterprise.

And so, what we have now is a complex arrangement of loans, direct loans, indirect loans, loans guarantees, guarantees that are funneled through Federal financial banks, almost every conceivable way to assist people, particularly corporate America and businesses in getting credit. We are trying to stop that. We have fashioned a credit budget because that is growing faster, believe it or not, than spending in the country.

We are not taking about 40 percent of the credit market from one sort of Government credit extension program or another, and that is ruining the credit market and free enterprise system. But now we see devices like prebilling; we see all sorts of imaginative ways to do the same thing by indirection. So, the list gets longer and longer, and is going to continue, and while we are out cutting everybody else, we ought to start cutting out some of this corporate welfare.

It has been said here that if these waivers are bad, you should have seen the ones they tried to get before they got these. So what it seems to me is, that the Congress is giving way and giving way, and finally have come up with this sort of help for corporate America. We have got to start saying no, and until we start saying no, they are going to continue to be in here at the door and this problem is not going to get better. It is going to get worse if they try to get the handouts and do things by indirect fashion that they would not dare to try to do in a direct fashion.

(Mr. YOUNG of Alaska asked and was given permission to revise and extend his remarks.)

Mr. YOUNG of Alaska. Mr. Speaker, fellow colleagues, we have debated this issue and I think the facts are clear. This is a proconsumer vote. It is needed for the consumers, and all the rhetoric and all the misnomers have been debated on this public debate are for nought.

But there have been five gentlemen and one lady who spoke about, why does not the State of Alaska participate? Under the Constitution we cannot force a State to participate in this project, but more than that, I have been terribly hurt by the gentlewoman from Rhode Island somehow impugning my Alaskan citizens because they are going to receive $40,000 apiece if this project goes through.

We pay to the OPEC nations $84 billion a year. They are not Americans. They are foreigners that are investing in American lands and buying up our factories. They have brought this Nation to its knees, and I do not hear a word against that. But, my Alaskans, who have the highest unemployment rate, the worst housing conditions, less roads than the Washington, D.C., area itself, are looked upon as blue-eyed Arabs now with resentment from those that have all the facilities, that have had the advancement this great Nation has been able to give to them.

For the life of me, it hurts me in my heart to see my fellow colleagues, some of them feeling as if we are doing something wrong, taking from them; as if we are criminal. I thought we were Americans. We became a State in 1959 with the understanding through this Congress that we would have 104 million acres of land to give us a resource base to bring our people up to the standards of the rest of America, and now I hear the creeping tone of resentment in some people's voices, and that hurts me. I have never heard them speak against those people over there with the things on their heads, driving a Cadillac one way and then leaving it and driving another one the other way [illegible] billion a year and being dependent upon us. As my good friend from New York said, making the President stop putting the petroleum in the reserve with the threat of embargo.

I ask the Members, please do not listen to that type of rhetoric. I have said all along that Alaskans want to deliver this gas not because of the so-called $40,000 we are going to receive, but because it is right for the Nation. I have said that we want to participate in the conditioning plant if the legisla-

production and distribution of a very important domestic source of energy. I urge my colleagues who are concerned about these matters to vote to favorably report Senate Joint Resolution 115.

Mr. CORCORAN. Mr. Speaker, I yield I minute to my friend on the Committee on Energy and Commerce, the gentleman from Iowa (Mr. TAUKE).

Mr. TAUKE. Mr. Speaker, the chairman of the subcommittee and the chairman of the full Committee on Energy and Commerce have done remarkable work in trying to put into this legislation all the protections that can be afforded. But even with that very strong effort, this legislation, this waiver package, is fatally flawed.

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I believe it is fair to say that the defeat of this legislation will not close the door on the Alaska pipeline; rather, it will open the door to permit the State of Alaska to build that processing plant and permit the producers to help finance this project.

Mr. UDALL. Mr. Speaker, may I have an indication of the time remaining?

The SPEAKER pro tempore. The gentleman from Arizona (Mr. UDALL) has 11½ minutes remaining, the gentleman from Illinois (Mr. CORCORAN) has 5 minutes remaining, and the gentleman from Alaska (Mr. YOUNG) has 4½ minutes remaining.

Mr. UDALL. Mr. Speaker, I yield 2 minutes to the gentleman from Connecticut (Mr. MOFFETT).

(Mr. MOFFETT asked and was given permission to revise and extend his remarks.)

Mr. MOFFETT. Mr. Speaker and colleagues: I basically want to concur with the remarks of the gentleman from Massachusetts (Mr. MARKEY) in the hope that this pipeline will someday be built, but I think it is interesting, and I do not have a great deal of time, so I will just try to tick them off here, what we have done on energy this year and how this fits into it. We finished the job on decontrolling oil, a big boon to the companies. They are now drilling on the New York Stock Exchange floor, as our distinguished chairman, the gentleman from Michigan (Mr. DINGELL), often reminds us, for oil. We have given more massive tax breaks to the industry in the tax bill which was supposed to be something to get the economy going again. We have opened up wilderness areas.

What about alternatives to oil? We have cut conservation as a body now. Some of us have not voted for it, but slashed conservation, solar, wind power, weatherization of the inner city.

How about regulations that are designed to help with alternatives to oil? Applicance efficiency standards, on the way out. Thermostat settings, gone. How about real national security protection? The rationing bill that took 5 years has now been taken down off the shelf and ripped up, thrown away. We do not even need that. The emergency allocation bill, despite the good efforts of the chairman of the subcommittee, is now weakened, because we did not have the votes to do something stronger. And we are rushing toward deregulation of gas. This is just a little stop along the way to do yet another thing without thinking it through.

I think we should address this problem in the proper fashion, in the committee, as the gentleman from Illinois (Mr. CORCORAN) and the gentleman from Massachusetts (Mr. MARKEY) and others have suggested, and if we put a waiver package together, do it with the full participation of the elected representatives of the people.

Mr. YOUNG of Alaska. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. COATS).

The SPEAKER pro tempore. Without objection, the gentleman from Indiana (Mr. COATS) is recognized for 2 minutes.

There was no objection.

(Mr. COATS asked and was given permission to revise and extend his remarks.)

Mr. COATS. Mr. Speaker, contradictions seem to abound here today as to just what this waiver package does and does not do. We have heard from several, "Why don't the producers participate in this? Why don't they get involved? Why don't they put up some of their money?" Well, that is exactly one of the components of what we are trying to do with this waiver package.

The previous law said they could not be involved, they could not put up their money. We are simply saying let us pass the waiver package so they will participate in this process. They are going to have to put up a minimum of $7 billion of equity which cannot be prebilled to the consumer in any way. Until the gas flows and is marketable, there will be no return on that particular investment.

We also heard today about the risk to the consumer. Of course there is a risk to the consumer. There is a risk in obtaining any energy source in this country and paying for it. The consumer will ultimately do that. But what is the greater risk? The greater risk the American people have demonstrated so vocally over this decade is continuing dependence on OPEC oil. What is that risk to the American consumer and what is the risk of not having energy supplies available to our people in this country, domestic energy sources, as an alternative to the blackmail that we have suffered under during the 1970's? What is the risk of the economic decline and disaster that faces this country if we face another oil crisis as we did in 1973? Those risks abound. Of course risks are faced in doing this. But we must move forward. We must demonstrate to the American people that we are willing to utilize and find our existing resources, and domestic resources, to give us energy options available for the future to run this country so we do not have to continue this dependence on OPEC, Libyan oil, and so forth.

Mr. SHARP. Mr. Speaker, will the gentleman yield?

Mr. COATS. I yield to the gentleman from Indiana.

Mr. SHARP. Mr. Speaker, the gentleman has made a very important point that seems to be overlooked by the proponents. If the investors come in and meet the market test, put their money in, they stand to lose a lot of money if this does not work. They are not absolved of that risk by the waiver package.

Mr. UDALL. Mr. Speaker, I yield 4 minutes to the gentleman from New York (Mr. OTTINGER).

(Mr. OTTINGER asked and was given permission to revise and extend his remarks.)

Mr. CORCORAN. Mr. Speaker, will the gentleman from New York yield to me?

Mr. OTTINGER. I yield to the gentleman from Illinois.

Mr. CORCORAN. I appreciate the gentleman yielding.

Mr. Speaker, I have been pleased to work with the gentleman on this project. I want to say in rebuttal to what has been said that the real risk here is that the consumers will never indeed get anything to consume. That is the problem. There will not be any gas to consume, so why should they pay for it?

Mr. OTTINGER. Mr. Speaker, I was going to acknowledge very strongly the fairness of the gentleman from Arizona (Mr. UDALL) and my chairman, the gentleman from Michigan (Mr. DINGELL) and the gentleman from Indiana (Mr. SHARP) in trying to handle this in a way in which everybody would get their say, trying to put the debate off, trying to get the extra time that we wanted so that this could be heard. Unfortunately, there were objections made on the other side to their efforts. I think they made every effort to consider this fully and fairly.

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(Mr. BETHUNE asked and was given permission to revise and extend his remarks.)

Mr. BETHUNE. Mr. Speaker, I am sure that Members have noticed that lately there is a new refrain on Capitol Hill. It goes something like this: "We need the government's help to facilitate private sector financing, and if we do not get it, some enterprise, some venture is going to fail."

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But there have been five gentlemen and one lady who spoke about, why does not the State of Alaska participate? Under the Constitution we cannot force a State to participate in this project, but more than that, I have been terribly hurt by the gentlewoman from Rhode Island somehow impugning my Alaskan citizens because they are going to receive $40,000 apiece if this project goes through.

We pay to the OPEC nations $84 billion a year. They are not Americans. They are foreigners that are investing in American lands and buying up our factories. They have brought this Nation to its knees, and I do not hear a word against that. But, my Alaskans, who have the highest unemployment rate, the worst housing conditions, less roads than the Washington, D.C., area itself, are looked upon as blue-eyed Arabs now with resentment from those that have all the facilities, that have had the advancement this great Nation has been able to give to them.

For the life of me, it hurts me in my heart to see my fellow colleagues, some of them feeling as if we are doing something wrong, taking from them; as if we are criminal. I thought we were Americans. We became a State in 1959 with the understanding through this Congress that we would have 104 million acres of land to give us a resource base to bring our people up to the standards of the rest of America, and now I hear the creeping tone of resentment in some people's voices, and that hurts me. I have never heard them speak against those people over there with the things on their heads, driving a Cadillac one way and then leaving it and driving another one the other way—$84 billion a year and being dependent upon us. As my good friend from New York said, making the President stop putting the petroleum in the reserve with the threat of embargo.

I ask the Members, please do not listen to that type of rhetoric. I have said all along that Alaskans want to deliver this gas not because of the so-called $40,000 we are going to receive, but because it is right for the Nation. I have said that we want to participate in the conditioning plant if the legisla-

ture sees fit to do so. I have also told people this: If this waiver package does not pass, I am convinced in my own mind that there will be a pipeline built, yes, to tidewater. There is a market in the Orient now. Korea, Taiwan, Japan needs this gas badly, and they have been to see us, but that does not help our consumers.

I ask the Members to vote as they did yesterday for this resolution; protect their consumers, and for goodness sakes, remember that Alaskans are Americans, too.

Mr. UDALL. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. SHARP).

Mr. SHARP. Mr. Speaker, I thank the gentleman for yielding. I want to applaud his efforts on this issue because both of us started as deep skeptics of the waiver package, and after we had to hear from so many people of what the alternatives are that it seems to us were not available, we both came to the conclusion that the wisest thing for the American people and consumers in this country was to support this waiver package.

Let me quickly reiterate, if I could, the protections that remain to the American consumer after this waiver passes.

First of all, investors must be attracted to invest once this project has the legal clearance to make its best case to the financial markets. The investors stand to lose their shirts if this thing does not work for the American people and does not produce the gas and does not get it to the lower 48 at a marketable price. People do not like to put up billions of dollars and lose them, so they will analyze it very carefully.

Second, and more importantly, the Federal Energy Regulatory Commission still must make the basic and most fundamental decision that this pipeline as financed is in the national interest, and it will have the welfare of the consumer in mind when approving the project tariff.

Third, the Federal Regulatory Commission will continue throughout this whole process to supervise the rate of return on what the American consumers will pay, and is not permitted to allow unnecessary charges or exorbitant fees or anything of the sort to be passed to the American consumer.

Fourth, the Office of the Federal Inspector is established for this project only, and has over 100 auditors examining the books of the operation that is going to build this in an effort to make sure that we do not get charged unnecessarily for any expense that should not be attributed to the American consumer.

An additional fifth item that has not even been mentioned in this debate so far because it is very complicated to understand is that the way that the tariff schedule works, there is an incentive rate of return on equity, meaning that if the sponsors get done below the cost they and the FERC project, they make more money. If they delay the construction of this project or if it experiences cost overruns, they make less. They get a reduced percentage of profit. It is denied to them by the Federal Regulatory Commission. That is one of the incentives that will help make sure we are never prebilled.

We should enact this waiver on behalf of the American people.

Mr. CORCORAN. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Illinois (Mr. DERWINSKI), who serves on the Foreign Affairs Committee.

(Mr. DERWINSKI asked and was given permission to revise and extend his remarks.)

Mr. DERWINSKI. Mr. Speaker, when the issue of the Alaska Natural Gas Transporation Act first came up, I was properly aware, from foreign affairs studies, of the relationship between the Government of Canada and the Government of the United States which was developing in connection with this project.

However, my premature judgment changed when I consulted with members of my State delegation and was alerted to the adverse impact on Illinois, as well as other consumers, of the prebilling arrangement under the waiver package.

The commitments with the Government of Canada did not specify what our obligation was or whether such a prebilling system would be necessary. It seems to me that this waiver package goes far beyond the original intent of any agreement with Canada to build this pipeline and sets a dangerous precedent obligating our citizens to pay off the debt should there be a default on any of the construction loans connected with the project.

Therefore, despite my longstanding concern with developing our self-sufficiency in energy supplies, I believe this approach, which transfers the risk that the project may not be completed from the energy companies to the consumers, is philosphically wrong.

Mr. Speaker, I would also like to point out, as a member of the Foreign Affairs Committee, I am naturally aware of the complications we face in our relations with Canada. I do not think that the position opposing these waivers constitutes a problem in our diplomatic relations with our neighbor.

The agreement, the waiver package before us, goes far beyond the original agreement which was not spelled out that precisely. I would also like to point out that those of us who oppose the waiver package are not really in bed with Ralph Nader. He is accidentally right on this issue.

The issue is not the gas pipeline itself. We want it to be built, but we want it to be built in a way that is fair and practical and profitable as applied to consumers.

Also, nobody opposing the waiver package is opposed to the concept of national self-sufficiency. I realize it has been a good debate, it has been a clear debate, it has been a helpful debate, but there is nothing contained in opposition to the waiver package that is anything but a proenergy and proconsumer position.

Mr. CORCORAN. Mr. Speaker, I yield the balance of my time to close debate to the distinguished gentleman from Ohio (Mr. BROWN), possibly the Governor of Ohio.

(Mr. BROWN of Ohio asked and was given permission to revise and extend his remarks.)

Mr. BROWN of Ohio. Mr. Speaker, I want to quote a text in my remarks, and the text is on page 34 of the report issued by the Committee on Energy and Commerce on this waiver package (Rept. 97-350, part 2). I want to quote what the chairman of the sponsoring group of pipeline companies stated in 1977 to our committee:

> President [Carter's] decision requires the Alcan project to be privately financed in its entirety. The United States and Canadian governments will not be called upon for financial guarantees. Nor will the consumer have to bear the hypothetical burden of the non-completion of the project.

That is how Mr. McMillan and his friends got the franchise over two competitors, by promising what they could not deliver, and they have not been able to deliver that.

The reason to vote against this waiver package is that it is a bad business deal.

The prebilling waiver provision would authorize the pipeline system partnership—not the oil companies, Naderites—to send bills to the consumers of the participating 10 natural gas pipelines before the entire system is built and capable of transporting gas, whether or not it ever delivers gas, and even if it is never completed. Moreover, by removing the legal authority of the Federal Energy Regulatory Commission to regulate the charges passed on to consumers, the "regulatory certainty waiver" provision would lock in the ability of the pipeline system to bill consumers in advance for its payments to its bankers for both principal and interest on the project, even if the system is never completed.

Now, that is just plain stupid. No assurance of the consumers of paying for it—in having the contingent liability transferred to them—gives any guarantee that the bankers will in fact, put up the money for this project. The bankers told us that in committee, so this is not going to guarantee the project. If we vote down this bad waiver package, it will not doom the pipeline. Let us make that very clear. There will be a new waiver package—a much more equitable one.

The administration got this waiver package and was not pleased with it.

□ 1300

They threw it up here to a group of us. The gentleman from Michigan (Mr. DINGELL), the gentleman from In-

diana (Mr. SHARP), the gentleman from North Carolina (Mr. BROYHILL) and I met with a group of Senators over on the Senate side and tried to compromise the issue. We made continuous efforts to negotiate with our colleagues from the other body. They were intransigent. So the administration said, "Let the Congress in its full session try to make a decision."

If we get a negative decision, we will get a better waiver package. And we will get it soon. That is what we ought to have. We can vote this issue down and get the proper package and get this thing going the way it ought to be going.

Mr. CORCORAN and I have introduced one alternative in our bill, H.R. 4980. This legislation would permit the three companies which own the natural gas at the Prudhoe Bay field and the State of Alaska, which owns a 12.5-percent royalty interest in the gas, to build the gas pipeline financed upon the deregulated value of the gas itself. At full value, the natural gas in this field is worth an estimated $280 billion over the life of the reserve. Those are the assets upon which true private financing can be obtained. The waiver before us today would employ the ratepayers of the 10 participating pipelines as if they were assets of their companies to attempt to leverage the necessary financing. And that is simply not acceptable.

The SPEAKER pro tempore. The Chair will state that the gentleman from Arizona (Mr. UDALL) has 3½ minutes remaining.

Mr. UDALL. Mr. Speaker, I yield myself the remaining time at my disposal.

Mr. Speaker, I think that we basically have had a good debate today, and I hope it has been enlightening. However, as everyone has suggested, I thought we could have done with a little less anti-Ralph Nader rhetoric, that does not have too much to do with the issue before us. Ralph Nader has been a good force in America; he has been constructive, in my mind. I have worked with him on a lot of things, if that affects any of our forces on the other side.

We are talking here about the best fuel there is, natural gas. We are talking about $110 billion worth of it sitting up on the North Slope, and we have got to bring it down here. Every day it costs more, and every day we are more dependent on foreign sources of oil.

We are going to kick the Canadians in the teeth if we disapprove this resolution. We took a long time to get them to go with this. There was a treaty, a compact, and Canadian Prime Ministers and American Presidents have renewed it. It is critical, with the relationships we have, that we do not unnecessarily take issue with them and break our rules. We twisted their arms pretty hard to get them on this project.

I emphasize, though, that now we are voting on exactly, word for word, the measure that we had yesterday. I do not know quite how Members are going to explain a yes vote yesterday and a no vote today, as they are urging Members to do.

I am reminded of the vote of Senator Ashurst from Arizona, who was our first Senator who was chairman of the Judiciary Committee. President Roosevelt talked him into sponsoring a bill to increase the Supreme Court from 9 to 15. He thought he could appoint six judges and presumably get a better quality or opinion. Senator Ashurst introduced the bill and got it out of the Judiciary Committee. He got so much hell from home that he turned around and led the fight and defeated his own bill on the Senate floor.

Then he said that he got a telegram from a lady in Phoenix who said, "Thank God for your courageous vote on that Supreme Court bill."

He said, "I wired her back: 'Which one?' "

I hope that we do not have a lot of courageous yes votes yesterday and courageous no votes today, because the right vote is "aye." This is a good project. We will never get a better one. We have this tremendous resource in Alaska that we need down here in the years to come.

Mr. Speaker, I trust that my colleagues will support this resolution, put it to rest, and perhaps tomorrow we will not have another 2 hours of debate on this resolution.

● Mr. LOWERY of California. Mr. Speaker, I rise in support of Senate Joint Resolution 115 which approves President Reagan's proposed waiver of law to remove obstacles to private financing of the Alaska natural gas transportation system (ANGTS).

My home State of California is dependent on natural gas as an energy source. Forty-nine percent of California's nontransportation needs are met with natural gas. Ninety-three percent of the households use natural gas for water heating, 91 percent use it for space heating, and 95 percent use it for cooling.

Clearly, the availability of natural gas is critical to the economic well-being and energy security of my State. Therefore, I was alarmed by a recent report issued by Southern California Gas Co. stating that "natural gas supplies currently available to Southern California will not be sufficient to serve the area fully by the 1980's." Given this project shortfall, the need to develop access to new supplies of natural gas is obvious.

Our best potential new source of domestic natural gas is obvious.

Our best potential new source of domestic natural gas is Prudhoe Bay on Alaska's North Slope. The largest single finding of oil and natural gas, proven reserves at Prudhoe Bay are estimated at 26 trillion cubic feet and represent about 13 percent of United States total proven gas reserves. Additional potential gas reserves on Alaska's North Slope left to be discovered are projected at 100 to 200 trillion cubic feet.

The Alaska National Gas Transportation System will provide access to these proven reserves, equivalent to at least 400,000 barrels of oil per day, with potential energy supplies of perhaps 10 times that amount. The 4,800 mile pipeline will transport natural gas through Alaska and Canada to nearly every State in the Union, and will have an initial capacity to provide over 4 percent of our Nation's daily natural gas needs. The ANGTS will provide a stable and reliable supply of energy to this country; a supply that will not be subject to OPEC embargoes or escalating prices.

At a projected total cost of $40 billion, the pipeline will be the most expensive private construction project ever conceived. Last May, the ANGTS financing plan was presented to four U.S. commercial banks for consideration. In August, the four bank group advised that although the project could be privately financed without governmental guarantees and/or participation, certain steps must be taken to modify the financial requirements established under the 1976 Alaska Natural Gas Transportation Act. This act had specifically provided for the waiver of Federal laws if necessary to facilitate success of the project. The commercial banks told the pipeline sponsors that unless these financial modifications, or waivers, were approved, reliable private sector financing could not be secured for the project. In other words, the pipeline will not be built unless these waivers of law, as proposed to Congress by President Reagan on October 15 and contained in Senate Joint Resolution 115, are approved.

The most controversial provision of the waiver package is the one which would permit prebilling. Senate Joint Resolution 115 would permit billing of U.S. gas consumers for the construction costs of the pipeline before the pipeline is fully operational. The Federal Energy Regulatory Commission (FERC) would establish a "date certain" for expected completion of the entire project, probably 1987. For the purpose of the waiver, the system would be divided into three segments: Canada, Alaska, and the conditioning plant at Prudhoe Bay, each of which would have specific billing schedules. If any one or two of these three segments of the pipeline were completed before the entire pipeline, but after the date certain, consumers, at the discretion of FERC, could be prebilled for the completed segments.

The argument has been raised that this prebilling proposal would lock consumers into multibillion dollar payments whether or not the pipeline is ever completed. This is simply not the case. The prebilling provision of the waiver proposal gives FERC the discretionary power to allow companies

planning to move gas through the project to begin billing gas customers: first, only after a date selected by FERC as reasonable completion of the entire system (probably 1987); second, only after full completion and testing of one of two of three basic segments of the line; third, only for the debt service and related costs on the U.S. segments of the project; fourth, only after billions of dollars of the sponsors' own risk capital has been invested without return until project completion; and fifth, only for those costs prudently incurred and actually paid.

The absolute worst case consumer financial risk, a highly unlikely contingency of utter project failure after completion of the two most expensive segments of the system, would involve average consumer payments of less than $1 per month during the 20 years required to discharge the debt in full. One oil embargo or a revolution would add far more to consumer energy bills. In contrast, given a worst case scenario, U.S. private sponsors of the project would lose all their equity investment. In such a case big business would be the big losers—not the consumers. Furthermore, in the event of any delay beyond the "date certain" (assuming FERC has approved the prebilling as just and reasonable), any payments by consumers would serve to reduce and lower their later payments when the system is finished. Consumers would under no circumstances be asked to pay for sections of the system that are not completed.

Approval of the waiver package also fulfills a national commitment to Canada. In July 1980, President Carter informed Prime Minister Trudeau that he would ask Congress to allow the participating Canadian companies to collect their full service costs upon completion of the Canadian segment of the line. In July 1980, Congress expressed its unqualified support for the project in a formal resolution (S. Con. Res. 104). Canada's National Energy Board relied upon this Presidential and congressional support when it acted to permit new gas exports and construction of the pre-build segments in Canada. Reneging on this commitment by not building the Alaskan section of the pipeline would be extemely detrimental to relations with Canada.

What the whole issue boils down to is this: no waiver package means no pipeline. Without acceptance of the waiver package, it will be impossible to obtain private sector financing for what is universally regarded as an invaluable and even essential project. Lack of private financing support would either lead to the project's abandonment or force outright Government financing. The only way to insure private sponsorship and funding of this pipeline project, so vital to our national energy interest, is to approve the waiver package as contained in Senate Joint Resolution 115.●

Mr. UDALL. Mr. Speaker, I move the previous question on the Senate joint resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the third reading of the Senate joint resolution.

The Senate joint resolution was ordered to be read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the Senate joint resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CORCORAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 230, nays 188, answered "present" 1, not voting 14, as follows:

[Roll No. 347]

YEAS—230

Akaka	Edwards (AL)	Lantos
Albosta	Edwards (OK)	Leath
Alexander	Emerson	LeBoutillier
Anderson	English	Lehman
Anthony	Erlenborn	Leland
Archer	Evans (DE)	Lent
Atkinson	Evans (IN)	Lewis
Badham	Fazio	Livingston
Bafalis	Ferraro	Loeffler
Bailey (MO)	Fiedler	Long (LA)
Bailey (PA)	Fields	Lott
Barnard	Flippo	Lowery (CA)
Benedict	Foley	Lowry (WA)
Benjamin	Ford (MI)	Lujan
Bennett	Forsythe	Luken
Bereuter	Frenzel	Lundine
Bevill	Frost	Lungren
Bingham	Fuqua	Marks
Biley	Gaydos	Marlenee
Boggs	Gephardt	Marriott
Bolling	Gibbons	Martin (NC)
Bouquard	Glickman	Martin (NY)
Bowen	Gore	Mattox
Breaux	Gramm	McClory
Brinkley	Green	McCurdy
Brown (CA)	Grisham	McDonald
Burgener	Hall, Ralph	McHugh
Butler	Hall, Sam	McKinney
Byron	Hamilton	Mikulski
Campbell	Hammerschmidt	Miller (OH)
Carman	Hance	Mineta
Chappell	Hansen (ID)	Molinari
Chappie	Hansen (UT)	Montgomery
Cheney	Hartnett	Moore
Clausen	Hawkins	Moorhead
Clinger	Heftel	Morrison
Coats	Hendon	Murphy
Coelho	Hightower	Murtha
Collins (TX)	Hiler	Myers
Conable	Hillis	Napier
Coughlin	Holland	Nelligan
Courter	Holt	Nelson
Coyne, James	Hoyer	Nichols
Coyne, William	Hubbard	Oberstar
Craig	Huckaby	Panetta
Daniel, R. W.	Hunter	Pashayan
Dannemeyer	Hutto	Patman
Daschle	Ireland	Patterson
Daub	Jeffries	Paul
de la Garza	Jenkins	Pickle
Dickinson	Johnston	Porter
Dicks	Jones (NC)	Pritchard
Dingell	Jones (OK)	Quillen
Dixon	Jones (TN)	Rahall
Dornan	Kazen	Reuss
Dowdy	Kindness	Rhodes
Dreier	Kogovsek	Rinaldo
Duncan	Lagomarsino	Roberts (KS)
Roberts (SD)	Smith (AL)	Walgren
Robinson	Smith (NE)	Walker
Roemer	Smith (NJ)	Watkins
Rose	Smith (OR)	White
Rousselot	Smith (PA)	Whitehurst
Rudd	Solarz	Whitley
Sabo	Solomon	Whittaker
Santini	Stangeland	Williams (MT)
Scheuer	Staton	Wilson
Schulze	Stenholm	Winn
Schumer	Stratton	Wortley
Sharp	Stump	Wright
Shaw	Swift	Yatron
Shelby	Synar	Young (AK)
Shumway	Tauzin	Young (FL)
Shuster	Thomas	Young (MO)
Siljander	Trible	Zablocki
Skeen	Udall	Zeferetti
Skelton	Vento	

NAYS—188

Addabbo	Foglietta	Obey
Andrews	Ford (TN)	Ottinger
Annunzio	Fountain	Oxley
Applegate	Fowler	Parris
Ashbrook	Frank	Pease
Aspin	Gejdenson	Pepper
Barnes	Gilman	Perkins
Beard	Gingrich	Petri
Bedell	Ginn	Peyser
Beilenson	Gonzalez	Price
Bethune	Goodling	Pursell
Biaggi	Gradison	Railsback
Blanchard	Gray	Rangel
Boland	Gregg	Ratchford
Bonior	Guarini	Regula
Bonker	Gunderson	Richmond
Brodhead	Hagedorn	Rodino
Broomfield	Harkin	Roe
Brown (CO)	Hatcher	Rogers
Brown (OH)	Heckler	Rosenthal
Broyhill	Hefner	Rostenkowski
Burton, John	Hertel	Roth
Burton, Phillip	Hollenbeck	Roukema
Carney	Hopkins	Roybal
Chisholm	Horton	Russo
Clay	Hughes	Savage
Coleman	Hyde	Sawyer
Collins (IL)	Jacobs	Schneider
Conte	Jeffords	Schroeder
Conyers	Kastenmeier	Seiberling
Corcoran	Kemp	Sensenbrenner
Crane, Daniel	Kildee	Shamansky
Crane, Philip	Kramer	Shannon
D'Amours	LaFalce	Simon
Daniel, Dan	Latta	Smith (IA)
Danielson	Leach	Snowe
Davis	Lee	Snyder
Deckard	Levitas	Spence
Dellums	Long (MD)	St Germain
DeNardis	Madigan	Stanton
Derrick	Markey	Stark
Derwinski	Martin (IL)	Stokes
Donnelly	Matsui	Studds
Dorgan	Mavroules	Tauke
Dougherty	Mazzoli	Taylor
Downey	McCollum	Traxler
Dunn	McDade	Vander Jagt
Dwyer	McEwen	Volkmer
Dyson	McGrath	Wampler
Early	Mica	Washington
Eckart	Michel	Waxman
Edgar	Miller (CA)	Weaver
Edwards (CA)	Minish	Weber (MN)
Emery	Mitchell (MD)	Weber (OH)
Erdahl	Mitchell (NY)	Weiss
Ertel	Moffett	Whitten
Evans (IA)	Mollohan	Williams (OH)
Fary	Mottl	Wirth
Fascell	Natcher	Wolpe
Fenwick	Neal	Wyden
Findley	Nowak	Wylie
Fish	O'Brien	Yates
Florio	Oakar	

ANSWERED "PRESENT"—1

Wolf

NOT VOTING—14

AuCoin	Evans (GA)	Howard
Boner	Fithian	McCloskey
Brooks	Garcia	Moakley
Crockett	Goldwater	Ritter
Dymally	Hall (OH)	

□ 1315

The Clerk announced the following pairs:

On this vote:

Mr. Boner of Tennessee for, with Mr. AuCoin against.

Mr. Dymally for, with Mr. Crockett against.

Mr. McCloskey for, with Mr. Moakley against.

Mr. Goldwater for, with Mr. Garcia against.

Mr. PRICE changed his vote from "yea" to "nay."

So the Senate joint resolution was passed.

The result of the vote was announced as above recorded.

GENERAL LEAVE

Mr. UDALL. Mr. Speaker, I ask unanimous consent that all Members may have 5 days to revise and extend their remarks on the Senate joint resolution just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

ELECTION OF MEMBERS TO STANDING COMMITTEES

Mr. MICHEL. Mr. Speaker, I offer a privileged resolution (H. Res. 299) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 299

Resolved, That the following named Members be, and they are hereby, elected to the following standing committees of the House of Representatives:

Committee on Interior and Insular Affairs: Bill Emerson, Missouri.

Committee on Post Office and Civil Service: Wendell Bailey, Missouri.

Committee on Veterans' Affairs: John L. Napier, South Carolina.

The resolution was agreed to.

A motion to reconsider was laid on the table.

REQUEST FOR POINT OF ORDER

Mr. WALKER. Mr. Speaker, a point of order. A quorum is not present.

The SPEAKER. There is no question pending at the present time. The gentleman is not recognized.

FURTHER CONTINUING APPROPRIATIONS, 1982

Mr. WHITTEN. Mr. speaker, pursuant to the order of the House of yesterday, I call up the joint resolution (H.J. Res. 370) making further continuing appropriations for the fiscal year 1982, and for other purposes, and ask for its immediate consideration.

The Clerk read the joint resolution, as follows:

H.J. RES. 370

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of the Government for the fiscal year 1982, and for other purposes, namely:

SEC. 101. (a)(1) Such amounts as may be necessary for projects or activities (not otherwise specifically provided for in this joint resolution) for which appropriations, funds, or other authority would be available in the following appropriations Acts:

Department of Defense Appropriation Act, 1982;

Military Construction Appropriation Act, 1982;

Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act, 1982; and

Treasury, Postal Service and General Government Appropriation Act, 1982.

(2) Appropriations made by this subsection shall be available to the extent and in the manner which would be provided by the pertinent appropriation Act.

(3) Whenever the amount which would be made available or the authority which would be granted under an Act listed in this subsection as passed the House as of November 20, 1981, is different from that which would be available or granted under such Act as passed by the Senate as of November 20, 1981, the pertinent project or activity shall be continued under the lesser amount or the more restrictive authority: *Provided*, That where an item is included in only one version of an Act as passed by both Houses as of November 20, 1981, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the one House, but at a rate for operations of the current rate or the rate permitted by the action of the one House, whichever is lower, and under the authority and conditions provided in applicable appropriation Acts for the fiscal year 1981: *Provided further*, That for the purposes of this joint resolution, when an Act listed in this subsection has been reported to a House but not passed by that House as of November 20, 1981, it shall be deemed as having been passed by that House: *Provided further*, That, in addition to the sums otherwise made available by this paragraph the following additional sums are hereby appropriated: for low income home energy assistance program, $140,000,000 net (which is equivalent to $176,000,000 with a 4 percent reduction applied to the program); for the foster care program authorized by title IV of the Social Security Act, $75,000,000: *Provided*, That the provisions contained in the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act for fiscal year 1982 (H.R. 4560), as reported by the Senate Committee on Appropriations on November 9, 1981, related to a limitation on entitlement to payments under parts A and E of title IV of the Social Security Act and transfer of funds under parts B and E of such title (contained in H.R. 4560 as so reported beginning with "provided" on page 39, line 17, and ending on page 40, line 8) shall not be applicable with respect to any sums appropriated pursuant to this joint resolution; for the Community Services Block Grant, $62,552,000; and for the State Block Grant authorized by chapter 2 of the Education Consolidation and Improvement Act of 1981, $140,000,000: *Provided further*, That the college housing loan program shall operate under the terms and conditions as contained in H.R. 4560 as passed the House October 6, 1981, except that the gross commitments for the principal amount of direct loans shall not exceed $75,000,000: *Provided further*, That funds which would be available under H.R. 4121, entitled the Treasury, Postal Service and General Government Appropriation Act, 1982, for the Government payment of annuitants and employees health benefits, shall be available under the authority and conditions set forth in H.R. 4121 as reported to the Senate on September 22, 1981: *Provided further*, That for the purposes of this joint resolution, the Senate reported level of H.R. 4121, entitled the Treasury, Postal Service, and General Government Appropriation Act, 1982, shall be the level reported by the Senate on September 22, 1981 (S. Rept. No. 97-192).

(4) Whenever an Act listed in this subsection has been passed by only one House as of November 20, 1981, the pertinent project or activity shall be continued under the appropriation, fund, or authority granted by the one House, but at a rate for operations of the current rate or the rate permitted by the action of the one House, whichever is lower, and under the authority and conditions provided in applicable appropriation Acts for the fiscal year 1981.

(5) No provision which is included in an appropriation Act enumerated in this subsection but which was not included in the applicable appropriation Act of 1981, and which by its terms is applicable to more than one appropriation, fund, or authority shall be applicable to any appropriation, fund, or authority provided in the joint resolution unless such provision shall have been included in identical form in such bill as enacted by both the House and the Senate.

(6) In addition to any sums otherwise appropriated there is appropriated an additional sum of $25,000,000 which shall be made available for training, job search allowances, and relocation allowances, under sections 236, 237, and 238 of the Trade Act of 1974.

(b) Such amounts as may be necessary for continuing programs and activities, not otherwise provided for, which were conducted in the fiscal year 1981, for which provision was made in and under the terms and conditions of section 101(b) of Public Law 96-536 regarding foreign assistance and related programs, notwithstanding section 10 of Public Law 96-672, and section 13(a) of the State Department Basic Authorities Act of 1956, at a rate for operations not in excess of the current rate provided in fiscal year 1981 or the rate provided for in the budget estimate, whichever is lower: *Provided*, That this section shall be deemed to allow the continuation of the activities of the Department of State for contributions to the United Nations Relief and Works Agency for Palestinian Refugees at a rate of operations not in excess of the current rate: *Provided further*, That notwithstanding any other Act, that none of the funds made available by this Act may be obligated under an appropriation account to which they were not appropriated without the prior written approval of the Committee on Appropriations of both Houses of Congress: *Provided further*, That the limitation on total commitments to guarantee loans by the Export-Import Bank shall be increased by $2,220,000,000 of contingent liability for loan principal.

(c) Such amounts as may be necessary for projects or activities provided for in the Department of Transportation and Related Agencies Appropriation Act, 1982, at a rate for operations and to the extent and in the manner provided for in the conference report and joint explanatory statement of the committee of conference (H. Rept. No. 97-331) filed in the House of Representatives on November 13, 1981, as if such Act had been enacted into law.

(d) Such amounts as may be necessary for projects or activities provided for in the Department of Housing and Urban Develop-

97th Congress, 1st Session - - - - - - - House Document No. 97-100

WAIVERS TO PERMIT EXPEDITED CONSTRUCTION OF THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

PROPOSED WAIVERS OF VARIOUS PROVISIONS OF LAW TO PERMIT EXPEDITED CONSTRUCTION OF THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM, PURSUANT TO SECTION 8(g) OF PUBLIC LAW 94-586

OCTOBER 15, 1981.—Message and accompanying papers referred to the Committees on Energy and Commerce, and Interior and Insular Affairs and ordered to be printed

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U.S. GOVERNMENT PRINTING OFFICE

89-011 O WASHINGTON: 1981

EXHIBIT "A"

Public Law 97-93
97th Congress

Joint Resolution

Dec. 15, 1981
[S.J. Res. 115]

To approve the President's recommendation for a waiver of law pursuant to the Alaska Natural Gas Transportation Act of 1976.

Alaska natural gas transportation system.
15 USC 719f note.
15 USC 717 *et seq.*
42 USC 6201 note.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the House of Representatives and Senate approve the waiver of the provision of law (Public Law 95-158, Public Law numbered 688, Seventy-fifth Congress, second session, and Public Law 94-163) as proposed by the President, submitted to the Congress on October 15, 1981.

Approved December 15, 1981.

LEGISLATIVE HISTORY—S.J. Res. 115 (H.J. Res. 341):

HOUSE REPORTS: No. 97-350, pt. 1 (Comm. on Interior and Insular Affairs) and No. 97-350, pt. 2 (Comm. on Energy and Commerce) accompanying H.J. Res. 341.
SENATE REPORT No. 97-272 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 127 (1981):
Nov. 19, considered and passed Senate.
Dec. 8, 9, H.J. Res. 341 considered and passed House.
Dec. 10, considered and passed House.

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89-139 O - 81 (104)

To the Congress of the United States:

The Alaska Highway Pipeline route for the Alaska Natural Gas Transportation System was chosen by President Carter and approved by Congress in 1977. There was a strong Congressional endorsement that the pipeline should be built if it could be privately financed. That has been my consistent position since becoming President, as communicated on numerous occasions to our good neighbors in Canada and I am now submitting my formal findings and proposed waiver of law.

As I stated in my message to Prime Minister Trudeau informing him of my decision to submit this waiver:

> My Administration supports the completion of this project through private financing, and it is our hope that this action will clear the way to moving ahead with it. I believe that this project is important not only in terms of its contribution to the energy security of North America. It is also a symbol of U.S.-Canadian ability to work together cooperatively in the energy area for the benefit of both countries and peoples. This same spirit can be very important in resolving the other problems we face in the energy area.

This waiver of law, submitted to the Congress under Section 8(g) of the Alaska Natural Gas Transportation Act, is designed to clear away governmental obstacles to proceeding with private financing of this important project. It is critical to the energy security of this country that the Federal Government not obstruct development of energy resources on the North Slope of Alaska. For this reason, it is important that the Congress begin expeditiously to consider and adopt a waiver of those laws that impede private financing of the project.

RONALD REAGAN.

THE WHITE HOUSE, *October 15, 1981.*

Findings and Proposed Waiver of Law

Pursuant to the provisions of the Alaska Natural Gas Transportation Act of 1976 (ANGTA) 15 U.S.C. §719, *et seq.*, a transportation system to transport Alaska natural gas to consumers in the continental United States was selected and approved by Congress in 1977.

I find that certain provisions of law applicable to the federal actions to be taken under Subsections (a) and (c) of Section 9 of ANGTA require waiver in order to permit expeditious construction and initial operation of the approved transportation system. Accordingly, under the provisions of Section 8(g)(1) of ANGTA, I hereby propose to both Houses of Congress a waiver of the following provisions of law, such waiver to become effective upon approval of a joint resolution under the procedures set forth in Section 8(g)(2), 8(g)(3), and 8(g)(4) of ANGTA.

Waive Public Law 95-158 [1] [Joint Resolution of approval,[2] pursuant to Section 8(a) of ANGTA, incorporating the President's *Decision*] in the following particulars:

Section 1, Paragraph 3, and Section 5, Conditions IV-1 and V-1, of the President's *Decision*, in order to permit producers of Alaska natural gas to participate in the ownership of the Alaska pipeline segment and the gas conditioning plant segment of the approved transportation system; *provided*, however, that any agreement on producer participation may be approved by the Federal Energy Regulatory Commission only after consideration of advice from the Attorney General and upon a finding by the Federal Energy Regulatory Commission that the agreement will not (a) create or maintain a situation inconsistent with the antitrust laws, or (b) in and of itself create restrictions on access to the Alaska segment of the approved transportation system for nonowner shippers or restrictions on capacity expansion; and

Section 2, Paragraph 3, First Sentence, of the President's *Decision*, to include the gas conditioning plant in the approved transportation system and in the final certificate to be issued for the system; and the application of Section 5, Condition IV-2 of the President's *Decision* to the gas conditioning plant; and

Section 5, Condition IV-3, of the President's *Decision; provided*, however, that such waiver shall not authorize the Federal Energy Regulatory Commission to approve tariffs except as provided herein. The Federal Energy Regulatory Commission may approve a tariff that will permit billing to commence and collection of rates and charges to begin and that will authorize

[1] See: Executive Office of the President, Energy Policy and Planning, *Decision and Report to Congress on the Alaska Natural Gas Transportation System* (September 1977) (hereinafter referred to as President's *Decision*); and see H.J. Res. 621, Pub. L. No. 95-158 (1977), wherein the President's *Decision* was incorporated and ratified by Congress pursuant to Section 8(a) of ANGTA.

[2] 15 U.S.C. § 719f nt.

recovery of all costs paid by purchasers of Alaska natural gas for transportation through the system pursuant to such tariffs prior to the flow of Alaska natural gas through the approved transportation system—

(a) to permit recovery of the full cost of service for the pipeline in Canada to commence—

(1) upon completion and testing, so that it is proved capable of operation; and

(2) not before a date certain, as determined (in consultation with the Federal Inspector) by the Federal Energy Regulatory Commission in issuing a final certificate for the approved transportation system, to be the most likely date for the approved transportation system to begin operation; and

(b) to permit recovery of the actual operation and maintenance expenses, actual current taxes and amounts necessary to service debt, including interest and scheduled retirement of debt, to commence—

(1) for the Alaska pipeline segment—

(A) upon completion and testing of the Alaska pipeline segment so that it is proved capable of operation; and

(B) not before a date certain, as determined (in consultation with the Federal Inspector) by the Federal Energy Regulatory Commission in issuing a final certificate for the approved transportation system, to be the most likely date for the approved transportation system to begin operation; and

(2) for the gas conditioning plant segment—

(A) upon completion and testing of the gas conditioning plant segment so that it is proved capable of operation; and

(B) not before a date certain, as determined (in consultation with the Federal Inspector) by the Federal Energy Regulatory Commission in issuing a final certificate for the approved transportation system, to be the most likely date for the approved transportation system to begin operation.

Waive Public Law 688,[3] 75th Cong., 2d Sess. [Natural Gas Act] in the following particulars:

Section 7(c)(1)(B) of the Natural Gas Act to the extent that section can be construed to require the use of formal evidentiary hearings in proceedings related to applications for certificates of public convenience and necessity authorizing the construction or operation of any segment of the approved transportation system; *provided*, however, that such waiver shall not preclude the use of formal evidentiary hearing(s) whenever the Federal Energy Regulatory Commission determines, in its discretion, that such a hearing is necessary; and

Sections 4, 5, 7, and 16 of the Natural Gas Act to the extent that such sections would allow the Federal Energy Regulatory Commission to change the provisions of any final rule or order approving (a) any tariff in any manner that would impair the

[3] 15 U.S.C. § 717.

recovery of the actual operation and maintenance expenses, actual current taxes, and amounts necessary to service debt, including interest and scheduled retirement of debt, for the approved transportation system; or (b) the recovery by purchasers of Alaska natural gas of all costs related to transportation of such gas pursuant to an approved tariff, and

Sections 1(b) and 2(6) of the Natural Gas Act to the extent necessary to permit the Alaskan Northwest Natural Gas Transportation Company or its successor and any shipper of Alaska natural gas through the Alaska pipeline segment of the approved transportation system to be deemed to be a "natural gas company" within the meaning of the Act at such time as it accepts a final certificate of public convenience and necessity authorizing it to construct or operate the Alaska pipeline segment and the gas conditioning plant segment of the approved transportation system, or to ship or sell gas that is to be transported through the approved transportation system; and

Section 3 of the Natural Gas Act as it would apply to Alaska natural gas transported through the Alaska pipeline segment of the approved transportation system to the extent that any authorization would otherwise be required for——

(1) the exportation of Alaska natural gas to Canada (to the extent that such natural gas is replaced by Canada downstream from the export); and

(2) the importation of natural gas from Canada (to the extent that such natural gas replaced Alaska natural gas exported to Canada); and

(3) the exportation from Alaska into Canada and the importation from Canada into the lower 48 states of the United States of Alaska natural gas.

Waive Public Law 94–163 [4] [Energy Policy and Conservation Act] in the following particulars:

Section 103 as it would apply to Alaska natural gas transported through the Alaska pipeline segment of the approved transportation system to the extent that any authorization would otherwise be required for—

(1) the exportation of Alaska natural gas to Canada (to the extent that such natural gas is replaced by Canada downstream from the export); and

(2) the importation of natural gas from Canada (to the extent that such natural gas replaced Alaska natural gas exported to Canada); and

(3) the exportation from Alaska into Canada and the importation from Canada into the lower 48 states of the United States of Alaska natural gas.

[4] 42 U.S.C. § 6201, *et seq.*

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IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

Howard M. Metzenbaum, et al., Complainants	)	
v.	)	No. 82-1097
Federal Energy Regulatory Commission, Respondent	)	

JOINT MOTION BY COMPLAINANTS AND RESPONDENT
REQUESTING ESTABLISHMENT OF PROCEDURAL SCHEDULE

Respondent, Federal Energy Regulatory Commission, joined by Complainants, Howard M. Metzenbaum, et al., requests the Court to establish for this case the procedural schedule set forth below.

1. This case arises under Section 10(c) of the Alaska Natural Gas Transportation Act (ANGTA), 15 U.S.C. 719(h)(c). That statute requires the Court to render its decision within 90 days from the date the claim was brought, unless the Court determines that a longer time is required to satisfy the Constitution. 15 U.S.C. 719(h)(c)(2). The claim in this case was filed on January 28, 1981. The statute, however, does not specify the procedural steps, or the timing of procedural steps, to be followed before the Court renders its decision. Consequently, Respondent, FERC, after consultation and agreement with Complainants, proposes a procedural schedule to be employed. The schedule proposed will, the parties believe, permit the Court to render its decision within the 90 days provided by the statute.

2. The parties propose the following schedule:

	Filing Date
Certificate of Record in Lieu of Record	February 5
Complainant's Initial Brief and Joint Appendix	February 19
Respondent's Brief	March 5
Complainant's Reply Brief	March 19

Under this scehdule any intervenors which may wish to file a brief would do so on the same date as the party which the intervenor supports. In view of the compressed time allowed by the schedule the parties are prepared to designate the portions of the record which will be relied upon prior to briefing so that the Joint Appendix can be filed at the time of Complainant's opening brief.

It is anticipated that the Court will want to hear oral argument after all the briefs are filed and the parties are prepared to appear at the Court's convenience.

In conclusion Respondent, joined by the Complainants, requests the Court to adopt the procedural schedule proposed above.

Respectfully submitted,

Andrea Wolfman

Andrea Wolfman
Attorney

Federal Energy Regulatory Commission
Washington, D.C. 20426
202-357-8440
February 1, 1982

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NOTES FOR USE BY THE HONOURABLE MITCHELL SHARP, P.C.
COMMISSIONER
NORTHERN PIPELINE AGENCY CANADA

CANADA FORUM
NEW YORK CITY

5 PM
MONDAY, OCTOBER 19, 1981.

THIS IS THE THIRD TIME I HAVE SPOKEN IN THE CANADA FORUM REGARDING THE ALASKA HIGHWAY GAS PIPELINE. THE FIRST TIME WAS IN JANUARY 1979, EIGHT MONTHS AFTER I ASSUMED MY PRESENT POSITION AS COMMISSIONER OF THE NORTHERN PIPELINE AGENCY. THE UNITED STATES LEGISLATION HAD BY THEN COMPLETED ITS SLOW AND TORTUOUS PROGRESS THROUGH THE CONGRESS, CONTRIBUTING TO THE DELAY IN GETTING OUR GREAT JOINT PROJECT OFF THE GROUND. THE SECOND TIME WAS IN SEPTEMBER, 1980, SHORTLY AFTER THE CANADIAN GOVERNMENT HAD APPROVED THE START OF CONSTRUCTION ON PHASE I OF THE ALASKA PROJECT, OR, AS IT IS SOMETIMES CALLED, THE PRE-BUILD SECTIONS OF THE PROJECT.

I ASKED FOR THIS OPPORTUNITY TO BRING YOU UP TO DATE ON WHERE THE PROJECT STANDS TODAY. MY APPEARANCE TODAY COINCIDES WITH THE BEGINNING OF CONSIDERATION IN COMMITTEES OF THE HOUSE OF REPRESENTATIVES AND SENATE OF THE WAIVER PACKAGE SUBMITTED BY PRESIDENT REAGAN TO THE CONGRESS, THE LATEST ACT IN THE ALASKA PIPELINE DRAMA. WHAT I HAVE TO SAY TO YOU MAY BE OF SOME INTEREST TO THE CONGRESSIONAL COMMITTEES BUT MY REMARKS ARE NOT DIRECTED TO THEM. THE MEMBERS OF THE COMMITTEES KNOW THAT THEY CAN OBTAIN ALL THE INFORMATION THEY NEED ABOUT CANADIAN POLICY THROUGH THE NORMAL OFFICIAL CHANNELS AND BECAUSE OF FRIENDLY RELATIONS BETWEEN OUR TWO COUNTRIES, THERE ARE, OF COURSE, PLENTY OF OPPORTUNITIES FOR INFORMAL EXCHANGES OF INFORMATION.

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MY TARGET, IF THAT IS AN APPROPRIATE WORD, IS THE FINANCIAL COMMUNITY, WHICH, WHEN THE WAIVER PACKAGE HAS BEEN APPROVED, WILL BE DIRECTLY OR INDIRECTLY INVOLVED IN THE FINANCIAL NEGOTIATIONS THAT MUST BE SUCCESSFULLY CONCLUDED BEFORE CONSTRUCTION CAN BEGIN ON THE NORTHERN SECTIONS OF THE ALASKA PROJECT.

DURING THE INTERVENING MONTHS SINCE I LAST SPOKE IN THIS FORUM, FURTHER SUBSTANTIAL PROGRESS HAS BEEN MADE IN COMING TO GRIPS WITH THE COMPLEX ISSUES REMAINING TO BE RESOLVED BEFORE WORK CAN PROCEED ON THE SECOND AND FINAL STAGE OF THE ALASKA HIGHWAY PIPELINE PROJECT.

JUST A FEW WEEKS AGO, I HAD THE PLEASURE OF ATTENDING A CEREMONIAL DINNER IN LOS ANGELES GIVEN BY THE PACIFIC INTERSTATE TRANSMISSION COMPANY TO MARK THE COMMENCEMENT OF THE FLOW OF SOME 240 MILLION CUBIC FEET OF GAS A DAY THROUGH THE JUST COMPLETED FIRST STAGE OF THE WESTERN LEG OF THE ALASKA SYSTEM. AS GEOFFREY EDGE, THE CHAIRMAN OF CANADA'S NATIONAL ENERGY BOARD REPORTED ON THAT OCCASION, THE PORTION OF THAT SEGMENT IN CANADA WAS COMPLETED BY FOOTHILLS (YUKON) ON SCHEDULE AND APPROXIMATELY 10 PERCENT UNDER THE FINAL DESIGN COST ESTIMATE APPROVED BY THE BOARD.

MEANWHILE, CONSTRUCTION IS ALSO PROCEEDING AS PLANNED WITH FIRST-STAGE CONSTRUCTION OF THE EASTERN LEG OF THE SYSTEM IN CANADA AND THE UNITED STATES, WHICH ON ITS SCHEDULED COM[illegible]TION NEXT FALL WILL HAVE THE CAPACITY

TO CARRY A FURTHER 800 MILLION CUBIC FEET OF GAS TO MID-WESTERN U.S. MARKETS.

YOU MAY RECALL THAT THE DECISION FINALLY TAKEN BY THE CANADIAN GOVERNMENT LAST JULY TO AUTHORIZE COMMENCEMENT OF CONSTRUCTION OF THE SOUTHERN SEGMENT OF THE PIPELINE WAS A DIFFICULT ONE. THE AGREEMENT BETWEEN OUR TWO COUNTRIES OF SEPTEMBER, 1977, PROVIDED FOR THE JOINT UNDERTAKING OF A PROJECT THAT WOULD MAKE POSSIBLE THE TRANSMISSION OF GAS FROM YOUR SUBSTANTIAL RESERVES IN ALASKA TO MARKETS IN THE CONTINENTAL UNITED STATES AND AT THE SAME TIME PROVIDE US WITH ACCESS ON AN ECONOMIC BASIS TO OUR OWN ARCTIC RESERVES IN THE MACKENZIE DELTA OF THE NORTHWEST TERRITORIES. SINCE WE HAD NO DESIRE TO BUILD AN ENTIRELY NEW SYSTEM SIMPLY FOR THE RELATIVELY SHORT-TERM EXPORT OF A RELATIVELY LIMITED VOLUME OF SURPLUS CANADIAN GAS, WHAT THE GOVERNMENT OF CANADA REQUIRED WAS ALL REASONABLE ASSURANCE THAT THE ENTIRE PROJECT WOULD BE COMPLETED EXPEDITIOUSLY.

IN THE END, CANADA AGREED TO PROCEED WITH THE FIRST STAGE ON THE BASIS OF THREE IMPORTANT DEVELOPMENTS. THE FIRST WAS THE AGREEMENT IN JUNE BETWEEN THE ALASKAN PIPELINE SPONSORS AND THE GAS PRODUCERS - EXXON, SOHIO AND ARCO - TO SHARE EXPENDITURES OF SOME $500 MILLION OR MORE TO COMPLETE FINAL DESIGN AND ENGINEERING OF BOTH THE PIPELINE AND CONDITIONING PLANT IN ALASKA, WHICH WAS ESSENTIAL BOTH TO UNDERTAKE THIS PORTION OF THE PROJECT

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AND TO ARRIVE AT REALISTIC COST ESTIMATES. IN ADDITION, THE PIPELINE SPONSORS AND THE PRODUCERS ALSO AGREED TO WORK TOGETHER TO DEVELOP A PRACTICAL PLAN FOR FINANCING THIS IMMENSE UNDERTAKING.

THE SECOND DEVELOPMENT WAS THE JOINT RESOLUTION APPROVED UNANIMOUSLY BY THE SENATE AND HOUSE OF REPRESENTATIVES AT THE END OF JUNE AND BEGINNING OF JULY EXPRESSING THE SENSE OF CONGRESS THAT THE ALASKA HIGHWAY GAS PIPELINE, AND I QUOTE, "REMAINS AN ESSENTIAL PART OF SECURING THIS NATION'S ENERGY FUTURE AND, AS SUCH, ENJOYS THE HIGHEST LEVEL OF CONGRESSIONAL SUPPORT FOR ITS EXPEDITIOUS CONSTRUCTION AND COMPLETION BY THE END OF 1985."

THE THIRD DEVELOPMENT TO WHICH I REFERRED WAS THE LETTER FROM PRESIDENT CARTER IN MID-JULY TO PRIME MINISTER TRUDEAU EXPRESSING HIS ASSURANCES ON BEHALF OF THE U.S. GOVERNMENT THAT THE ENTIRE PROJECT WOULD PROCEED EXPEDITIOUSLY.

THERE HAVE BEEN SOME VERY SUBSTANTIAL ADVANTAGES FOR THE PROJECT AS A WHOLE IN BEGINNING CONSTRUCTION IN THE SOUTH. FIRST, BECAUSE CONSTRUCTION OF THIS PHASE IS TAKING PLACE NOW AND NOT DEFERRED UNTIL LATER, THE CAPITAL COST WILL BE SUBSTANTIALLY LESS THAN WHAT IT WOULD OTHERWISE HAVE BEEN. BY HOW MUCH IT IS DIFFICULT TO SAY, BUT I AM INFORMED THAT PRUDENT FINANCIERS HESITATE TO PROJECT AN ANNUAL INFLATION RATE FOR CAPITAL COSTS IN THE YEARS AHEAD OF MUCH LESS THAN DOUBLE DIGIT NUMBERS. SECOND,

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WHEN ALASKA GAS COMES ON STREAM THE RATE BASE FOR THIS PHASE, INCLUDING THE NORTHERN BORDER PIPELINE TO THE MID-WEST AND THE EXTENSIONS TO THE WESTERN LINE TO THE CALIFORNIA MARKET, WILL BE REDUCED BY NORMAL DEPRECIATION OVER A PERIOD OF SEVERAL YEARS. FOR EXAMPLE, IF, AS PLANNED, ALASKA GAS BEGINS FLOWING IN 1985 OR 1987, THE FIRST PHASE FACILITIES IN CANADA WILL BE INCORPORATED INTO THE RATE BASE OF THE ALASKA LINE FOR TARIFF PURPOSES AT SOMETHING BETWEEN 70 AND 80 PERCENT OF ORIGINAL COST, I.E. 4 PERCENT ANNUALLY MULTIPLIED BY THE NUMBER OF YEARS BETWEEN COMPLETION OF PHASE I FACILITIES AND THE ARRIVAL OF ALASKA GAS.

THIRD, THERE HAS UNDOUBTEDLY BEEN AN ADVANTAGE IN BUILDING PHASE I NOW BEFORE OTHER MAJOR CONSTRUCTION PROJECTS GET UNDERWAY. THIS IS REFLECTED IN THE FACT, AS I HAVE ALREADY MENTIONED, THAT THE WESTERN LEG IN CANADA HAS BEEN BUILT AT AROUND 10 PERCENT BELOW APPROVED DESIGN COSTS AND SIMILAR GOOD RESULTS ARE APPARENTLY BEING ACHIEVED ON THE WESTERN LEG IN THE UNITED STATES AND ON THE PORTIONS OF THE EASTERN LEG IN CANADA AND THE NORTHERN BORDER PIPELINE BEING CONSTRUCTED THIS YEAR.

AND FINALLY IT HAS BEEN OF VALUE TO US IN CANADA, AND I AM SURE THE SAME APPLIES IN THE UNITED STATES, TO BE ABLE TO TEST THE REGULATORY PROCEDURES BEFORE THEY HAVE TO BE APPLIED IN THE MUCH MORE DIFFICULT ENVIRONMENT THAT EXISTS IN ALASKA AND NORTHERN CANADA. AS HEAD OF THE AGENCY WITH RESPONSIBILITY FOR SUPERVISING THE CANADIAN PORTION OF

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THIS VAST PROJECT I WOULD ADD THAT PHASE I HAS ALSO ENABLED MY COLLEAGUES AND MYSELF TO ESTABLISH GOOD WORKING RELATIONSHIPS WITH THE FEDERAL INSPECTOR AND HIS STAFF WHO HAVE SIMILAR RESPONSIBILITIES FOR THE U.S. PORTION. IN PARTICULAR WE WERE ABLE TO NEGOTIATE AND TO HAVE APPROVED BY OUR RESPECTIVE GOVERNMENTS A STATEMENT OF THE PROCEDURES TO BE FOLLOWED IN CARRYING OUT THE TERMS OF THE AGREEMENT BETWEEN CANADA AND THE UNITED STATES WHEREBY "EACH GOVERNMENT WILL ENDEAVOUR TO ENSURE THAT THE SUPPLY OF GOODS AND SERVICES TO THE PIPELINE PROJECT WILL BE ON GENERALLY COMPETITIVE TERMS."

WHILE, AS I HAVE SAID, THE FIRST-STAGE CONSTRUCTION OF THE SOUTHERN SEGMENTS OF THE PIPELINE HAS MOVED AHEAD ON SCHEDULE SINCE THE DECISION TO PROCEED WAS MADE EARLY LAST SUMMER, THERE HAS ALSO BEEN SUBSTANTIAL PROGRESS WITH RESPECT TO ISSUES INVOLVING THE UNDERTAKING OF THE REMAINDER OF THE PROJECT IN CANADA AND ALASKA.

THE FINAL DESIGN AND ENGINEERING OF THE PIPELINE AND CONDITIONING PLANT IN ALASKA IS NOW WELL ADVANCED. THE FEDERAL ENERGY REGULATORY COMMISSION IS, AS I UNDERSTAND IT, IN THE LAST STAGES OF ITS CONSIDERATION OF THE FINAL DESIGN COST ESTIMATES OF THE ALASKAN PORTION OF THE PIPELINE, WHICH MUST BE ESTABLISHED FOR PURPOSES OF CALCULATING THE INCENTIVE RATE OF RETURN ON EQUITY. SOME MONTHS AGO, THE PIPELINE SPONSORS AND THE GAS PRODUCERS ALSO REACHED AGREEMENT ON AN OUTLINE OF THE RESPECTIVE ROLE THAT EACH WOULD PLAY WITH RESPECT TO THE FINANCING OF THE ALASKAN

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PORTION OF THE SYSTEM, WHICH INCLUDES BOTH THE PIPELINE AND THE GAS CONDITIONING PLANT.

AS ALL OF YOU RECOGNIZE, A NEW ELEMENT OF UNCERTAINTY WAS INJECTED INTO THIS WHOLE COMPLEX PROCESS WITH THE ELECTION OF A NEW ADMINISTRATION UNDER PRESIDENT REAGAN LAST NOVEMBER. DURING HIS ADDRESS TO BOTH HOUSES OF THE CANADIAN PARLIAMENT LAST MARCH., HOWEVER, PRESIDENT REAGAN MADE CLEAR HIS STRONG SUPPORT FOR THE UNDERTAKING. THAT SUPPORT HAS NOW BEEN GIVEN PRACTICAL EXPRESSION THROUGH THE SUBMISSION BY THE REAGAN ADMINISTRATION TO CONGRESS OF THE PACKAGE OF WAIVERS TO EXISTING LEGISLATION WHICH IT CONSIDERED ESSENTIAL TO FACILITATE PRIVATE FINANCING OF THE SECOND-STAGE OF THE PROJECT IN BOTH CANADA AND THE UNITED STATES.

BECAUSE IT HAS CONSIDERABLE RELEVANCE TO THE ISSUES CURRENTLY UNDER DISCUSSION, I THINK IT IS WORTH CALLING TO YOUR ATTENTION THE LETTER WHICH PRESIDENT REAGAN SENT TO PRIME MINISTER TRUDEAU JUST PRIOR TO THE SUBMISSION OF THIS WAIVER PACKAGE TO CONGRESS.

IN THAT LETTER OF OCTOBER 6, THE PRESIDENT WROTE:

" IN VIEW OF THE IMPORTANCE WHICH YOU ATTACH TO THIS QUESTION, I WANTED TO ADVISE YOU IN ADVANCE OF OUR PUBLIC ANNOUNCEMENT THAT I HAVE DECIDED TO SUBMIT FOR CONGRESSIONAL APPROVAL THE FULL PACKAGE OF WAIVERS REQUESTED BY THE SPONSORS OF THE ALASKA NATURAL GAS TRANSMISSION SYSTEM. MY RECOMMENDATION TO THE HOUSE AND SENATE WILL BE SUBMITTED LATER

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"TODAY. IT IS THE VIEW OF THE PROJECT SPONSORS THAT THIS PACKAGE OF WAIVERS WILL FACILITATE THE COMPLETION OF THE ALASKA NATURAL GAS TRANSMISSION SYSTEM UNDER PRIVATE FINANCING. AS I MADE CLEAR DURING OUR PREVIOUS DISCUSSIONS OF THIS MATTER, MY ADMINISTRATION SUPPORTS THE COMPLETION OF THIS PROJECT THROUGH PRIVATE FINANCING, AND IT IS OUR HOPE THAT THIS ACTION WILL CLEAR THE WAY TO MOVING AHEAD WITH IT. I BELIEVE THAT THIS PROJECT IS IMPORTANT NOT ONLY IN TERMS OF ITS CONTRIBUTION TO THE ENERGY SECURITY OF NORTH AMERICA, BUT IT IS ALSO A SYMBOL OF US-CANADIAN ABILITY TO WORK TOGETHER COOPERATIVELY IN THE ENERGY AREA FOR THE BENEFIT OF BOTH COUNTRIES."

THE PRESIDENT ALSO HAS REITERATED THESE POINTS IN HIS MESSAGE TO CONGRESS PUTTING FORWARD THE WAIVER PACKAGE.

THE CANADIAN GOVERNMENT HAS EXPRESSED ITS APPRECIATION TO THE PRESIDENT AND THE ADMINISTRATION FOR THE ACTIONS THEY HAVE TAKEN SINCE COMING TO OFFICE TO SUPPORT THE AGREEMENT BETWEEN OUR TWO COUNTRIES.

I MUST SAY THAT IT CAME WITH A GREAT SENSE OF RELIEF TO ME TO LEARN THAT THE ADMINISTRATION WAS PROCEEDING WITH THE INTRODUCTION IN CONGRESS OF THESE WAIVERS TO EXISTING LEGISLATION BECAUSE I WAS VERY CONCERNED, AS I ACKNOWLEDGED PUBLICLY, THAT ANY PROLONGED DELAY COULD PROVE TO BE VERY DANGEROUS INSOFAR AS THE PROSPECTS WERE CONCERNED FOR MOVING AHEAD WITH THE REMAINDER OF THE PROJECT.

AS I INDICATED PREVIOUSLY, THIS PROJECT HAS FROM THE VERY BEGINNING BEEN SET BACK BY A SERIES OF DELAYS. THERE WAS THE PROLONGED DEBATE IN CONGRESS OVER NEW GAS PRICING LEGISLATION TO WHICH I REFERRED EARLIER,

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WHEN THE LENGTHY PERIOD REQUIRED TO COME TO GRIPS WITH SEVERAL MAJOR REGULATORY ISSUES, FOLLOWED BY THE SEEMINGLY AGONIZING PROCESS OF WORKING OUT AN ACCORD BETWEEN THE ALASKA PIPELINE SPONSORS AND THE PRODUCERS, AND SUBSEQUENTLY THE EXTENSIVE CONSIDERATION WITHIN THE ADMINISTRATION - IN CONSULTATION WITH CONGRESSIONAL LEADERS - ON THE AMENDMENTS THAT SHOULD BE PROPOSED TO THE EXISTING LEGISLATION.

NOTWITHSTANDING THESE DELAYS, WHICH HAVE SET THE ORIGINAL COMPLETION DATE BACK FROM EARLY 1983 TO A CURRENT TARGET DATE OF LATE 1986, THE FORWARD MOMENTUM OF THE PROJECT HAS ALWAYS BEEN MAINTAINED - EVEN IF AT TIMES IT HAS BEEN PAINFULLY SLOW.

I REFER TO THE GREAT RISK INVOLVED IN NOT MOVING AHEAD EXPEDITIOUSLY BECAUSE I SENSE THAT IN SOME QUARTERS THERE IS A FEELING THAT WHILE, YES, THIS PROJECT IS VERY DESIRABLE AND, YES, OVER THE LONG TERM IT WILL NO DOUBT BE ECONOMICALLY FEASIBLE AND NECESSARY FOR THE NATION'S NATIONAL SECURITY, IT IS A PROJECT WHOSE TIME HAS NOT YET COME. SINCE THE UNITED STATES HAS ALL THE GAS IT REQUIRES AT THE MOMENT AND CAN ALWAYS LOOK FOR MORE FROM CANADA IF NECESSARY - SO THE REASONING GOES - AND SINCE THE GAS FROM ALASKA WILL AT LEAST INITIALLY BE HIGH COST AND ITS MARKETING PERHAPS IMPEDED BY POSSIBLE ACCELERATED DEREGULATION OF GAS PRICES, LET'S JUST PUT THE WHOLE PROJECT ON HOLD FOR A FEW YEARS UNTIL WE SEE WHAT TRANSPIRES.

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I SINCERELY HOPE, AS A CANADIAN AND A NORTH AMERICAN, THAT THIS KIND OF THINKING DOES NOT PREVAIL AS THE TIME FOR DECISION ON THIS GREAT JOINT PROJECT APPROACHES. MY GUT FEELING IS THAT THERE MAY BE NO SECOND CHANCE TO PUT IT ALL TOGETHER AGAIN. WOULD A CANADIAN GOVERNMENT BE PREPARED TO ENTER INTO ANOTHER AGREEMENT TO BUILD A LAND BRIDGE TO CARRY ALASKA GAS TO THE LOWER 48 STATES IF THE PRESENT AGREEMENT TURNED OUT TO BE NON-OPERATIVE? HOW MANY PRIVATE COMPANIES COULD BE FOUND WHO WOULD BE WILLING TO TRY AGAIN?

IN UNDERTAKING ANY MAJOR PROJECT WITH THE VERY LONG LEAD TIMES REQUIRED TODAY, THERE IS ALWAYS A LARGE ELEMENT OF UNCERTAINTY AS TO WHAT THE FUTURE WILL HOLD IN STORE. DESPITE THAT UNCERTAINTY, THERE IS NO WAY TO AVOID DEVELOPING AND IMPLEMENTING PLANS FOR SUCH PROJECTS THAT WILL ONLY COME TO FRUITION MANY YEARS AHEAD ON THE BASIS OF THE BEST JUDGMENT WHICH CAN BE MADE IN LIGHT OF PRESENT-DAY KNOWLEDGE - IMPERFECT AND ALL AS IT MAY BE.

IN 1977 THE GOVERNMENTS OF CANADA AND THE UNITED STATES WERE SUFFICIENTLY CONCERNED ABOUT FUTURE ENERGY SUPPLIES TO ENTER INTO AN AGREEMENT TO FACILITATE THE BUILDING OF THE ALASKA HIGHWAY NATURAL GAS PIPELINE. I ASK MYSELF THESE QUESTIONS: IS THE OUTLOOK FOR ENERGY SUPPLIES BETTER NOW THAN IT WAS WHEN THIS HISTORIC AGREEMENT WAS ENTERED INTO? IS THERE LESS NEED FOR ALASKA GAS OR LESS NEED FOR A LATERAL PIPELINE TO TAP CANADIAN GAS SUPPLIES FROM THE MOUTH OF THE MACKENZIE

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OR THE BEAUFORT SEA? WILL ALASKA GAS BE LESS COMPETITIVE THAN IT WAS IN 1977? IS THE NATIONAL SECURITY OF THE UNITED STATES AND CANADA LESS THREATENED BY DEPENDENCE UPON PETROLEUM FROM POLITICALLY VOLATILE AREAS OF THE WORLD NOW THAN IT WAS IN 1977?

LIKE EVERYONE ELSE, I AM AWARE OF THE CURRENT MODERATE SURPLUS OF NATURAL GAS IN THE UNITED STATES AND CANADA, WHICH DID NOT EXIST IN 1977. I ALSO REMEMBER THAT BEFORE 1973 THERE WAS COMPLACENCY THROUGHOUT THE WORLD ABOUT ENERGY. I WAS MINISTER OF FINANCE IN CANADA BETWEEN 1965 AND 1968 AND FOREIGN MINISTER FROM 1968 TO 1974. UNTIL THE EMBARGO ON OIL SHIPMENTS TO THE UNITED STATES AND THE SUBSEQUENT DECISION OF THE OPEC COUNTRIES TO RAISE THE PRICE OF THEIR PETROLEUM EXPORTS, I, LIKE POLITICAL LEADERS AND BUSINESSMEN THROUGHOUT THE WORLD, MADE THE ASSUMPTION, IMPLICITLY IF NOT EXPLICITLY, THAT THERE WOULD CONTINUE TO BE ABUNDANT SUPPLIES OF CHEAP ENERGY. WE HAVE ALL PAID DEARLY FOR THAT COMPLACENCY.

UNDOUBTEDLY WE IN NORTH AMERICA HAVE LEARNED MUCH FROM THE SHOCKS OF 1973 AND 1979. WE ARE LEARNING TO CONSERVE ENERGY AND TO ENCOURAGE PRODUCTION AT HOME. THIS IS ALL TO THE GOOD. WE ARE SOMEWHAT LESS VULNERABLE THAN WE WERE, THANK GOODNESS. BUT WE ARE STILL MORE VULNERABLE THAN WE CAN AFFORD TO BE, PARTICULARLY IF WE ACHIEVE OUR GOALS OF A HEALTHY, EXPANDING ECONOMY IN THE YEARS TO COME.

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TO BE SPECIFIC, IT SEEMS INCREDIBLE TO ME THAT THE UNITED STATES, AND HERE I INCLUDE THE GOVERNMENT, THE INDUSTRIES AND THE PEOPLE OF YOUR GREAT COUNTRY, COULD CONCEIVABLY TAKE THE POSITION THAT IT IS NOT OF GREAT IMPORTANCE WHETHER OR WHEN YOU GAIN ACCESS TO THE 26 TRILLION CUBIC FEET OF NATURAL GAS THAT IS AVAILABLE FOR SHIPMENT FROM PRUDHOE BAY - AND MORE MAY BE DISCOVERED - THE LARGEST SINGLE SOURCE OF ADDITIONAL ENERGY AVAILABLE TO YOU FOR YEARS TO COME.

MOREOVER, I VENTURE TO SAY THAT IF ALASKA GAS WAS COMPETITIVE IN 1977 WHEN THE PRESIDENT OF THE UNITED STATES AND THE CONGRESS MADE THEIR DECISION TO SUPPORT THE ALASKA PROJECT AND CANADA AGREED TO A LAND BRIDGE, IT IS PROBABLY EVEN MORE COMPETITIVE TODAY. I WOULD REMIND YOU THAT IN 1977 THE PRICE OF PETROLEUM WAS AROUND $15 PER BARREL AND TODAY IS MORE THAN DOUBLE THAT AMOUNT.

EVERYONE WHO HAS STUDIED THIS PROJECT KNOWS THERE ARE MARKETING PROBLEMS IN THE EARLY YEARS OF DELIVERY. THIS WAS FORESEEN BY THE PROVISIONS FOR ROLLING IN ALASKA GAS WITH OTHER SUPPLIES. THERE IS ALSO SOME NATURAL CONCERN AS TO THE EFFECTS OF FURTHER GAS DEREGULATION ON THE MARKETABILITY OF ALASKAN GAS IN THOSE EARLY YEARS. EVERYONE I KNOW WHO HAS STUDIED THIS PROJECT IS ALSO AGREED THAT BECAUSE OF A REDUCING RATE BASE, OVER THE LIFETIME OF THIS PROJECT ALASKA GAS WILL PROBABLY BE ONE OF THE MOST MARKETABLE OF ALL ENERGY SUPPLIES AVAILABLE IN THE LOWER 48

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STATES EVEN MAKING OPTIMISTIC ASSUMPTIONS ABOUT THE COURSE OF FUTURE INFLATION. THE KIND OF MARKETING PROBLEMS ENCOUNTERED IN EARLY YEARS IS NOT NEW. WE HAVE IT IN CANADA IN CONNECTION WITH OUR NEW EAST-WEST PIPELINES AND WE ARE FINDING MEANS OF BRIDGING THE GAP IN PRICES IN THE EARLY YEARS. THIS IS SURELY NOT AN INSUPERABLE MARKETING PROBLEM.

THE ECONOMICS OF THE PROJECT ARE CRUCIAL, AND I BELIEVE THEY ARE DEMONSTRABLY SOUND. THEY ARE RE-INFORCED IN MY VIEW BY THE MOST FUNDAMENTAL OF ALL CONSIDERATIONS - ONE THAT HAS BEEN FULLY RECOGNIZED BY THE CONGRESS, BY FORMER PRESIDENT CARTER AND BY PRESIDENT REAGAN - NAMELY, THE NATIONAL SECURITY OF THE UNITED STATES. THE NATIONAL INTERESTS OF BOTH OUR COUNTRIES, BUT PARTICULARLY YOUR OWN, REQUIRE US TO REDUCE OUR DEPENDENCY - FAR MORE THAN WE HAVE ALREADY DONE - ON EXTREMELY UNCERTAIN ENERGY SUPPLIES FROM ABROAD - PARTICULARLY FROM THE VOLATILE PETROLEUM EXPORTING NATIONS OF THE MIDDLE EAST - AND TO INCREASE OUR OWN SELF-RELIANCE.

YOU MAY CONSIDER IT PRESUMPTUOUS OF ME AS A CANADIAN TO SPEAK OF THE ECONOMIC AND NATIONAL SECURITY INTERESTS OF THE UNITED STATES IN THIS PROJECT. I DO SO BECAUSE WE IN CANADA HAVE A JOINT STAKE IN THE OUTCOME. OUR TWO GOVERNMENTS ARE BOUND BY AGREEMENT TO DO EVERYTHING REASONABLY POSSIBLE TO FACILITATE THE UNDERTAKING OF THIS IMMENSE PROJECT BY PRIVATE INTERESTS. APART FROM THE SHORT-TERM ECONOMIC STIMULUS, WE HAVE AN IMPORTANT INTEREST

IN THE PIPELINE BECAUSE OF THE ACCESS IT WILL PROVIDE TO OUR EXISTING RESERVES IN THE MACKENZIE DELTA AND POSSIBLY TO ADDITIONAL RESERVES THAT WILL BE ESTABLISHED OFFSHORE IN THE BEAUFORT SEA. PERHAPS OVER-RIDING EVERYTHING ELSE, BECAUSE THE FATE OF OUR TWO NATIONS AND OF OUR ECONOMIES IS CLOSELY INTERTWINED, WE IN CANADA HAVE A VITAL INTEREST IN SEEING THAT YOUR COUNTRY HAS AMPLE AND SECURE SOURCES OF DOMESTIC ENERGY SUPPLIES. FUNDAMENTALLY, THAT IS WHY WE ARE PREPARED TO JOIN WITH YOU IN THIS GREAT JOINT PROJECT.

EARLIER IN MY REMARKS, I SPOKE OF THE EXTREME IMPORTANCE FOR THE SURVIVAL OF THE PROJECT THAT IT CONTINUE TO MAINTAIN ITS MOMENTUM. FROM A CANADIAN PERSPECTIVE THIS TAKES ON ADDED IMPORTANCE FROM THE POINT OF VIEW OF THE SCHEDULING OF CONSTRUCTION. WE HAVE EITHER ALREADY IN PROGRESS OR ON THE DRAWING BOARDS A NUMBER OF VERY LARGE ENERGY PROJECTS THAT ARE DUE TO BE COMPLETED DURING THE PRESENT DECADE. TO AVOID AN INTOLERABLE STRAIN ON PHYSICAL AND HUMAN RESOURCES, AND TO KEEP COSTS UNDER CONTROL, IT IS VITAL THAT CONSTRUCTION OF THE REMAINING SEGMENT OF THE ALASKA HIGHWAY PIPELINE IN CANADA BE PHASED TO AVOID UNDUE OVERLAPPING WITH THESE OTHER DOMESTIC PROJECTS. THE SOONER CONSTRUCTION OF THE NORTHERN SECTIONS GETS STARTED THE BETTER.

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AN IMMENSELY CHALLENGING JOB STILL LIES AHEAD - FINANCING THE CONSTRUCTION OF THE REMAINING SECTIONS OF THIS MASSIVE UNDERTAKING - PARTICULARLY THE ALASKAN SEGMENT OF THE SYSTEM. EVEN WITH THE HEAVY INVOLVEMENT OF 10 OF THE MAJOR GAS TRANSMISSION COMPANIES IN NORTH AMERICA - INCLUDING TRANSCANADA PIPELINES AS A MEMBER OF THE ALASKA CONSORTIUM - AND THREE OF THE LEADING PETROLEUM PRODUCERS, THE RAISING OF THE NECESSARY INVESTMENT CAPITAL WILL NOT BE EASY. WHILE THE CHALLENGE MAY BE VERY GREAT, SO IS THE COST OF FAILURE IN TERMS OF THE ECONOMIC AND SECURITY INTERESTS THAT ARE AT STAKE AND, BEYOND THAT, THE PUBLIC'S CONFIDENCE IN THE ABILITY OF PRIVATE ENTERPRISE TO SERVE THOSE CRITICAL NATIONAL INTERESTS.

TO ALL THOSE WHO HAVE AN INTEREST IN GOOD RELATIONS BETWEEN CANADA AND THE UNITED STATES, THIS, THE FIRST JOINT PROJECT EVER UNDERTAKEN BY PRIVATE COMPANIES ON THE TWO SIDES OF THE BORDER, IS MORE THAN A COMMERCIAL UNDERTAKING. IT IS A SYMBOL. AS PRESIDENT REAGAN SAID IN HIS MESSAGE TO CONGRESS TRANSMITTING THE WAIVER PACKAGE:

> "IT IS A SYMBOL OF U.S.-CANADIAN ABILITY TO WORK TOGETHER CO-OPERATIVELY IN THE ENERGY AREA FOR THE BENEFIT OF BOTH COUNTRIES AND PEOPLES."

– SOHIO Senior VP

STATEMENT OF F. E. MOSIER
BEFORE THE FOSSIL AND SYNTHETIC FUEL SUBCOMMITTEE
OF THE HOUSE ENERGY AND COMMERCE COMMITTEE
AND THE ENERGY AND ENVIRONMENT SUBCOMMITTEE
OF THE HOUSE INTERIOR COMMITTEE

October 22, 1981

STATEMENT OF F. E. MOSIER
BEFORE THE FOSSIL AND SYNTHETIC FUEL SUBCOMMITTEE
OF THE HOUSE ENERGY AND COMMERCE COMMITTEE AND THE
ENERGY AND ENVIRONMENT SUBCOMMITTEE OF THE
HOUSE INTERIOR COMMITTEE

October 22, 1981

Mr. Chairman, my name is Frank Mosier. I am a Senior Vice President and a Director of The Standard Oil Company, in charge of its supply and transportation activities. My responsibilities in the transportation area include, among other things, Sohio's interest in this gas pipeline project, the trans-Alaska oil pipeline, and a fleet of ocean-going tankers transporting the Alaskan North Slope crude oil.

By way of background, following the discovery of the Prudhoe Bay oil field, the importance of the 26 trillion cubic feet of natural gas in this reservoir was recognized and studies were conducted to determine how best to move this gas to market in the lower 48 states. Sohio, as an owner of approximately 25% of the gas, participated in certain of these studies. We were convinced that this was an important future source of energy for the United States. Subsequent events have borne out that the production of the largest reservoir of natural gas yet discovered in North America is of vital importance to the United States. At a gas delivery rate of 2 billion cubic feet per day, this reservoir will supply approximately 5% of U.S. natural gas usage. Moreover, the availability of a transportation system will likely stimulate exploration on the North Slope of Alaska, which could result in additional significant natural gas discoveries.

Through the years we have been in a continuing process of evaluating alternative systems for the transportation and marketing of the Prudhoe Bay gas. We believe that the concept of a large diameter pipeline from Prudhoe Bay through Alaska and Western Canada to the lower 48 states is as good as any means to bring this gas to market. The Alaska Natural Gas Transportation System, frequently referred to as ANGTS, employs this physical concept. Other alternatives including an all-Alaskan line, conversion to methanol on the North Slope, and the use of ice breaking tankers, have several key characteristics in common with the ANGTS project. Initial investments of the same order of magnitude are indicated, and each of these projects has its own unique risks and regulatory problems. Selection of any of these alternatives would encounter similar problems in financing, and we would lose all the benefit of the far-advanced engineering and related work.

In testimony before Congress in 1977 when the President's Decision was under consideration, Sohio made it clear that we were not in the gas transmission business and had no desire to enter that business. We still have no desire to be in the gas transmission business. We also expressed the opinion that the project could not be financed without government participation, and we questioned the viability of the project under the conditions set forth in the President's Decision. However, in 1979 we were urged by the Department of Energy to consider becoming a part of this project because it could not be financed without the participation

of the Prudhoe Bay gas producers. In June 1980, Sohio, along with Arco and Exxon, signed a cooperative agreement with the gas transmission companies to carry out design, engineering, and cost estimation work on the Alaskan segment of the pipeline and gas conditioning plant on a shared cost basis. The producers also signed a Joint Statement of Intention with the sponsoring partnership, pledging to work toward a financing plan. We believe that the producers have carried out their obligations under these agreements. Sohio's share of costs under these agreements has totaled approximately $40 million to date.

We have indicated a willingness to take on a commitment of up to $2.25 billion which represents a share of the producers' overall 30% interest in the Alaskan segment of this project. Our share will be based on our percentage of gas reserves supplying this facility. This participation is subject to certain conditions and limitations. Two of the conditions are satisfied by elements of the waiver package which is the subject of these hearings. Sohio must have an equity interest in the project consistent with its level of investment, and the gas conditioning plant must be part of the transportation system. Other conditions and qualifications which must be satisfied include the following: the total project must retain economic viability; all necessary governmental approvals must be obtained on a timely basis; there must be assurance that the Canadian segment will be financed;

all funds for the Alaskan segment must be committed before construction commencement; and the financing must be on the same terms and conditions which apply to other investors in the project.

The fact that Sohio has agreed to commit over $2 billion to this project is a statement of our current attitude on its importance, the appropriateness of the physical concept and its prospective economic viability. However, if world events or governmental processes or decisions change the viability of this project, we would have to reassess our participation prior to major expenditure of funds.

This project is the second largest, upfront financial commitment that Sohio has ever made, exceeded only by our initial $4 billion commitment to the trans-Alaska oil pipeline and the Prudhoe Bay field development. During the next 5 years, while this project is under construction, Sohio's capital expenditures are anticipated to be about $20 billion. Over 80% of these expenditures are for domestic energy-related projects and programs. Approximately $6 billion represent expenditures to maintain the Prudhoe Bay oil production. No other single project will carry with it an upfront commitment as large as $2.25 billion. Unlike ANGTS, other projects and programs can be accelerated or slowed down as circumstances dictate. The lack of flexibility in a commitment of this size, and other risk factors such as uncertainty of

future gas prices, gas markets, capital cost overruns, and completion delays, make it less than prudent for us to commit more than $2.25 billion to this project. I want to emphasize that this commitment of $2.25 billion is the upper limit of our participation.

An additional condition to Sohio's participation in this project is that initial financing arrangements for the Alaskan portion must be for at least $30 billion. This amount, which includes a $3 billion overrun pool, is based on definitive estimates prepared by contractors at a cost to the participants of about $400 million. Our experience with high rates of inflation for construction on the North Slope of Alaska substantiates the need for the included contingencies and overrun pool.

As indicated above, two important elements of the waiver package are necessary to obtain our participation in the project. If we are going to provide financial support, we must have the right to be an equity owner, and the conditioning plant must be included as part of the transportation system in Alaska. Equity ownership is required because those who invest in a project are entitled to the full benefits of ownership. The conditioning plant must be included because it is necessary solely to prepare the gas for entry into the pipeline. The design basis selected for the pipeline dictates the degree of conditioning required. Alternative pipeline designs could have been selected at higher capital costs

and lower operating efficiency which would have eliminated the need for this facility. The conditioning plant is a part of the transportation system selected and should be included in the system for tariff and other purposes.

In conclusion, the equity and gas conditioning plant provisions of the waiver package are critical to our participation. Other provisions such as regulatory certainty and billing commencement are critical to the sponsors and bankers. It is not clear to us that a project of this magnitude can be financed without Federal government participation. However, it is clear that without the waiver package the project cannot go forward.

Sohio

STATEMENT OF WILLIAM D. LEAKE, VICE PRESIDENT
ALASKA NATURAL GAS TRANSPORTATION SYSTEM PROJECT,
ATLANTIC RICHFIELD COMPANY, BEFORE THE FOSSIL AND SYNTHETIC FUEL SUBCOMMITTEE
OF THE HOUSE ENERGY AND COMMERCE COMMITTEE AND THE ENERGY AND
ENVIRONMENT SUBCOMMITTEE OF THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS,
UNITED STATES HOUSE OF REPRESENTATIVES, OCTOBER 22, 1981

On behalf of Atlantic Richfield Company, I wish to express my appreciation for being afforded the opportunity to present my company's views regarding the Waivers of Law submitted by President Reagan to the Congress in accordance with the Alaska Natural Gas Transportation Act.

In 1968, Atlantic Richfield, operating for itself and Exxon Company, U.S.A., discovered near Prudhoe Bay, Alaska the largest single deposit of hydrocarbons ever encountered in the North American continent. It was later determined that the reservoir contained in excess of 9 billion barrels of recoverable oil and approximately 26 trillion cubic feet of natural gas reserves. Developement of this enormous field in North Alaska commenced almost immediately and in 1977, after completion of the Trans-Alaska Oil Pipeline, production of crude oil and natural gas commenced. Since that time, the Prudhoe Bay Field has produced approximately 2 billion barrels of crude oil and the field is currently producing approximately 1.5 million barrels per day, all of which has been consumed in Alaska or in the lower 48 states. At the present time, there is also being produced from the field approximately 2 billion cubic feet of gas per day. Approximately 120 million cubic feet per day of this gas is used as field fuel, approximately 30 million cubic feet per day is delivered to the Trans-Alaska Pipeline System to fuel the first 4 pump stations and the remainder is reinjected into the reservoir to aid in pressure maintenance and to be conserved until a gas transportation system is constructed.

Atlantic Richfield was an early advocate of the construction of a gas transportation facility to permit gas sales from the Prudhoe Bay Field. Our company participated in and contributed to feasibility studies of both the Trans-Alaskan and Arctic Gas transportation routes, and as will be detailed later in these comments, we have made a significant contribution in money and manpower to the ANGTS design effort.

In 1977, the President and the Congress determined that the Alaska Natural Gas Transportation System should be constructed along the Alcan Highway and selected Northwest Pipeline Company to construct and operate the system. Shortly thereafter, the Congress enacted the Natural Gas Policy Act of 1978 wherein, for the first time, they established a permanent ceiling price for Prudhoe Bay gas at $1.45 per million BTUs to be adjusted only by an amount equivalent to annual inflation.

Subsequent to the selection of the transportation route and the enactment of the pricing legislation, Atlantic Richfield negotiated Letters of Intent for the sale of its share of the Prudhoe gas production with six potential purchasers, Pacific Lighting Corp., Panhandle Eastern Pipeline Company, Texas Eastern Corporation, Texas Gas Transmission Company, United Gas Pipeline Company and Transwestern Pipeline Company. Definitive gas sales agreements have not been negotiated with all potential purchasers; however, we anticipate that these necessary negotiations will be completed prior to the certification of the Alaska Natural Gas Transportation System.

In his 1977 Decision and Report to the Congress on the Alaska Natural Gas Transportation System, the President stated that producers of significant amounts of Alaska gas, their subsidiaries and affiliates, should not participate in the ownership of the Alaska Natural Gas Transportation System except that the producers could provide guarantees for project debt prior to project completion only. In his report, the President stated, "The aforesaid producers of Alaska gas may not be equity members of the sponsoring consortium, have any voting power in the project, have any role in the management or operation of the project, have any continuing financial obligation in relation to debt guarantees associated with initial project financing after the project is completed and the tariff is put into effect, or impose conditions on the guarantees of project debt permitted above which may give rise to competitive abuses, including power to veto pro-competitive policies." (Decision, p.39) While Atlantic Richfield had no interest in owning an interest in or assisting in the financing of a gas pipeline system, we informed the Congress in 1977 that such limitations were unwarranted and unprecedented in any financial transaction that we have ever encountered and that it was our opinion that such limitations would severly discourage any prospective creditor or guarantor. In spite of the concerns of Atlantic Richfield and of others that were expressed to the Congress, the requirement of the President's Decision that producers be excluded from financial participation in the Alaska Natural Gas Transportation System was adopted.

In August 1979, Secretary of Energy James R. Schlesinger urged the principal gas producers in the Prudhoe Bay Field to propose plans for producer participation in the ownership and construction of the Alaska Natural Gas Transportation System. The Secretary informed the producers that, in his opinion, the pipeline system could not be privately financed without the participation of the major producers.

In response to the Secretary's request, Atlantic Richfield, on February 2[illegible], 1980, informed Secretary of Energy Charles W. Duncan, Jr. that it was willing to discuss possible financing plans with the pipeline sponsors but that it would not assume responsibility for guaranteeing the debts of any other participant nor could it assure or guarantee the completion of the project. Atlantic Richfield also informed Secretary Duncan that it could not participate in the project unless all conditions necessary to finance and construct an economically viable system were satisfied and that it was unwilling to provide more than its proportionate share of the debt of the pipeline project.

In its communications with Secretary Duncan, our Company summarized its concerns relating to the financeability of the transportation system, pointing out that the Company could not provide the guarantees referred to in the President's Decision without placing the Company in severe financial jeopardy. The Company went on to enumerate the points that it ~~believed necessary to make the project~~ financeable and economically viable. Among the more important points highlighted by the Company at that time were the following: (1) approval of producer equity participation, (2) assurances that the entire project, including the Canadian leg, was economically viable and would be completed, (3) inclusion of the conditioning facilities in the transportation system and tariff, (4) tariff protection for the lenders against permanent or temporary interruption of service, and (5) a reliable cost estimate. As we noted at that time, there were other considerations; however, the foregoing list was of such importance that it was considered necessary to place special emphasis on the items contained herein.

In June, 1980, in response to further requests from the Department of Energy, Atlantic Richfield negotiated with the other producers and the pipeline

sponsors a Cooperative Agreement which enabled the producers and the sponsors to share the cost of developing a reliable pipeline design and cost estimate for the Alaska portion of the Transportation System, including the Gas Conditioning Plant. As a result of this Agreement, by the end of 1981 Atlantic Richfield will have contributed approximately $70 million toward the cost of the Design and Engineering study. The system cost estimate has now been delivered to the Federal Energy Regulatory Commission and is being reviewed by the Commission as a part of its certification process.

Concurrently, with the execution of the Cooperative Agreement, the pipeline sponsors and the producers signed a Joint Statement of Intention to Work together in an effort to develop a financing plan which could be presented to potential lenders and to the government to determine whether or not the project was viable. As a result of the efforts of the parties, on May 21, 1981, Atlantic Richfield, the pipeline sponsors and other producers agreed upon an outline of a financing plan and presented it to Secretary of Energy James Edwards. Included among the concepts set forth in the plan was an agreement by the Prudhoe gas producers and pipeline sponsors whereby the producers would be permitted to own 30% of the Alaska portion of the transportation system including the conditioning plant by providing equity in the amount of $2.25 billion and arranging debt contribution up to $6.75 billion. Atlantic Richfield's agreement upon these financing concepts was conditioned upon the following circumstances:

(1) The conditioning plant to be located on the North Slope of Alaska would be included as an integral part of the Alaska portion of the ANGTS.

(2) The debt/equity ratio for all capital investments in the system would be 75:25.

(3) The investment limits for all participating companies would be defined at the outset of the financing effort. As a group, the producer companies would provide equity in an amount not to exceed $2.25 billion.

(4) Debt funds (pipeline and plant) would be sought on a project credit basis. The transmission group would be responsible for arranging $15.75 billion in project debt and the producer group would accept responsibility for arranging $6.75 billion in additional project debt. Producer debt would be accorded terms and conditions equivalent to the terms and conditions accorded other project debt. All financing layers would be guaranteed equal terms and conditions.

(5) Each company's investment would be limited to a sum certain defined in the financing plan.

(6) The Alaska Northwest partners would own 70% of the pipeline and the plant and the producing companies would own 30% of the pipeline and the plant. Equity commitments to the completion assurance pool would be on a 70:30 ratio.

(7) All debt and equity participants would issue firm commitments, acceptable to all participants, prior to commencement of construction of the pipeline or plant.

(8) All necessary governmental approvals and authorizations (including producer equity ownership) would be issued and accepted by the participants.

(9) All parties would be assured that the project was economically viable.

(10) All parties would be assured that the Canadian segment would be financed and completed without U.S. company involvement.

Based upon the comments received from potential lenders, on June 17, 1981, the pipeline sponsors submitted to the President their recommendations for waivers considered to be necessary to permit the producers to consider participating in the project and to facilitate negotiations with potential lenders for the financing of the Alaska Natural Gas Transportation System.

Among the proposed waivers is a recommendation that the Alaska Natural Gas producers be permitted to own an equity interest in the transportation system. As we informed the Congress in 1977, we were not disturbed economically by being then excluded from equity participation in the project; however, we were deeply concerned that the President and the Congress would assume or suggest that our company had an obligation to put at risk a nonfinite sum of money in the form of open-ended guarantees of debts incurred by others while denying our Company any voice in management or voting power over expenditures. Even the fee for providing such guarantees was deemed by the President's Decision to be minimal and left to be determined at a later time. In 1977, we did not seek an opportunity to participate in the ownership or financing of the transportation system, on any basis. Until contacted by Dr. Schlesinger in 1979, our position remained the same. Since then, we have been informed by the Secretary of Energy, other administration officials and the pipeline sponsors that the gas pipeline project cannot be privately financed without producer participation. While we remain convinced that gas pipeline projects of this type should be owned and financed by gas pipeline companies, we are willing to consider participation in the ANGTS, but we have reservations about doing so.

To enable Atlantic Richfield to participate, even to a limited extent, it is necessary that the Congress approve a waiver of that part of the President's

Decision that excludes Atlantic Richfield and other producers from equity ownership in the pipeline. It is our belief that this barrier to producer participation was unwarranted in that it was based upon unrealistic judgmental theorizing by the Department of Justice which concluded that the producers should be excluded from transportation system ownership since such ownership in some manner might be construed to violate the antitrust laws. In our opinion, such determination was in error in 1977 and is equally in error at this time.

Our Company does not seek control of the transportation system, but it is neither able nor willing to commit the assets of Atlantic Richfield without ownership of an interest in the project which will enable it to ensure that our investment is properly managed. For example, our Company has no desire to influence or control access to the pipeline so long as the system is not jeopardized and so long as we are not required to contribute financially to permit such access. Similarly, we would want to participate in decisions relating to pipeline expansion only to the extent necessary to insure that our pre-existing investment in the pipeline system was not endangered by such expansion. Of course, all questions of access or expansion will come before the FERC for hearing and will be subject to Department of Justice review. We support the desirability of such Department of Justice review, and we are confident that this direct antitrust oversight will insure that the specific language in Section 13 of the Alaska Natural Gas Transportation Act and the policy behind such language will be strictly enforced.

While we firmly believe that producer equity ownership and debt responsibility in the pipeline system in no way violates the antitrust laws, to alleviate the apparent concern of some on this point, we suggested that the waiver language be accompanied with a provision stating that the waiver does not imply or effect an amendment to, or exemption from, any provision of the antitrust laws. Such a provision was included as Section 14 of the Alaska Natural Gas Transportation Act, and it would be appropriate to repeat the language in the waiver. We believe that it is inappropriate to create any antitrust standard applicable to producers only other than the standard set forth in Section 14, which seems to clearly reflect congressional intent to afford equal protection of law to all participants. Further, as noted in Alaska Northwest's June 17, 1981 waiver submittal to the President, producer ownership will, both initially and throughout the life of the project, be subject to FERC review. Thus, assurance will exist that producers cannot inhibit reasonable access or expansion.

Also included in the President's waiver proposals, is a recommendation that the conditioning plant required to prepare Alaska gas for shipment in the pipeline be included as an integral part of the Alaska segment of the ANGTS. The terms "gas processing" and "gas conditioning" have, during the history of this project, been used interchangeably as if synonymous. This is improper usage of these terms. Gas conditioning is properly defined as the act of rendering natural gas compatible with the design and quality specifications of a particular pipeline system. Gas processing refers to the act of removing liquid hydrocarbons for sale as natural gas liquids. It is important to keep this distinction in mind.

The gas conditioning plant to be constructed at Prudhoe Bay has been designed solely to meet the pipeline specifications selected by the sponsors. These specifications will require: (1) compressing the gas to unusually high pipeline inlet pressure; (2) establishing its hydrocarbon dew points at unusually stringent levels; (3) chilling the gas to below freezing temperatures; and (4) reducing the carbon dioxide content of the gas to a level significantly lower than the level ordinarily accepted for pipeline transmission. Such unique pressure and quality requirements will be imposed to provide initial pipeline compression, to facilitate the transportation of the gas, to prevent melting the permafrost and increase pipeline throughout capacity by chilling and to reduce transmission costs by eliminating carbon dioxide. These conditioning costs are therefore all properly a part of the cost of transporting the gas. The extraordinary specifications established by the pipeline sponsors for gas entering the ANGTS were designed to minimize the investment and operating costs of the transportation system. Further, the natural gas transmission companies which have already made public their arrangements for the purchase of Prudhoe Bay gas have contracted to take title to the gas including all entrained liquids at the inlet side of the gas conditioning plant. This reinforces the concept of the conditioning plant appropriately being considered a part of the overall transportation system.

The correctness of this concept has been demonstrated recently by Commission orders issued in March and June of 1981 in a proceeding involving Pacific-Offshore Pipeline Company (POPCO), FERC Docket CP74-35. The Commission there granted a certificate of public convenience and necessity to POPCO to construct an offshore pipeline and onshore gas conditioning facilities. Under the Commission approved plan, POPCO, a wholly owned subsidiary of Pacific Lighting Corporation, would purchase gas from the producer at the offshore production facilities, transport the gas onshore where it would be conditioned (or

treated) to pipeline specifications and then resold to Pacific Lighting. The main conditioning plant components included (1) removal of sulfur, (2) extraction of carbon dioxide and (3) removal of liquids necessary to achieve hydrocarbon dew point control. Thus, the conditioning plant certificated in POPCO is similar in essential purpose to the Prudhoe Bay conditioning plant. In certificating the conditioning facility, the Commission recognized the basic distinction between gas treating or conditioning and gas processing.

The POPCO proceeding demonstrates that inclusion of the Prudhoe Bay plant in the ANGTS is compatible with current Commission practice. Further, numerous certificated pipeline projects heretofore constructed in the lower 48 states have included conditioning facilities and the cost of service of such facilities have been included in approved tariffs.

The producer/sponsor May 21, 1981 agreement on financing concepts recognized financing realities that had been increasingly apparent as design and cost estimate work proceeded, discussions between sponsors developed, and preliminary opinions from the financial community were received. As the investment banking advisors stated in their analysis of the project, "One financing absolute is that, in terms of financial risk assessment, the natural gas transportation related functions of the gas conditioning plant constitute an indispensable part of the ANGTS. It performs functions which should be part of the System. The gas conditioning plant function that is dedicated to readying gas for transmission is creditworthy only to

the extent that the credit support for the ANGTS affords it security. By the same token, the other components of the System cannot obtain private financing unless the gas conditioning plant can be financed and constructed, and the debt and equity investment therein protected through the tariff mechanism underlying ANGTS. For financing purposes, this link in the chain forged by the ANGTS requires the same quality support afforded other components." In summarizing their position, the advisors observed, "Private financing without some such sharing would not be possible, for no lender could assess the risks of the project absent an evaluation of the gas conditioning plant risk, and could not provide funds to the truncated project without the same assurances being provided to the plant that the pipeline segments of the project is accorded. The financial community will not accept a situation where one integral part of the project is subject to regulatory treatment creating credit support materially weaker than another integral part."

The President's waiver proposals contain other recommendations that are deemed necessary by potential lenders and the sponsors if the project is to go forward. As a participant in the other large pipeline project in Alaska, the TAPS oil pipeline, we can attest to the difficulties which are to be encountered and the additional costs to be incurred if the regulatory review process is permitted to continue without limits. To the extent that Alaskan Northwest is required to participate in unnecessary evidentiary hearings prior to the commencement of each segment of the pipeline system, it could significantly prolong the time for completion of the project and add billions of dollars in cost.

This project has been reviewed as extensively as any similar project ever undertaken in the United States. The sponsors have stated that further regulatory hearings should be kept to a minimum and that the proceedings that are required should be handled expeditiously. We concur with this recommendation and support the President's proposed waivers relating to further hearings.

Potential lenders have informed the ANGTS sponsors that private financing of the project depends upon many factors, not the least of which is regulatory certainty. As we have learned from our TAPS experience, the need to clarify all regulatory standards prior to commencement of a project cannot be overemphasized, and the failure to establish the binding guidelines for determining the tariff can have unforeseen and detrimental consequences. Though the TAPS owners were convinced in 1973 that Interstate Commerce Commission regulations relating to oil pipeline tariffs were well-established and predictable, our company is now engaged in a protracted proceeding before the FERC to determine retroactively to the commencement of operations in 1977 the proper tariff to be charged for the pipeline shipment of Alaska oil. This proceeding has required that we commit thousands of hours of management time to defend a regulatory approach that we believed to be "certain". The ANGTS project will require a capital commitment between five and six times the amount expended on TAPS, and we share the concern of the lenders that a future regulatory agency, when confronted with the actual tariff, may feel compelled to revisit the decision of a prior commission and reduce the amount to be paid or modify the shipper tracking mechanism in a manner that deprives owners and shippers of the recoupment that they require to justify their respective investments and obligations. The proposal to waive Sections 4, 5, 7 and 16 of the Natural Gas Act is designed to provide potential lenders and the sponsors the assurance that once commitments have been

made to this project there will be no arbitrary regulatory action which will jeopardize the recovery of cost of service or tariff. If Congress does not provide this degree of certainty, it could lead to the refusal of large segments of the financial community to participate in this financing because of their concern that the obligors on the documents of indebtedness might be unable to fulfill their obligations to the lenders. The TAPS owners were able to fianance their project because of the willingness of their parent corporations to guarantee the debts of their respective affiliates involved in the project. No such assurance will exist in this undertaking, and the lenders will expect assurance of regulatory certainty before proceeding with the development of the financial plan.

Like other possible participants in this project, Atlantic Richfield requires assurance that Alaskan Northwest Natural Gas Transportation Company will be considered a "natural gas company" under the Natural Gas Act at the time that it or its affiliated company as a co-owner in Alaskan Northwest participates in the acceptance of the certificate of public convenience and necessity authorizing the owners of the project to proceed with construction and operation of the system. Thus, we concur with the recommendation of the President that Section 1(b) and 2(b) of the Natural Gas Act be waived to the extent necessary to classify Alaskan Northwest and any shipper of natural gas through the Alaska segment of the approved system as natural gas companies.

Perhaps the most controversial feature of the President's waiver proposals relates to the waiver of Section V Condition IV-3 of the President's Decision. This waiver would authorize the Federal Energy Regulatory Commission to permit billing to commence and collections to be made prior to actual delivery of Alaska gas if the Canadian, Alaskan pipeline or conditioning plant segment of the system

were completed and capable of operation and after a date established for payment by the FERC. We have been informed that some form of precommencement billing is necessary to fulfill a commitment of the United States to the government of Canada to permit investors in the Canadian segment to recover their investments if the entire project is not timely completed. Similar treatment is accorded the Alaska segment and the conditioning plant though the recovery is limited to debt service. Authorizing the Commission to permit collection of tariffs as to segments completed prior to the actual flow of Alaska gas should facilitate the financing of the project. Certainly, it will go a long way toward providing the assurances required by Canada prior to their issuing the necessary permits for the construction of the Canadian segment. The billing commencement waiver appropriately lessens some of the risks after physical completion. However, even if the full waiver package is approved, satisfactory financial commitments among lenders and equity participants must be negotiated. Until they are, we must remain uncertain as to whether or not the project can be privately financed.

Our company has specified the maximum commitment that it can make to the project. We are not trying to avoid risk per se, only risk beyond our financial capability; indeed, we find considerable risk in the thought of investing a finite sum of several billion dollars in this very costly system to send gas to a difficult-to-define future market in an economic outlook ill-defined as to inflation and cost of capital. Rather our concern is to reasonably limit our stockholders' risk capital to viable outer limits. Within those limits, we are concerned about the risk of overruns from unexpectedly high interest costs or inflation, about the risk of adverse political or economic events and about the risk of insufficient financial commitment from credit-worthy parties to assure that the expected project cost and possible overruns will be fully funded. We are equally concerned that wellhead

or tariff revenue might be reduced to facilitate financing. We are trying to lessen our concerns by (1) elaborate, early project engineering and costing, and (2) adequate contingent financing up front and/or some form of completion insurance.

If additional financial support for the project is required, the sponsors must look to other sources. Absent further participation, such as from other pipeline companies, State of Alaska, industrial users or other producers, the only other source may be the government.

We strongly believe that the project is in the national interest and that its construction will not only bring Prudhoe gas to the lower 48 states but it will also ensure that North Alaska is fully explored for oil and gas reserves. Absent an Alaska natural gas transportation system, many producers will be discouraged and exploration which would be in the national interest will not occur or will be deferred for decades.

In summary, while we cannot state that the Waiver package will be sufficient to satisfy the potential lenders' needs and ensure financeability of the project, it would appear that appropriate legislative action to clear away legal barriers is necessary to permit solicitation of project participation and to set in place some of the key economic and regulatory terms necessary for all to decide if the project is economically feasible. We consider construction of the ANGTS to be in the national interest and are hopeful of its success.

STATEMENT OF RADCLIFFE R. LATIMER

PRESIDENT, TRANSCANADA PIPELINE ALASKA, LTD.

Before
The Committee on Energy and Natural Resources
October 23, 1981

My name is Radcliffe R. Latimer. I am President and Chief Executive Officer of TransCanada PipeLines Limited and President of TransCanaa PipeLine Alaska Limited, which is a partner in the Alaskan Northwest Natural Gas Transportation Company. I appreciate this opportunity to appear before you today in support of the Alaska Natural Gas Transportation Sysytem (ANGTS) and the Waiver of Law Package submitted to the Congress by President Reagan.

TransCanada is the major west-to-east pipeline and the largest pipeline company in Canada. Since it commenced operation in 1958, TransCanada has constructed 6,000 miles of large diameter pipeline. At present, the TransCanada system extends from the Alberta-Saskatchewan border in Western Canada to Montreal in Eastern Canada, a distance of 2,500 miles.

TransCanada has an annual thoughput of approximately 1.4 trillion cubic feet of natural gas, of which in excess of 250 billion cubic feet or approximately 18% is exported to the United States, making it the largest exporter of natural gas to the United States from all sources.

TransCanada, along with its United States partner American Natural Resources, were the sponsors and are equal owners of the Great Lakes Gas Transmission Company, which traverses the upper midwestern United States for a distance of approximately 1,200 miles and transports over 400 billion cubic feet of natural gas annually.

TransCanada believes that a significant portion of the natural gas resources of North America lies in the Arctic regions of the United States and Canada and that the full development of those resources will make a substantial contribution to the long-term energy security of both countries. The discovery of hydrocarbons on the North Slope of Alaska and the MacKenzie Delta, Beaufort Sea and Arctic Islands regions of Canada confirms our beliefs.

These discoveries demonstrated the need for an economical transportation system to bring Arctic gas to market. As early as 1969 TransCanada became a charter member in a consortium formed for the purose of developing a transportation system for the natural gas reserves at Prudhoe Bay in Alaska and in Canada's MacKenzie Delta. We firmly believe that transportation of natural gas from the Arctic is economically and technologically feasible but will require a substantial financial investment. TransCanada is committed and is prepared to participate as an investor in this financial investment.

In early 1980, TransCanada, through a U.S. subsidiary, became a partner in the Northern Border Pipeline "prebuild project" to bring Canadian gas to U.S. consumers prior to the later delivery of Alaskan gas. In doing so, TransCanada provided the assured gas throughput volumes that enabled the entire financing of the eastern leg prebuild. In August 1980, TransCanada, through another U.S. subsidiary and along with three other interstate pipeline companies, elected to become a partner in the Alaska segment of

the ANGTS. TransCanada's commitment to the project is based on a thorough review and analysis of TransCanada's interests and the economic and engineering feasiblility of the everall ANGTS system.

Our analysis shows that the ANGTS is a sound investment for TransCanda and its partners. Although unprecedented in its magnitude, it is technologically feasible and can be constructed within the time and range of costs currently projected. The ANGTS will provide producers with the incentive to undertake new exploration in frontier regions. New discoveries will enhance the energy security of both the United States and Canada. Clearly, the ANGTS will be a valuable asset for investors and gas consumers, as well as a secure source of domestic energy for the United States.

These substantial benefits will not come easily. The ANGTS will be the largest energy project in history. The credit of the pipeline sponsors will not be sufficient to assure the successful financing of a project of this magnitude. Innovative financing techniques will be required if the project is to be constructed through private financing and without government guarantees. Approval of the waiver proposal submitted by President Reagan is the essential first step to permit the sponsors and producers to develop such a financing plan.

The ANGTS is necessary in the development of Arctic natural gas resources. If the ANGTS is not constructed in a timely manner development of frontier energy resources will be set back many

years with substantial detriment to the United States and Canada. It is imperative that we continue to make progress on the ANGTS. Passage by Congress of the Waiver of Law package is critical to that progress.

STATEMENT OF JEROME J. MC GRATH
PRESIDENT, INTERSTATE NATURAL GAS ASSOCIATION OF AMERICA
BEFORE THE
FOSSIL AND SYNTHETIC FUEL SUBCOMMITTEE OF THE
HOUSE ENERGY AND COMMERCE COMMITTEE
AND THE
ENERGY AND ENVIRONMENT SUBCOMMITTEE OF THE
HOUSE INTERIOR COMMITTEE

October 27, 1981

I am Jerome J. McGrath, President, Interstate Natural Gas Association of America, often referred to by its acronym, INGAA. We appreciate this opportunity to appear before your Committees to express our endorsement of and support for the Alaskan Northwest Natural Gas Transportation project. Final approvals for this project are long overdue, and favorable Congressional action on the waiver package is essential to development of a financing plan which will, hopefully, enable the project to go forward.

INGAA is a national trade association representing virtually all of the major interstate natural gas transmission companies in the United States. Our members account for approximately ninety percent of all natural gas transported and sold in interstate commerce. All of the U. S. pipeline partners in Alaskan Northwest are members of INGAA either directly or through affiliates or subsidiaries. You have heard testimony from most, if not all, of the partners, and INGAA certainly joins in their unified support of the project and request for approval of the waiver package.

Since these companies are much more familiar with the proposed waivers and are in a much better position to comment on them than we are, my statement will not address the waivers as such. What I do wish to stress is the importance the natural gas pipeline industry attaches to securing natural gas supplies from Alaska at the earliest possible time. The delays encountered by

the effort to bring Alaska natural gas to the lower forty-eight states have been endless. The first proposal to build a pipeline from Alaska to the upper Midwest was submitted to the Federal Power Commission in March, 1974 -- over seven years ago. Since that time, the cost has spiraled upward and today financing is the critical issue that must be resolved. Without approval of the waiver package, the economic viability of the project is in grave doubt and even further costly delays are sure to follow.

The long and short of it is, we sorely need the Alaskan gas in the lower forty-eight states, and the Northwest Alaskan project is the best available means to get this gas to market. Alaskan gas will be needed to offset the gradual decline in lower forty-eight reserves of gas which most forecasters predict will occur. As has been pointed out to you previously in these hearings, the U. S. is currently producing more gas annually than we are finding, although the discovery rate of new reserves has increased dramatically since passage of the Natural Gas Policy Act (NGPA) in 1978. Nevertheless, the largest single untapped reserve of natural gas in the United States is the Prudhoe Bay area in Alaska, containing some twenty-six trillion cubic feet of proved reserves. With lower forty-eight production estimated to decline from about 20 Tcf. in 1980 to about 16 Tcf. in 1990, it is apparent that Alaskan gas must be brought into the lower forty-eight as early in the 1980's as is possible. Without Alaskan gas, there will be a considerable shortfall in supply available to meet projected demand.

Most current estimates project Alaskan gas coming on stream in 1986 and gradually increasing to about eight to ten percent of total U. S. supply b/

1990 and beyond. The line would have an initial capacity of 2.0 to 2.4 billion cubic feet per day (Bcf/d) with the capability for expansion to an average daily volume of 3.2 Bcf/d. These are significant amounts of gas to be introduced into the lower forty-eight states' market.

The U. S. pipeline partners in their own systems cover practically every area of the country -- from the East Coast to the West. These companies, after exhaustive study, have determined that not only will Alaska gas be needed to shore up declining supplies but that it will be marketable in their respective service areas. The cost of competitive sources of energy, principally fuel oil and electricity, are constantly rising in most regions of the country; and natural gas is still a bargain, even with higher supplemental sources such as high BTU coal gas and Alaskan gas. Moreover, as the cost of the Alaskan Northwest project is amortized over the project life, the cost per MMBTU becomes lower, enhancing its competitive posture. From the point of view of the interstate pipelines, the Alaska project presents a viable source of new supply; and the sooner it becomes available, the better off we all will be.

Finally, the Congress cannot overlook the fact that Alaskan gas can offset oil imports by a significant amount -- anywhere from 400,000 to 600,000 barrels per day, depending on the amount of gas delivered through the ANGTS. From the national security standpoint and certainly as a means of reducing our balance of payments, it makes eminent good sense to reduce our dependency on OPEC imports and increase our reliance on known sources of energy in Alaska and the North American Continent. The Alaskan Northwest project would be a major step in that direction.

The interstate pipeline industry, therefore, believes it imperative that the Alaska Northwest project go forward as expeditiously as possible. Congressional approval of the waiver package is essential.

I thank you for this opportunity to appear before your Committees to express INGAA's support for this important project.

STATEMENT OF
C. M. BUTLER III
CHAIRMAN, FEDERAL ENERGY REGULATORY COMMISSION
BEFORE THE
SUBCOMMITTEE ON FOSSIL AND SYNTHETIC FUELS
COMMITTEE ON ENERGY AND COMMERCE
AND
SUBCOMMITTEE ON ENERGY AND THE ENVIRONMENT
COMMITTEE ON INTERIOR AND INSULAR AFFAIRS
HOUSE OF REPRESENTATIVES

October 30, 1981

Mr. Chairmen and Members of the Subcommittees:

I appreciate your invitation to appear before these Subcommittees to express my views of the waivers proposed to facilitate the financing of the Alaska Natural Gas Transportation System. At the outset of my testimony, two disclaimers are required. First, the views which I express should be attributed to me alone and not the Commission as a whole or otherwise in in part. I have not discussed my policy predilections on these matters with my colleagues, nor have they discussed theirs with me. Secondly, I am subject to certain legal constraints in connection with my testimony, as follows.

As the Subcommittees are aware, a number of issues connected with this project have been decided by the Commission, 1/ and there are still other such matters pending before the Commission, including the adjudication of the project sponsors'

1/ The "Commission", when used in the context of an action taken prior to October 1977, refers to the Federal Power Commission (FPC); when used otherwise, the reference is to the Federal Energy Regulatory Commission (FERC).

application for a permanent certificate under Section 7 of the Natural Gas Act. In fact, the waiver package is of considerable relevance to that proceeding in this sense. The project sponsors claim that without the waivers, a viable financing plan cannot be developed. But the development of such plan is required for presentation to the Commission so that the Commission can decide, among other things, whether the project should be certificated. In these circumstances, I am free to express my views of policies applicable to the matters pending before you; however, any conclusions of fact which I might describe must be regarded by the Subcommittees as nothing more than tentative. As a matter of fundamental fairness to all parties to that proceeding, conclusions about such facts cannot be reached until factual presentations in the proceeding have been completed. 2/

The Alaska Natural Gas Transportation Act of 1976 (ANGTA) 3/ was enacted for two primary purposes: (i) to provide a means for sound selection of a transportation system for the delivery of natural gas from the North Slope of Alaska to the lower-48 states, and (ii) to expedite its construction and initial operation. The decision to enact such legislation was based on findings by Congress that

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2/ In further connection with this matter, see Appendix 1 to this testimony.

3/ 15 U.S.C. § 719 (1976).

there was a shortage of gas supplies in the lower-48 states which the Alaskan supplies could help to alleviate. Now, five years later, the transportation system has been selected, but the project certification has still to be completed. However, we are advised by the project sponsors that once certain institutional and legal obstacles, several of which were created by the Presidential Decision 4/ contemplated by ANGTA, are eliminated, the last obstacle to a complete application for a permanent certificate will be removed through development of a project financing plan. In response to these most recent representations by the project sponsors, I have considered two questions. The first is whether the project is still necessary or desirable; the second is whether the waivers of law sought violate principles of sound public policy.

As to the first question, I believe that the Congressional policy findings which underpin ANGTA remain valid. As the

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4/ Executive Office of the President, Energy Policy and Planning, Decision and Report to Congress on the Alaska Natural Gas Transportation System (September 22, 1977). Approved by joint resolution of the Congress, the Decision has the force and effect of law.

Commission found in its Order No. 31 5/ and reiterated in Order No. 45, 6/ virtually every estimate of proven reserves at Prudhoe Bay exceeds 26 trillion cubic feet (Tcf). Delivery of those reserves could supply more than two billion cubic feet of natural gas per day over the anticipated 25-year life of the proposed transportation system. That amounts to about five percent of current U. S. demand for natural gas. Moreover, estimates of potential natural gas reserves in Alaska range from 100-200 Tcf. Under those circumstances, it would clearly be advisable to bring gas from Alaska to the lower-48 states if that can be done economically. Conversely, it can be reasonably inferred that failure to build a transportation system for Alaska natural gas would operate as an impediment to further exploration for, as well as production of, such gas.

The project sponsors have indicated that the average price 7/ of the gas over the life of the project will approximate $4.89/MMBtu in 1980 dollars. Assuming that the long-term

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5/ Order No. 31, "Order Setting Values for Incentive Rate of Return, Establishing Inflation Adjustment and Change in Scope Procedures, and Determining Applicable Tariff Provisions," Docket No. RM78-12 (issued June 8, 1979).

6/ Order No. 45, "Regulations and Statement of Policy," Docket No. RM79-19 (issued August 24, 1979).

7/ I assume that the term "price" reasonably equates to the term "average annual annuity cost equivalent" used by the project sponsors' advisers.

market clearing price for natural gas nationwide is approximately equivalent to the average low sulfur No. 6 fuel oil price, and if the project sponsors' representations as to cost are accurate, the price of such gas to the lower-48 states could be expected to be reasonably economic. By comparison, we are now purchasing gas at the borders from Canada and Mexico at $4.94/MMBtu. Additionally, the price of deregulated, deep-gas supplies is currently about twice the sponsors' projected cost of Alaska gas. In this connection, although the producers may charge the full price permitted under Section 109 of the NGPA, they are not required to do so; so there may be some "give" in the cost of the Prudhoe Bay gas if necessary to make it marketable, particularly in the early years of the operation of the system. Additionally, the project sponsors are not precluded from asking the Commission to "levelize" the tariff in a way that more closely matches the transportation rate with the <u>average</u> transportation cost over the life of the project. If the Commission were to find such a proposal to be in the public interest, the cost of the Alaska gas to consumers in the early years of the project would be lowered. However, these and other questions concerning the marketability of Prudhoe Bay gas must be addressed by the parties in detail in the certificate proceedings pending before the Commission.

Although questions about the marketability of Alaska gas are still open, there appears to be no question but that the gas -- at least in the early years of the project -- will be relatively high-cost. At the same time, our natural gas supply situation has eased to the point where it may be tempting to question whether the delivery of relatively costly Alaskan reserves is justifiable. I believe that there are two policy considerations which would provide justification. First, if the gas from Alaska can be marketed competitively with gas from traditional lower-48 sources as the project sponsors claim, there is no predicate for the argument that the line should not be built, assuming it can be done consistent with certificate determinations made by the Commission and referred to above. Secondly, the geological evaluations of the Commission's staff, and those of the U. S. Geological Survey, indicate substantial declines in the deliverability of reserves from the Gulf of Mexico producing region. 8/ The Commission's staff tells us that deliverability from that area could decline as much as 2 Tcf per year by 1985. Assuming only for the sake of argument that these assessments are correct, delivery of Alaska gas could offset those declines by 50 percent when the project is completed. Although these

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8/ South Louisiana Onshore and Texas Railroad Commission Producing Districts 2, 3 and 4, and Offshore Louisiana and Texas.

declines are also being offset with additional gas supplies found in response to higher NGPA prices, delivery of Alaska gas should be viewed as an important hedge against, if not critical to avoid, significant gas shortages in the 1985-90 time frame, and beyond. I believe that recognition of these matters is implicit in President Reagan's message accompanying the proposed waivers. One can predict with assurance that history will criticize us severely for failing to provide Prudhoe Bay gas if that can be done at economic prices, and should gas shortages develop in the future.

I shall now address the question whether the requested waivers violate principles of sound public policy.

ANGTA created a unique process for selecting a transportation system for the delivery of the Prudhoe Bay reserves to lower-48 markets. The product of that process was a decision by President Carter, approved by Congress, which not only selected the system to be constructed, but also specified a general framework of conditions under which the selected system was to be constructed.

Section 5(a)(2) of ANGTA provides that, in the event a decision of the President takes effect pursuant to its provisions, the Commission shall issue a certificate of public convenience and necessity (the product of its normal authorization proceedings under Section 7 of the Natural

Gas Act) to the selected system. The Commission complied with that mandate by order of December 16, 1977, 9/ in which it issued conditional certificates to the sponsors of the selected project pending receipt of satisfactory evidence of compliance with the various terms and conditions which were made part of the President's Decision. Over the past four years, the Commission has issued a number of authorizations for various aspects of the project pursuant to those terms and conditions, including authorizations for the "pre-build projects." These projects involve early construction of certain southern Canadian and lower-48 ANGTS facilities for the purpose of importing gas which has been determined to be surplus to Canada's needs. Deliveries of pre-build gas commenced on October 1 of this year.

A brief legal history of the actions taken in connection with ANGTS involving the Commission (including a description of the authorizations which have been granted to date), and a list of matters which have yet to be decided by the Commission, is included as Appendix 2.

9/ "Order Vacating Prior Proceedings and Issuing Conditional Certificates of Public Convenience and Necessity," Docket Nos. CP78-123, CP78-124, and CP78-125 (issued December 16, 1977).

The waiver proposal submitted by the President would alter several of the terms and conditions in the Decision and eliminate certain other requirements and authorities. In particular, the President's proposal would:

- lift the ban on producer ownership participation;
- make the conditioning plant required to prepare the gas for pipeline entry a part of the "approved transportation system," as that term is defined in the ANGTA;
- alter the Decision's limitation on pre-completion billing;
- allow the Commission to use procedures other than formal evidentiary hearings in the course of reaching certification decisions regarding the ANGTS;
- eliminate the Commission's authority to change its tariff orders to the detriment of debt service; and
- make other technical changes.

I shall comment only briefly on the matter of producer participation in the project. First, based on my experience in negotiating similar financing agreements, the contentions of the investment community that the project cannot be financed without the credit support of the producer-participants do not surprise me. Nor does the position of the producers

that they will participate only if they are permitted an equity interest in the project. Both of these arguments are advanced in favor of producer ownership. But beyond those reasons, I believe there is a largely unspoken advantage in allowing the producers to be equity investors in the project: They would appear to be excellent barometers of economic feasibility of this project. The relevant producers are major oil and gas companies, not unsophisticated in predicting the marketability of their products. Their consistent endorsement of the project despite speculation over the future of natural gas pricing policy provides a useful market indicator that gas from the project can be sold at competitive prices. Correlatively, given their critical importance to financing the project, should their enthusiasm for the marketability of the gas disappear, consumers would have had the benefit of an important market protection from the construction of a non-economic project. This protection stems from the exposure of the equity portion of the project investment -- no insubstantial sum of money -- to risk of loss in the events of construction delay, prolonged interruption of service, and pre-completion and post-completion abandonment. As I have indicated, the Commission will require the project sponsors to put on evidence in proceedings to be conducted concerning the marketability of Alaska gas under various circumstances, including changes in gas pricing policy.

I believe that the proviso to the waiver requiring the Commission to seek the advice of the Attorney General on antitrust questions and to make specified antitrust findings is an appropriate protection for the consuming public and is administrable by the Commission. The required findings are not unlike those the Nuclear Regulatory Commission is required to make in connection with the licensing of nuclear projects, and those the Federal Trade Commission is required to make in connection with pre-merger notifications under the Hart-Scott-Rodino Act.

The proposal would also waive the language of the President's Decision which has been interpreted by the Commission to exclude the gas conditioning plant from the definition of the approved transportation project. 10/ According to the synopsis of waiver accompanying President Reagan's proposal, President Carter's Decision in this regard was based on the absence of a described gas conditioning plant from the Alcan sponsors' certificate application. However, the Commission also construed the Decision in conjunction with Section 110 of the Natural Gas Policy Act

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10/ Order No. 45 (mimeo at 4-5). In that order, the Commission pointed out that the President's Decision defined the approved transportation system as commencing on the discharge side of the gas conditioning plant, thereby excluding it from the approved transportation system. Id.

to grant broad discretion to the Commission to permit producers to collect an allowance for conditioning the Prudhoe Bay gas.

In my judgment, the previous Commission was correct in concluding that the President's Decision excluded the gas conditioning plant from the definition of the approved transportation system. However, I take strong exception to that Commission's rationale for disallowing producers -- as a matter of the Commission's discretion -- from receiving an allowance for the conditioning of Prudhoe Bay gas. The President's Decision clearly did leave discretion to the Commission to permit the recovery of those conditioning costs and, in places, even assumes that an allowance would be authorized. However, the order seems to disregard those facts after reciting them and concludes despite them that the President's Decision dictates a policy pursuant to which virtually all of the costs of conditioning will be borne by producers. It buttressed that conclusion with a factually unsupported assertion that traditional contracting practices between producers and pipelines in the lower-48 states were to levy such costs on producers.

In my view, the Commission should have started from a clean slate in deciding the issue and adhered to the crucial principle stated in the order. The transportation system and the gas which it would transport are sui generis, that is, not necessarily subject to traditional rules and practices. 11/ The Commission deviated from that principle in a fundamental way when it found that the usual practice in the lower 48 was for producers to bear conditioning costs required to make gas transportable and that, for that reason, the producers of Alaska gas should bear such costs. 12/ First, the previous Commission and I would agree that the cost of gas conditioning is a cost of making the Prudhoe Bay gas transportable; but I believe that, whatever historical practices have been, those costs should be identified for and borne by consumers. An attempt to "hide" such costs, or shield consumers from them, would tend to insulate the project from the risk that the gas would not be marketable, and thus tend to cloud the question whether the project should be built at all. Secondly, since transportation is such a major component of the cost of Alaska gas, the wellhead price realized by producers in current and foreseeable markets will doubtless be less than wellhead prices for natural gas produced in the lower-48 states.

11/ Correlatively, regulatory treatment of ANGTS should not be considered precedent-setting for unrelated projects.

12/ Order No. 45 (mimeo at 34-35).

it resolved in the context of ANGTS. As I have still to formulate my own views on the matter, I can express no opinion on its resolution at this time.

Waiver of Section 5, Condition IV-2, of the President's Decision means that the budget for the construction of the gas conditioning plant will have no bearing on the rate of return allowed the rest of the system. This does not preclude the Commission from requiring, through an incentive-penalty system, assurances that consumers will not bear an unreasonable risk of cost overruns in connection with completion of the gas conditioning plant.

President Reagan's proposal to waive Section 5, Condition IV-3, of President Carter's Decision is apparently the most controversial of the proposed waivers. The billing commencement condition of President Carter's Decision presently allocates both the risk of delay in project completion and the risk of noncompletion of the project to the project sponsors. The waiver would permit, but not require, the Commission to approve a tariff which would allocate such risks to the consumer.

As stated earlier, the waiver of Section 3, Paragraph 3, First Sentence, of the President's Decision would result in inclusion of the gas conditioning plant in the approved transportation system. To an extent, this aggravates the risk of delay in completion of the project because of the difficult logistics of constructing the gas conditioning plant at Prudhoe Bay. Because it would be constructed in large modules at Gulf Coast fabrication sites and then transported by barge to the North Slope, the plant could be delayed because its construction schedule is especially vulnerable to the vagaries of the Polar Ice Pack. While normally open for about six weeks each year, passage around Point Barrow to Prudhoe Bay is occasionally open for only a few days out of the year. (In fact, such a short season occurred during construction of the Trans-Alaska Oil Pipeline System (TAPS).) In the event of a bad year at a critical period in the construction of the conditioning facility, the inability to deliver needed equipment and material could force a delay in the expected commencement of gas deliveries.

The Decision did not answer the question to whom this risk of delay would be assigned, as the billing commencement condition therein referred only to completion of the approved

transportation system, which excluded the gas conditioning plant. In Order No. 31, the Commission split this risk between gas consumers and the project sponsors by allowing charges sufficient to cover debt service and certain other costs to begin as soon as all segments of the pipeline system were complete, but requiring return on and of equity to await gas flow.

The billing commencement waiver adopts an essentially similar approach to each segment of the pipeline system. It recognizes that gas flow could be delayed as a result of delays in the completion of any of the major segments, while the necessity to finance the segments which have not been delayed is continuous. In recognition that this project is primarily for the benefit of American gas consumers, sponsors of the Canadian segment are provided relief from this contingency by permission to begin charging the entire cost of service for the Canadian segment despite the absence of gas flow. 13/ However, U. S. project sponsors are provided only partial relief, to the extent of debt service and limited

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13/ The sponsors of the project in Canada have been afforded such relief by the National Energy Board, FERC's Canadian counterpart. However, users of the pipeline (shippers) have declined to obligate themselves to the Canadian tariff until authorized by the FERC to recover payments pursuant to such tariffs in their rates. Thus the billing commencement waiver for the Canadian segment would provide the Commission with the authority to avoid frustrating the NEB's Decision.

other costs, in such eventuality. Prohibiting the return on or of equity during the period of noncompletion provides a powerful negative incentive to see that delays in the project are minimized.

Apparently, this aspect of the proposed financing has raised a question in the minds of some whether it is an appropriate exercise in public policy, even assuming that the project should be built and pre-completion billing is a necessary element of the financing plan. 14/ I would suggest to the Subcommittees that it is.

The cost-based methodology that we employ in setting rates does not allow regulated companies to reap the benefits of an improved product or reduced costs. 15/ The benefits of an improved product or lowered costs principally have to be passed on to the consumer. This creates obvious problems of incentives for efficiency and innovation. It also creates another and potentially more serious problem.

If regulated companies cannot reap the benefits of good fortune, they cannot be expected to risk the burdens of bad fortune. If the best they can hope for are rates that just

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14/ The assertion is that the lenders will require assurances that debt service will not be impaired upon completion of discrete major segments of the project.

15/ In a scholarly article, that statement would have to be qualified in various ways. But, as a close approximation to the truth, it will serve well enough.

cover their costs, they cannot be expected to bear significant risk of falling short of recovering those costs. Either such projects will not be undertaken by the regulated companies, or the risk must be at least shared between investors and consumers. Thus, there is a choice between two options within the present regulatory framework, and each option carries its own price. Regulated firms can limit themselves to technologies and projects that carry little risk of failure, and the price can exclude any part of the loss from the failures that do occur. Or, regulated firms can turn to riskier technologies and projects in the hope of obtaining more or better production and lower costs, and the price that the public pays then will include the assurances of shared responsibility for losses. Either option is possible. What is not possible is to pay the lower price of the first option and obtain the benefits of the second. Or at least that is not possible if we can assume that investors are rational, and regulatory agencies are at least not prepared to be duplicitous.

If these expectations of economic behavior are accurate, the tariff provisions permitted by the waiver of the billing commencement condition of President Carter's Decision can be

viewed as the missing piece in an otherwise workable plan requiring the sharing of the risks of a concededly risky project among consumers and sponsors. I should point out that this kind of sharing is already contemplated and permitted in part -- that is, in the event of service interruptions -- in Order No. 31. In that event, minimum bill provisions would allow the recovery of the cost of debt service, operation and maintenance expenses, and taxes after the cessation of gas flow. The new tariff condition would provide the same assurances in connection with risks experienced before project completion, and thus before gas flow. In my view, this kind of risk sharing can be justified in cases such as the one before the Subcommittees which envision regulated companies undertaking high risk gas supply projects.

President Reagan's proposal would waive Section 7(c)(1)(B) to permit the Commission to employ informal procedures for the decision on the merits of the certificate application. The result of such a Commission decision would be to create a curious hybrid of administrative procedure. 16/ If workable, it should significantly expedite the Commission's decisionmaking. If the waiver is adopted, the Commission will be granted the flexibility to consider such procedure. That would probably

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16/ Not, I might add, the first such curious hybrid the Commission will have dealt with.

assist the Commission to comply with the mandate of ANGTA to expedite the certificate process.

The waivers of Sections 4, 5, 7 and 16 of the Natural Gas Act are the subject of an extensive memorandum prepared at the request of the Honorable Philip R. Sharp, Chairman, and the Honorable Clarence J. Brown, Ranking Republican, Subcommittee on Fossil and Synthetic Fuels, Committee on Energy and Commerce, U. S. House of Representatives. I endorse the legal analysis of that memorandum, which is attached to this statement as Appendix 3.

Finally, the remaining waivers are technical in the main. I find no objection to them.

APPENDIX 1

Federal Trade Commission v. Cement Institute, et al. 333 U.S. 683 (1948), involved an adjudication by the Federal Trade Commission that the multiple basing-point delivered-price system of fixing prices and terms of cement sales employed by defendants in that proceeding violated the antitrust laws. One of the arguments levied in attempting to overturn the decision of the FTC was that members of that Commission should have disqualified themselves for bias. Bias was allegedly demonstrated in certain reports to Congress and the President, and in testimony before Congressional Committees, that the members, or at least some of them, held the opinion that the operation of subject pricing system was the equivalent of a price-fixing scheme in violation of the Sherman Act.

Two holdings of the Court in denying defendants' claim are critically important. First, the Court held:

> . . . the fact that the Commission had entertained such views as the result of its prior ex parte investigations did not necessarily mean that the minds of its members were irrevocably closed on the subject of the respondents' basing point practices. (Emphasis added.) 333 U.S. at 701.

Secondly, the Court rejected the argument that "it was a denial of due process for the Commission to act in these proceedings after having expressed the view that industry-wide use of the basing point system was illegal." The Court said about that argument:

> Neither the Tumey decision nor any other decision of this Court would require us to hold that it would be a violation of procedural due process for a judge to sit in a case after he had expressed an opinion as to whether certain types of conduct were prohibited by law. In fact, judges frequently try the same case more than once and decide identical issues each time, although these issues involve questions both of law and fact. Certainly, the Federal Trade Commission [when acting in its quasi-judicial capacity] cannot possibly be under stronger constitutional compulsions in this respect than a court.
>
> The Commission properly refused to disqualify itself. . . . 333 U.S. at 702-03.

Consistent with the Supreme Court's decision, the Court of Appeals for the District of Columbia has held that the standard for disqualifying an administrator in an adjudicatory proceeding because of prejudgment is whether a disinterested observer may conclude that the decisionmaker has in some measure adjudged the facts as well as the law. See, Association of National Advertisers, Inc., et al. v. Federal Trade Commission, et al., 627 F.2d 1151, 1158 (D.C. Cir. 1979).

From these principles, two propositions emerge. First, legitimate ex parte contacts do not require recusal. I was under no ex parte sanction in, for example, preparing the Transition Report on ANGTS. Factual judgments contained in that report have to be taken for what they are: judgments made on the basis of largely untested representations of interested parties, as supported by existing records and administrative, congressional and executive documents. Taken in the context of formal agency proceedings, those judgments can be characterized as nothing more than tentative. They are clearly subject to change on the basis of factual presentations to the Commission which if found persuasive and substantial would lead to other, inconsistent conclusions. The same is true of review of agency files and the like in preparation for testimony before this Committee. To the extent that I make any comments about the facts relevant to proceedings pending before the Commission, they must be recognized for what they are: nothing more than tentative conclusions, subject to change on the basis of facts adduced further in the proceeding.

Secondly, my opinion concerning policy and legal questions, as contrasted with factual questions, does not subject me to legitimate challenge that I should recuse myself from the proceedings. However, I feel compelled to point out that I am no more close-minded on points of policy than on questions of fact. I am perfectly willing to listen to competing viewpoints on matters of policy connected with this or any other project which will come before the Commission.

APPENDIX 2

Alaska Natural Gas Transportation System

The Alaska Natural Gas Transportation System (ANGTS) is an international project created to transport natural gas from the North Slope of Alaska, through Canada, to the lower 48 states. The United States portion of the system consists of three segments: (1) the Alaska segment, running from Prudhoe Bay on the North Slope to the Yukon border; (2) the Western Leg, running from the British Columbia border to California; and (3) and the Northern Border pipeline, running from a point on the Canadian border near Monchy, Saskatchewan, to Dwight, Illinois.

The ANGTS is unlike any other gas pipeline in the United States in that it is governed by a unique legal framework. The Alaska Natural Gas Transportation Act (ANGTA), 15 U.S.C. §719, et seq., enacted by Congress in 1976, supplements (but does not replace) the Natural Gas Act; certificates are issued under the Natural Gas Act pursuant to procedures mandated by ANGTA. Section 9 of ANGTA mandates expeditious consideration by all federal agencies of all federal authorizations "necessary or related to the construction and operation of" the ANGTS, while Section 10 specifically provides for limited and expedited judicial review of such agency action.

Pursuant to Section 7 of ANGTA, the President, in September of 1977, submitted his Decision and Report to Congress on the Alaska Natural Gas Transportation System (Executive Office of the President, Energy Policy and Planning) which designated both the project sponsors and the route for the ANGTS as well as many conditions for its construction. Congress approved the President's Decision by Joint Resolution, which became law on November 8, 1977. H.R.J. Res. 621, Pub. L. No. 95-158, 91 Stat. 1268, 95th Cong., 1st Sess. (1977). Important background documents that contributed to the President's Decision include Administrative Law Judge Nahum Litt's Initial Decision (430 pages) in Docket No. 75-96, et al. (February 1, 1977); the Federal Power Commission's Recommendation to the President (May 1, 1977); and the Federal Power Commission's Comments on the President's Decision (October 1977). The national commitment to construct the ANGTS was reaffirmed by the Congress in a Concurrent Resolution adopted on June 27, 1980. S. Con. Res. 104, 96th Cong., 2nd Sess. (1980).

The ANGTS is also governed by two international agreements with Canada, both of which have the force and effect of law. The "Agreement Between the Government of the United States of America and the Government of Canada Concerning Transit Pipelines," entered in force October 1, 1977 after ratification by the Senate, applies to all pipelines in both countries whenever one country's pipeline carries the other country's gas or oil. The treaty mandates nondiscriminatory treatment. (Note: The ANGTS transports Alaskan gas across Canada; the Great Lakes system transports Canadian gas through the U.S. from Western Canada to Eastern Canada.)

The "Agreement Between the United States of America and Canada on Principles Applicable to a Northern Natural Gas Pipeline," signed by representatives of the two governments on September 20, 1977, is an executive agreement that was made part of the President's Decision (pages 47-83). Inasmuch as the Decision was approved by Congress, it (including the Agreement) has the legal status of a statute. The Agreement specifies the route of the ANGTS, and contains numerous conditions. Pursuant to the Agreement, our Commission has consulted with the National Energy Board of Canada in co-ordinating the respective certification of the various ANGTS segments in the U.S. and Canada, including related imports of Canadian gas to support the "prebuilding" of the lower half of the system. (In Canada, the ANGTS is known as the "Alaska Highway" project.)

One other relevant item of legislation is Reorganization Plan No. 1 of 1979, which was submitted by the President to the Congress and not disapproved by the Congress. The Plan establishes the Office of the Federal Inspector, which reports directly to the President. The Inspector is responsible for monitoring the construction of the pipeline, and for co-ordinating all federal permitting and certification of it. The Plan transfers to the Inspector the Commission's Natural Gas Act Section 3 and 7 jurisdiction to enforce the Commission's certificates and import authorizations issued to the ANGTS project sponsors.

Commission orders on the ANGTS have been attacked in court three times, and successfully defended by the Solicitor's Office in each instance. In Midwestern Gas Transmission Co. v. FERC, 589 F.2d 603 (D.C. Cir. 1978), the Court affirmed certain preliminary import determinations. The decision contains an excellent recitation of the procedural history of the project, including the basic judicial interpretation of both ANGTA and the President's Decision. In Earth Resources Co. v. FERC, 617 F.2d 775 (1980), the Court affirmed a Commission order establishing the size and pressure for the Alaska segment, confirming that ANGTA and the President's Decision conclusively terminated the NEPA process for the ANGTS. Finally, in General Services Customer Group v. FERC, D. C. Circuit, No. 80-1803 (1980), the Court issued an unpublished per curium decision affirming the Commission's orders certificating the Northern Border prebuild project.

In addition, in FERC v. Public Service Commission of North Dakota, 513 F. Supp. 653 (D.N.D. 1981), our Commission and the Federal Inspector filed a lawsuit to enjoin the North Dakota PSC from enforcing an order that would have required locating the Northern Border segment along a different route from the one authorized by the President, the Congress and our Commission. The Court granted the injunction.

During the past several years, the Commission has issued a long series of orders, pursuant to a variety of proceedings, the more prominent of which are listed below. Many of these proceedings utilized rulemaking or other expedited procedures. Unless otherwise indicated herein these orders were issued in Docket No. CP78-123, et al.

By an order issued December 16, 1977, the Commission granted conditional certificates to all of the ANGTS project sponsors, for all three segments, and pursuant to the mandate of the President's Decision. The order also appointed John Adger as the Commission's "Alaskan Delegate," to co-ordinate the project.

By an order issued August 6, 1979, the Commission established the pipe size and pressure for the Alaska segment. By an order issued on May 8, 1980 (with an erratum notice on May 21, 1980, and supplemented by an order of June 20, 1980), and pursuant to Section 17 of ANGTA, the Commission attached conditions to all ANGTS certificates requiring an equal employment opportunity and minority business opportunity affirmative action plan.

The Western Leg prebuild project was certificated in orders issued on January 11 and June 13, 1980. The Northern Border prebuild project was certificated in orders issued on April 28, and June 20, 1980. All of these orders also contained related import authorizations. (Initial Decisions were waived.) Additional import authorizations for imports through Northern Border were approved in orders issued on June 27, 1980 (Docket No. CP80-22) and April 24, 1981.

In Docket No. RM78-12, the Commission issued Order Nos. 31 and 31B, on June 8 and September 6, 1979, pursuant to the mandate of the President's Decision, establishing an incentive rate of return for the Alaska and Northern Border segments. These orders also approved the tariffs for Northern Border and the Alaska segment. To complete the process, in Docket No. CP80-435 the Commission's Alaskan Delegate, in conjunction with an employee of the Office of Federal Inspector, submitted to the Commission a lengthy report on the Alaska segment cost estimate, and the Commission has issued an order inviting comment on the report.

In Docket No. RM79-19, the Commission issued Order No. 45 on August 24, 1979, setting out regulations and a policy statement on production related costs for Prudhoe Bay gas. The effective date of that order was stayed pending rehearing; at the request of the Secretary of Energy, the Commission extended the stay indefinitely pending negotiations by the ANGTS project sponsors with the Prudhoe Bay producers.

On February 26, 1980, the Commission issued an order attaching certain environmental conditions to the conditional certificates. On December 15, 1980, the Commission issued an order approving amendments to the Alaska segment partnership agreement. On February 23, 1981, the Commission issued an order attaching certificate conditions requiring compliance with an executive agreement of June 10, 1980, between the U. S. and Canada, regarding reciprocal procurement monitoring requirements.

On March 31, 1980, the Commission issued an order delegating to the Federal Inspector certain ANGTS archeological responsibilities. On December 19, 1980, the Commission issued an order delegating to the Federal Inspector certain ANGTS rate base approval responsibilities.

PENDING AND FUTURE PROCEEDINGS

ANGTS proceedings currently pending before the Commission include:

1. The final certification proceeding for the Alaska segment.

2. Production related costs rulemaking for Prudhoe Bay gas.

3. The Alaska segment cost estimate proceeding.

4. Rate base proceedings for Alaska segment and Northern Border pre-1980 costs.

5. The Northwest Canadian Gas Sales Company certificate and import applications in lieu of Northwest Alaskan Pipeline Company.

To these could be added proceedings that have not yet been instituted:

6. Rulemaking on shipper tracking of ANGTS transportation charges.

7. In the more distant future, final certification of the non-prebuilt sections of Northern Border and Western Leg, and certification of shippers of Alaska gas.

The scope and current status of each of these proceedings is discussed below.

1. Alaska segment final certification.

Issues to be presented in the final certification proceeding might include, inter alia:

(1) The financing plan, including tariff issues.

(2) Cost of service and net national economic benefit.

(3) Marketability of the gas.

(4) Cost allocation for the conditioning plant.

(5) Any remaining design questions.

(6) Any issues deferred from the Alaska segment cost estimate proceeding.

In this regard, finance condition No. 2 in the President's Decision provides that "If the direct capital cost estimates excluding interest during construction for the overall project in 1975 constant dollars filed with the FPC immediately prior to certification . . . materially and unreasonably exceed the comparable capital cost estimates filed by Alcan with the Federal Power Commission on March 8, 1977 . . . the FPC may not issue a certificate for the project." The proposed billing commencement date waiver would not affirmatively establish any particular billing commencement date as a matter of law; rather, it would cut back on the restrictions in the President's Decision so as to afford the Commission the legal flexibility to approve tariffs that permit a billing commencement date earlier than the one approved by the Commission in Order No. 31.

2. Production related costs.

On August 24, 1979, pursuant to a formal rulemaking proceeding, the Commission issued Order No. 45 in Docket No. RM79-19, adopting regulations and a policy statement on production related costs for Prudhoe Bay gas. The order was stayed to permit parties to file applications for rehearing, and a number of such applications were filed. At the request of the Secretary of Energy, the Commission issued an indefinite stay order. Thus, Docket No. RM79-19 is an open docket before the Commission, with applications for rehearing of Order No. 45 pending for decision.

3. Cost estimate proceeding.

The Commission issued an order in August of 1981, in Docket No. CP80-435, inviting comment and reply comment on a report submitted to the Commission by its Alaskan Delegate and by the Federal Inspector's Director of Audit and Cost Analysis, analyzing the Alaska segment cost estimate. Comments and reply comments have been filed, and are being analyzed by the Commission's staff pursuant to preparation of an order for Commission consideration. Thus, the cost of the Alaska segment is an issue presently before the Commission for decision.

4. Rate base proceedings.

In December of 1980, the Commission issued an order affording interested parties an opportunity to show cause why the Commission's Chief Accountant's audit report on pre-1980 Alaska segment expenditures should not be accepted by the Commission for rate base purposes. A comparable show cause order was issued in March of this year with respect to Northern Border's pre-1980

costs. Comments and reply comments were received in response to both orders. Thus, the rate bases of both Northern Border and Alaskan Northwest, to the extent that they involve costs incurred prior to 1980, are both pending before the Commission for decision.

5. Northwest Canadian application:

The Commission issued an order on October 1, 1981, authorizing Northwest Alaskan Pipeline Company to import the Canadian prebuild gas at the present border price, and approving Northwest Alaskan's tariff for the resale of that gas to PIT for transportation through the Western Delivery System to its destination in Southern California. The order, however, deferred consideration of the application of Northwest Canadian Gas Sales Company for a certificate and import authorization to import and reseli the gas in lieu of Northwest Alaskan, but afforded Northwest Canadian an opportunity to file additional information on the purpose of its application. To date, Northwest Canadian has not made any further filings. Thus, Northwest Canadian's application is currently pending before the Commission in an open docket.

6. Shipper tracking.

The Commission's staff is currently preparing, for consideration by the Commission, a notice of proposed rulemaking on the subject of tracking ANGTS transportation charges (including transportation charges incurred in Canada) in the ANGTS shipper tariffs.

7. Future certificate proceedings.

At some date within the next few years, Northern Border and PGT will file applications for certificates to construct and operate non-prebuilt portions of the Eastern and Western Legs, and shippers will file applications for certificates to ship the Alaska gas through the ANGTS. These applications may entail, inter alia, adjustments of depreciation schedules for the prebuilt segments.

APPENDIX 3

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D. C. 20426

August 18, 1981

MEMORANDUM TO: Honorable Philip R. Sharp
Chairman
Subcommittee on Fossil & Synthetic Fuels
Committee on Energy and Commerce
House of Representatives

Honorable Clarence J. Brown
Ranking Minority Member
Subcommittee on Fossil & Synthetic Fuels
Committee on Energy and Commerce
House of Representatives

FROM : Charles A. Moore
General Counsel
Federal Energy Regulatory Commission

RE : Proposal by Sponsors of the Alaskan Natural Gas Transportation System (ANGTS) for Congressional Waiver of Sections 4, 5, 7 and 16 of the Natural Gas Act in Certain Respects Pursuant to Section 8g of the Alaskan Natural Gas Transportation Act of 1978

Questions Presented

By letter of July 24, 1981, to C. M. Butler III, Chairman, Federal Energy Regulatory Commission, 1/ you requested a legal memorandum addressing the following questions:

1/ Hereinafter, the term "Commission" refers to the Federal Power Commission at all times before October 1, 1977, and the Federal Energy Regulatory Commission at all times thereafter.

(a) The full implications of the proposed waiver quoted hereinbelow, (b) whether there have been past Commission actions which justify the desires of the sponsors to have Congress provide the waiver, (c) hypothetical situations which would work to the injury of the pipeline sponsors of ANGTS or other participants in the project should no such waiver be provided by Congress, (d) hypothetical situations which might work to the injury of resale customers and consumers should such a waiver be provided by Congress, and (e) the reasonable likelihood of the hypothetical situations actually occurring.

The text of the waiver request, as set forth in your letter, is as follows:

> Authority to Modify or Rescind Orders
>
> Waive Sections 4, 5, 7, and 16 of the Natural Gas Act to the extent that such sections would allow the Commission to change the provisions of any final rule or order approving (a) any tariff in any manner that would impair the recovery of the actual operation and maintenance expenses, actual current taxes, and amounts necessary to service debt, including interest and scheduled retirement of debt, for the approved transportation system; or (b) the recovery by shippers of Alaska gas of (1) all costs related to the purchase of such gas at just and reasonable rates, and (2) transportation of such gas pursuant to an approved tariff.

We are advised that this text is currently a topic of discussion at staff levels in the Administration and the Congress, and that the text may be revised in one or more respects. Accordingly, the memorandum is expressly limited to the preceding text, although I will be pleased to respond as expeditiously as possible to any questions you might have in connection with material changes in such text.

Discussion

1. Background

As you know, the ANGTS is an international project created to transport natural gas from the North Slope of Alaska, through Canada, to the lower 48 states. The United States portion of the system consists of three segments: (1) the Alaska segment, running from Prudhoe Bay on the North Slope to the Yukon border; (2) the Western Leg, running from the British Columbia border to California; and (3) and the Northern Border pipeline, running from a point on the Canadian border near Monchy, Saskatchewan, to Dwight, Illinois.

The ANGTS is unlike any other gas pipeline in the United States in that it is governed by a unique legal framework. The Alaska Natural Gas Transportation Act (ANGTA), 15 U.S.C. section 719, et seq., enacted by Congress in 1976, supplements (but does not replace) the Natural Gas Act; certificates are issued under the Natural Gas Act pursuant to procedures mandated by ANGTA.

Pursuant to Section 7 of ANGTA, the President, in September of 1977, submitted his Decision and Report to Congress on the Alaska Natural Gas Transportation System (Executive Office of the President, Energy Policy and Planning) which designated both the project sponsors and the route for the ANGTS as well as many conditions for its construction. Congress approved the President's Decision by Joint Resolution, which became law on November 8, 1977. H.R.J. Res. 621, Pub. L. No. 95-158, 91 Stat. 1268, 95th Cong., 1st Sess. (1977).

The ANGTS is also governed by two international agreements with Canada, both of which have the force and effect of law. The "Agreement Between the Government of the United States of America and the Government of Canada Concerning Transit Pipelines," entered in force October 1, 1977 after ratification by the Senate, applies to all pipelines in both countries whenever one country's pipeline carries the other country's gas or oil. The treaty mandates nondiscriminatory treatment.

The "Agreement Between the United States of America and Canada on Principles Applicable to a Northern Natural Gas Pipeline," signed by representatives of the two governments on September 20, 1977, is an executive agreement that was made part of the President's Decision (pages 47-83). Inasmuch as the Decision was approved by Congress, it (including the Agreement) has the legal status of a statute. The Agreement specifies the route of the ANGTS, and contains numerous conditions. Pursuant to the Agreement, our Commission has consulted with the National Energy Board of Canada in coordinating respective certification of the various ANGTS segments in the U. S. and Canada, including related imports of Canadian gas to support the "prebuilding" of the lower half of the system.

One other relevant item of legislation is Reorganization Plan No. 1 of 1979, which was submitted by the President to the Congress and not disapproved by the Congress. The Plan establishes the Office of the Federal Inspector, which reports directly to the President. The Inspector is responsible for monitoring the construction of the pipeline, and for coordinating all federal permitting and certification of it. The Plan transfers to the Inspector the Commission's Natural Gas Act Sections 3 and 7 jurisdiction to enforce the Commission's certificates and import authorizations issued to the ANGTS project sponsors.

Two categories of tariffs are involved. The project sponsors will own and operate the various segments of the ANGTS, but will not buy or sell the gas transported through it. The shippers will buy the gas at the Prudhoe Bay Field, ship it through the sponsors' facilities, and sell it somewhere at the other end of the pipeline. The sponsors will have tariffs authorizing charges to the shippers. The shippers will in turn have tariff provisions authorizing charges to their customers for the sale of the gas, which charges will include in some form reimbursement of the shippers for the transportation charges paid by the shippers to the sponsors, as well as reimbursement for the costs of purchasing the Prudhoe Bay Field gas.

Thus, for example, if a shipper buys gas at Prudhoe Bay for sale in Detroit, the shipper would incur separate transportation charges billed by the respective sponsors of the Alaska segment, the Canadian segment, and the Northern Border segment of the system. That shipper would request

a tariff authorizing "flow through" to its customers of the full amount of transportation charges paid to the sponsors of each of the three pipeline segments through which the gas was transported, as well as the full cost of the gas itself.

The "flow through" issue is often referred to as "tracking" of charges. Tracking of gas purchase costs is authorized by the Commission's regulations, through purchased gas adjustment clauses. (See 18 C.F.R. 154.38.) Tracking of transportation charges has been authorized in certain instances on a case by case basis.

In Order Nos. 31 and 31-B, 2/ the Commission approved in principle the tracking by ANGTS shippers of transportation charges billed by U. S. certificated ANGTS project sponsors (i.e., the sponsors of the Alaska, Northern Border and Western Leg segments), but reserved for later resolution the issue of tracking the charges of Foothills Pipe Lines (Yukon) Ltd. (Foothills), the sponsor of the Canadian segment. The unresolved tracking issues (including tracking of Foothills' charges that have been approved by the National Energy Board of Canada) are currently under study by the Commission's Alaskan Delegate, who is preparing a report to the Commission.

The sponsors' and shippers' initial tariffs are approved by the Commission pursuant to Section 7 of the Natural Gas Act upon issuance of the certificates. Alaskan Northwest's pro forma tariff was approved in Order Nos. 31 and 31-B. Section 7 provides a "public convenience and necessity" standard. While the Commission may establish initial rates that meet the more rigorous "just and reasonable" standard in Sections 4 and 5 of the Act, it is not required by law to do so. The Commission must only find that the initial rates are in the "public convenience and necessity" and may reserve for later determination what the "just and reasonable" rate should be.

2/ Order No. 31, "Order Setting Values for Incentive Rate of Return, Establishing Inflation Adjustment and Change in Scope Procedures, and Determining Applicable Tariff Provisions," issued June 8, 1979 in Docket No. RM78-12; Order No. 31-B on rehearing, issued September 6, 1979, in the same docket.

Section 7(e) of the Natural Gas Act gives the Commission authority to attach conditions to certificates. The courts have construed broadly the Commission's responsibility under the Natural Gas Act to condition certificates with respect to rate terms and other matters affecting the public convenience and necessity. See, e.g., Atlantic Refining Co. v. Public Service Commission of New York, 360 U.S. 378 (1959); FPC v. Hunt, 376 U.S. 515 (1964). But see Panhandle Eastern Pipe Line Co. v. F.E.R.C., 613 F.2d 1120 (D.C. Cir. 1979), cert. denied, 101 S. Ct. 247 (1980).

Section 4 of the Act requires that all rates and charges be "just and reasonable." After certification, all changes in the initially approved tariffs and rates must be filed with the Commission pursuant to Section 4. The Commission, pursuant to prescribed standards and procedures, may "suspend" such changes for up to five months pending a hearing. If the changes are suspended, the prior approved tariffs and rates remain in effect during the period of suspension. The changes may take effect after the suspension period but subject to refund (with interest) depending on the outcome of the hearing process on contested issues or other disposition by the Commission.

Section 5(a) of the Act authorizes the Commission to institute a proceeding on its own initiative, to consider the justness and reasonableness of a certificate holder's rates and tariffs, and to determine new rates or tariff provisions if the existing ones are determined to be "unjust, unreasonable, unduly discriminatory, or preferential." Such changes can only be prospective; in a Section 5 proceeding the Commission cannot suspend rates or order refunds.

Section 16 of the Natural Gas Act authorizes the Commission to modify or rescind its orders after they have been issued. This authority, under appropriate circumstances, may be utilized for a variety of purposes, ranging from correction of mistakes to modification of certificate terms and conditions in light of changed circumstances.

2. Nature of the Financing

The subject waiver is sought from Congress by the project sponsors of ANGTS in connection with the financing of the project. The financing mechanism selected by the sponsors

has been referred to as "project financing." The propriety of project financing has been addressed by the Commission on a number of occasions, most recently in Ozark Gas Transmission System, FERC Opinion No. 125, Docket No. CP78-532 (July 28, 1981). In that opinion, the Commission described project financing generally as follows:

> Project financing differs from conventional financing mainly in connection with loan security. Security generally takes one of two forms in a conventional financing. First, the project sponsor, or borrower, has sufficient unencumbered assets that the lender feels secure in making a loan on the basis of the borrower's general credit. The loan agreement, in such cases, may require any of a number of different undertakings on the part of the borrower to maintain his creditworthiness. Secondly, if the borrower does not have unencumbered assets sufficient to secure the borrowing, the lender may require the pledge of specific assets to be funded by the borrowing as collateral for the loan. As Judge Litt pointed out in his initial decision on the Alaskan Natural Gas Transportation System, this is itself a kind of project financing. In this case the lender is secure in the knowledge that the borrower has put enough money into the project that the economic value of the project, less equity and liquidation costs, will yield sufficient funds for the lender to recover the principal value of the loan and accrued interest. A convenient example of this kind of financing is the mortgage of a building.
>
> A project financing, as it has come to be known in energy projects before the Commission, is a financing in which the general creditworthiness of the borrower is either insufficient or allegedly unavailable to secure the borrowing, and the underlying economic value of the assets to be financed are also insufficient to assure the lender that he will not lose his money. The latter inadequacy will presumptively obtain in the case of any pipeline financing, since the salvage value of the pipeline to be built should, in all cases,

be less than the loan obligation. 21/ In this case, an optional financing vehicle is the stream of income to be generated by the project. However, that vehicle is only available in the event that the income stream can be assured whether or not the project should fail. Such assurance is sought in this case in the form of the so-called minimum bill. The minimum bill has been structured in a fashion which will yield sufficient revenues to cover debt service (both principal and interest payments), whether the project is successful or not. In the event the project were to fail, the minimum bill would be levied on the customers of the shippers in the form of a surcharge for gas they do not receive.

21/ In this regard Ozark's witness, Gary, states, 'Today we all recognize a mortgage on a pipeline is virtually worthless, except for one aspect, in making a legal investment.' Tr. 12/1064

Slip opinion, at 10-11 (footnotes omitted in part).

As the Commission pointed out in the Ozark case, substantial policy justification should be found in certificate applications before the Commission pursuant to which project financing is sought. In the case of the ANGTS, such justifications have already been considered by both the Executive and Legislative Branches of the Federal Government, as well as the Commission, and have been found sufficient to permit the project financing of the ANGTS. 3/

Some of the justifications have included the substantial amount of natural gas to be delivered by the project, the potential for displacement of large quantities of foreign oil, reduction of pressure on the U. S. balance of payments, net national benefits to both the U. S. and Canada, and the anticipated average cost of gas over the project life.

3/ See, generally, Federal Power Commission, Recommendation to the President, Alaska Natural Gas Transportation Systems (May 1, 1977).

3. Reason for the Proposed Waiver

The waiver has a rather singular purpose. It is intended to assure lenders for the project that the income stream which serves as security for their loans will not be reduced below the level necessary to retire the principal of the loan and to pay the interest thereon. It would accomplish this purpose by precluding the Commission from changing the rules of the game, so to speak, in a manner which would undercut the security for the loan. This objective would be achieved by withdrawing from the Commission its authority under the Natural Gas Act to change the project tariffs in such a manner as to reduce project revenues below the level necessary to service project debt. The request for the waiver evidences that certainty of the security is essential, i.e., in this instance that the lenders will rely heavily and to their detriment on the orders of the Commission granting the certificate and establishing the tariffs as preconditions to the sponsors' take down of the construction loans.

All of the foregoing has been explicitly recognized by the Commission in FERC Order No. 31. 4/ In that order the Commission stated:

> The project sponsors have earnestly sought that this Order, especially as it relates to the tariff structure, provide assurance to prospective equity investors and lenders. The concern of the sponsors is wellfounded. The Commission fully recognizes that equity investors and lenders will make critical decisions respecting the financing of the construction of ANGTS in reliance on this Order.
>
> The Commission has articulated in great detail its rationale for this Order. Where reasoned alternatives were available, we have provided a thorough analysis of the issues and the basis for our conclusions. This thoroughness provides the investor's best security in relying on this Order.

4/ Supra, note 2, at 4 (mimeo).

The fact of the request for a waiver suggests that the project sponsors and the lenders feel that they need greater assurance than has been provided to date. The Chairman and I feel compelled to agree with that assessment. As the subsequent discussion and legal analysis shows, with the objective of "security" in mind, a waiver is clearly a far better assurance than an order of the Commission. For example, previous efforts by sponsors to secure additional certainty for lenders by attempting to obtain estoppel findings in Commission orders have been unsuccessful. 5/

5/ Applicants in the Great Plains case asked the Commission to make a very explicit estoppel case against itself by including certain statements in its order. Great Plains Gasification Associates, et al., FERC Opinion No. 69 (November 21, 1979) (reversed on other grounds, Office of Consumers' Counsel v. F.E.R.C., ___ F.2d ___ (D.C. Cir. 1980), Case No. 80-1303, decided December 8, 1980). The estoppel option will be discussed in the text, infra. In its initial brief to the Presiding Administrative Law Judge, Great Plains claimed the following:

> ". . . The lenders have indicated that they will require that the authorizations obtained [from the Commission] by the project companies contain [as a condition to take down of the loan for the project]:
>
> (1) A statement of the Commission's intention not to revoke or modify the tariff provisions approved by it for this project during the term of the bank loan;
>
> (2) A statement of the Commission's understanding that the lenders would not commit funds for this project without assurances that these provisions would continue in effect without modification during the term of the bank loan;
>
> (3) A statement of the Commission's intent to suspend the application as to this project of any future rule, order, or decision of general applicability which might affect the approved tariff provisions until after the conclusion of a full evidentiary hearing to determine the propriety and

(Footnote 5 continued on next page)

Important in the context of ANGTS financing is that a waiver would provide clear assurances and signals to foreign, as well as domestic, lenders. We are advised that a sizeable portion of the borrowing must be acquired from foreign investors because of legal lending limits and other institutional obstacles faced by domestic lenders.

4. Regulatory Risk

The regulatory risk perceived by lenders consists of two separate, but not unrelated, sets of events. They are: (1) that the Commission would change the tariffs initially approved on a claim of changed circumstances, and (2) that a subsequent Commission, composed of a majority with a different view of the public interest than the collective view of the Commission originally approving the tariffs, would change the tariffs to the detriment of the lenders in order to reflect their different views. The Commission's ability to change the tariffs in either of these events is not clear as a matter of law. It is not unlimited, but our analysis indicates that it is fairly broad. The effect of the proposed waiver would be to eliminate in material part the Commission's options -- to the extent they exist -- to change the tariffs in either of these cases.

5/ Footnote continued from prior page

lawfulness of such Commission action as it affects the tariff provisions on which the financing is based . . . ." Initial Brief of Great Plains Gasification Associates and the Customer Pipeline Companies, Docket Nos. CP78-391, et al., January 29, 1979, at 70-71.

Five other admissions were sought from the Commission, but those quoted are exemplary of what the lenders sought. Both the law judge and the Commission refused to provide them. See Opinion No. 69, at 63.

Similar estoppel findings were requested by the ANGTS sponsors in the proceeding that culminated in Order No. 31; however, they were refused in favor of the language quote at page 10, supra. As discussed hereafter, it is questionable whether such findings would achieve the desired or intended result.

5. Constitutional Question

Implicit in the questions articulated in your letter is the issue of whether the waiver is a reasonably necessary mechanism to provide the lenders with the certainty they seek. The threshold issue, in this respect, is whether there is any constitutional bar to the Commission taking the kind of action described in the subsequent paragraphs. If such a bar exists, the waiver would not be necessary. Our research indicates that this question has not been authoritatively answered by the courts. That is, there are no clear constitutional limits regarding the Commission's power to change tariffs, where parties have substantially changed position in reliance on such tariffs, and the Commission had prior, actual knowledge of such reliance. The Chairman and I believe that a respectable case could be made that it would violate basic constitutional principles of due process for the Commission to change tariffs not explicitly conditioned to permit change, when the Commission is fully aware that the tariffs form the basis of project financing, and the changes will in one way or another undercut that basis. However, there is an absence of authority to support such a proposition. 6/

6/ The question whether legislative or quasi-legislative action with retroactive effect works to deprive an owner of property without due process is somewhat analogous. Unfortunately, there are no clear principles, and the cases go both ways. See generally, text and cases collected in Cong. Research Service of Library of Congress, The Constitution of the United States of America: Analysis and Interpretation (1972), at 1165, et seq.

A case strongly suggestive that the principles of estoppel do not apply to federal agencies is Federal Crop Insurance Corp. v. Merrill, 332 U.S. 380 (1947). In that case, certain farmers were assured by a local agent of the federal corporation that a certain type of crop could be insured. In fact, rules of the corporation provided that such crops could not be insured, although neither the agent nor the farmers had actual knowledge of the regulations. Relying on the agent's advice, the crops were planted and subsequently destroyed.

(Footnote 6 continued on next page)

6/ Footnote continued from prior page

In holding that the farmers could not collect insurance for the crops despite the payment of premiums therefor and the inducement of the local agent's assurances, the Court indicated that knowledge of the rules contrary to the agent's advice would be imputed to the farmers because the rules were published in the Federal Register. Despite the difference of the facts in the Merrill case (farmers had relied on apparent rather than actual authority), the Court used strong language to suggest in dicta that the government corporation would be treated as an agency of the United States and would be immune from doctrines like estoppel. Id. at 384-85.

These dicta have led one commentator to take the following position:

> Merrill indicates that estoppel will not be used to protect an individual who has changed his position in reliance on administrative advice: 'It is settled law that no estoppel can arise against the government.' [Citing, Chapman v. Santa Fe Pac. R., 198 F.2d 498, 519 (D.C. Cir. 1951) (dissenting opinion), cert. denied, 343 U.S. 964 (1952).] B. Schwartz, Administrative Law (1976), at 133, et seq.

Professor Schwartz agrees with the Merrill-type result when the agency has acted in excess of its statutory authority. However, he goes on to say:

> . . . Both reason and policy argue that prejudicial reliance warrants invoking the doctrine of estoppel against the government in other cases: 'when the sovereign becomes an actor in a court of justice, its rights must be determined upon those fixed principles of justice which govern between man and man in like situations.' Id., at 135 (footnote omitted), citing Ritter v. United States, 28 F.2d 265, 267 (3d Cir. 1928).

(Footnote 6 continued on next page)

6/ Footnote continued from prior page

The following cases support Professor Schwartz's policy proposal: Brandt v. Hickel, 427 F.2d 53, 56-57 (9th Cir. 1970); Chapman v. El Paso Natural Gas Co., 204 F.2d 46, 53-54 (D.C. Cir. 1953); United States v. Lazy FC Ranch, 481 F.2d 985, 988-989 (9th Cir. 1973); Oil Shale Corp. v. Morton, 370 F. Supp. 108, 124-127 (D. Colo. 1973).

The decision in the Lazy FC Ranch case, supra, indicates that a line of federal estoppel cases may be emerging, and that such is required by elementary notions of fairness. 481 F.2d at 989. The Chairman advises that his view is consistent with that of Professor Schwartz and the Court in Lazy FC Ranch. However, absent an authoritative pronouncement on the matter by the United States Supreme Court, or specific federal legislation, I cannot render an opinion as General Counsel of the Commission that the Commission would in all or substantially all cases be estopped by its orders from changing the ANGTS tariffs in such manner as to impair the underlying security for the financing of the ANGTS. In my judgment, the best opinion that could be rendered would simply agree that the Commission is constitutionally prohibited from setting a confiscatory rate of return. As stated by the Supreme Court in Bluefield Water Works & Improvement Co. v. Public Service Commission of West Virginia, 262 U.S. 679, 690 (1923):

> Rates which are not sufficient to yield a reasonable return on the value of the property used at the time it is being used to render the service are unjust, unreasonable and confiscatory, and their enforcement deprives the public utility company of its property in violation of the Fourteenth Amendment.

See also, F.P.C. v. Hope Natural Gas Co., 320 U.S. 591, 603 (1943). As the subsequent discussion reveals, short

(Footnote 6 continued on next page)

6. Statutory Question

The foregoing is not to suggest that there are no Supreme Court cases dealing with regulatory estoppel. To the contrary, there are two cases of considerable relevance; however, both are based on interpretations of the enabling legislation of other agencies. In the first of these, United States v. Seatrain Lines, 329 U.S. 424 (1946), the Court held that the Interstate Commerce Commission lacked the authority to alter the certificate of a water carrier on its own motion. The holding was based on the express statutory language which permitted such action with respect to motor carriers, and the absence of correlative statutory authority in the case of water carriers, in the Interstate Commerce Act.

6/ Footnote continued from prior page

of this constitutional limitation, the Commission has considerable latitude in the exercise of its jurisdiction under Sections 4, 5, 7 and 16 of the Natural Gas Act.

The fact that the lenders have induced the project sponsors to ask for the waiver may well indicate that an unqualified legal opinion cannot be obtained from lenders' counsel to the effect that a constitutional bar exists to provide an estoppel defense. A similar conclusion may be deduced from the request for estoppel admissions in the Great Plains case, supra, note 5.

In Civil Aeronautics Board v. Delta Air Lines, Inc., 367 U.S. 316 (1961), the Supreme Court considered a similar question. The Court determined that Section 401(g) of the Federal Aviation Act prohibited the CAB from altering a certificate of public convenience and necessity, even where the certificating order purported to reserve jurisdiction prior to certification to make summary modifications pursuant to petitions for reconsideration. Reaching this result, the Court's analysis was founded on the plain meaning of the language in the enabling statute and its legislative history.

The Delta case is of particular importance to the subject of this memorandum for two reasons. First, the Court clearly explained the nature of the problem with the following statement:

> Whenever a question concerning administrative, or judicial, reconsideration arises, two opposing policies immediately demand recognition: the desirability of finality, on the one hand, and the public interest in reaching what, ultimately, appears to be the right result on the other [footnote omitted]. Since these policies are in tension, it is necessary to reach a compromise in each case . . . . Id. at 321.

The second key element of the Delta case is the recognition by the Court that the limitations placed on the CAB under the Federal Aviation Act resulted from Congressional concern during the passage of its predecessor, the Civil Aeronautics Act of 1938, over the reliance on, and consequent expenditure by airlines of large sums of money on the basis of the CAB's certificate (route) decisions. In this connection, the Court stated:

> In short, our conclusion is that Congress wanted certificated carriers to enjoy 'security of route' so that they might invest the considerable sums required to support their operations; and, to this end, Congress provided certain minimum protections before a certificated operation could be cancelled. We do not think it too much to ask that the Board furnish these minimum protections as a matter of course, whether or not the Board in a given case might think them meaningless. It

might be added that some authorities have felt strongly enough about the practical significance of these protections to suggest that their presence may be required by the Fifth Amendment. See Seatrain Lines v. United States, 64 F. Supp. 156, 161; Handlon v. Town of Belleville, 4 N.J. 99, 71 A. 2d 624; see also 63 Harv. L. Rev. 1437, 1439. Id., at 331-332.

7. The Natural Gas Act

The Seatrain and Delta cases teach that the starting point in determining the practical necessity of the waiver as a security device is the language of the relevant enabling statute, the Natural Gas Act. Sections 4 and 7 are relevant, but the key provisions are Sections 5(a) and 16. Section 16 reads in pertinent part:

> The Commission shall have power to ... prescribe, issue, make, amend, and rescind such orders, rules or regulations as it may find necessary or appropriate to carry out the provisions of this act.

Section 5(a) provides, in pertinent part, that if the Commission:

> ... [S]hall find that any rate, charge, or classification demanded, observed, charged, or collected by any natural gas company in connection with any transportation or sale of natural gas, subject to the jurisdiction of the Commission, or that any rule, regulation, practice or contract affecting such rate, charge, or classification is unjust, unreasonable, unduly discriminatory, or preferential, the Commission shall determine the just and reasonable rate, charge, or classification rule, regulation, practice, or contract to be thereafter observed and in force, and shall fix the same by order. [emphasis supplied]

These statutory pronouncements are mandatory as opposed to precatory. The broad language of Section 16, when employed in conjunction with Section 5, has permitted the Commission to alter and amend conditions to certificated service with full approval by the

courts. Section 5(a) has been interpreted as giving the Commission authority to alter the terms and conditions of certificated service even though the affected parties, acting alone, could not have changed them. F.P.C. v. Louisiana Power and Light Co., 406 U.S. 621, 646-647 (1972). In Opinion No. 754-A, Docket No. RP71-119, issued August 17, 1976, aff'd on other grounds, Hercules, Inc. v. F.P.C., 559 F.2d 1208 (3rd Cir. 1977), the F.P.C. concluded, with court approval, that it could exercise its Section 5 authority to promulgate new terms and conditions attached to certificates authorizing initial service.

The combined effect of Sections 5(a) and 16 is to require the Commission to amend terms and conditions of a certificate if those terms and conditions prescribe tariff provisions subsequently found to result in rates or charges which are not just and reasonable. As the United States Court of Appeals for the District of Columbia Circuit stated in American Smelting and Refining Company v. F.P.C., 494 F.2d 925, 940-941 (1974), cert. denied sub nom., Southern California Gas Co., et al., v. F.P.C., 419 U.S. 882 (1974), once the Commission finds that an existing rate or charge is unjust or discriminatory, 7/ it "must prescribe the remedy for that condition." 8/ If the existing illegal rate or charge is the result of the operation of a certificate condition, the remedy clearly will lie in the revocation or alteration of the order prescribing that condition, and thus the certificate itself.

7/ The Commission's authority to find that a tariff (previously determined to be just and reasonable) no longer functions in a reasonable manner has been upheld by the U.S. Court of Appeals for the District of Columbia Circuit in Pacific Gas Transmission Co. v. F.P.C., 536 F.2d 393 (1976).

8/ The D.C. Circuit has also taken this position in Pacific Gas Transmission Co. v. F.P.C., supra., where it stated at page 396 that "[a]fter such a finding, the Commission had not only the power but a solemn duty to take immediate action."

Furthermore, the unique nature of the Alaskan Northwest tariff provisions may subject them to amendment on another basis. Because they were developed in a rulemaking, the provisions of Order No. 31 arguably are not the result of the Commission acting in a judicial capacity, but in a legislative one, formulating and applying policy. The distinction is important because where the Commission acts in the former capacity, applying law or policy to past facts, a decision on the merits as to a disputed, and litigated issue of fact becomes final. United States v. Utah Construction and Mining Co., 384 U.S. 354, 421-422 (1966); Davis, Administrative Law Treatise, §18.09 (1970 Supp.). In the latter case, the Commission is free to take appropriate steps without being bound by its prior actions. Permian Basin Area Rates Cases, 390 U.S. 747, 789 (1968); Public Service Commission, State of New York v. F.P.C., 511 F.2d 338, 353 (D.C. Cir. 1975). The policy determination in this case has been that the public convenience and necessity required the assurances to investors in the ANGTS provided for by the tariff provisions of Order No. 31. Arguably, the Commission has determined that as a matter of policy, at least under present circumstances, a tariff designed to meet the conditions of Order No. 31 will be just and reasonable. The same reasoning might also apply to the shipper tracking provisions in the event that such provisions are adopted by the Commission through rulemaking procedures. Although it is questionable whether the rulemaking-adjudication distinction would be given great weight in the context of the facts at hand, it might be enough to convince a future Commission that it could, within the law, conclude that a different policy determination better serves the public interest.

From the foregoing it is clear that there is a plausible case for Commission authority to subsequently alter the tariff conditions of Alaskan Northwest's certificate, relying on Sections 16 and 5(a) of the Natural Gas Act and judicial pronouncements authorizing agencies to make changes in policy. The foundation for that case is the general principle that a policy determination made by a present Commission cannot preclude a future Commission from making a policy determination to the contrary, provided that in doing so it adequately explains the reasons for its new position, Consolidated Gas Supply Corp. v. F.P.C., 520 F.2d 1176 (D.C. Cir. 1975), whether or not there has been a change of circum-

stances. Greater Boston Television Corp. v. F.P.C., 444 F.2d 852 (D.C. Cir. 1970). A corollary to that principle is that a present Commission cannot bind a future Commission so as to preclude the prospective operation of Section 5. Optional Procedure for Certificating New Producer Sales of Natural Gas, 48 F.P.C. 218, 223 (1972); Pacific Gas Transmission Co. v. F.P.C., supra. These rules are analogous to those applicable to the legislature: namely, this Congress cannot preclude legislation, or amendments to legislation, by the next Congress.

8. Reasonableness of the Waiver Request

This line of analysis suggests several important conclusions, which bear ultimately on the recommendation of this memorandum. First, the presence or absence of a constitutional ban to the impairment by this or a future Commission of the tariffs upon which the lenders will rely is unclear. Second, there appears to be no statutory bar, such as was found to exist in the Seatrain and Delta cases, which would preclude the Commission from changing the tariffs. Even though it is clear that commentators, the Courts, at least by way of dictum, and the past and probably current Commissions accept the principle that elementary notions of justice should allow the project lenders to rely in good faith on the decisions of the Commission in making their loans, the request of the project sponsors indicating their "desires . . . to have these provisions waived" appears to be based on a concern as to the certainty of the federal estoppel doctrine under the Natural Gas Act. The questions that remain are those that are directly raised by your letter. They ask in essence whether there are either historical or predictable future facts which support or impugn the legislative request. That is, assuming that the waiver request is not patently unreasonable, is there a historical legal perspective from which the Congress could judge the future and find sound public reasons to grant or deny the waiver.

9. Past Commission Actions

For the moment I will defer to subsequent paragraphs the question of "the full implications of the waiver" and turn to your second specific question: whether there have been past Commission actions which justify the desires of the sponsors to have the subject sections of the Natural Gas Act waived. In this connection, the following contains a summary of recent cases, representative of past Commission actions, which involved issues of claimed detrimental reliance. Having done so I will leave it to the Subcommittee to conclude from these decisions whether or not the project sponsors' request is justified.

A. Jurisdiction: Distrigas Corporation, et al. v. F.P.C., et al., 495 F.2d 1057 (D.C. Cir. 1974), cert. denied, 419 U.S. 834 (1974).

This proceeding involved, in pertinent part, a filing by Distrigas Corporation and its affiliates, Distrigas of New York Corporation and Distrigas of Massachusetts, (Distrigas) which requested the Federal Power Commission to grant Distrigas the authority under Section 3 of the Natural Gas Act to import liquefied natural gas (LNG) from Algeria. 9/ The filing also contained a request by Distrigas for the FPC to issue a disclaimer of the Commission's jurisdiction under Section 7 of the Natural Gas Act. 10/

9/ Following regasification, more than 80 percent of the gas was to be sold in the state of importation to distributors and direct customers and the remainder to distributors in neighboring states.

10/ The imported LNG was to be delivered and regasified at facilities at Staten Island, New York and Everett, Massachusetts.

The Commission in a three to two vote granted the requested Section 3 authorization without condition but, noting that this was a novel situation, reserved the right to add conditions in the future if circumstances should change. The Commission noted that Section 3 of the Natural Gas Act specifically provided for such future amendments. However, the Commission did not find Section 7 jurisdiction over the regasification facilities and service nor over the facilities and services involved in the sale of the regasified LNG in the state of importation. 11/ The result of the decision was that there was no jurisdiction under Section 7 or Section 3 (by way of conditions to the import authorization) over the regasification facilities and service nor over the intrastate facilities and service. The Commission indicated its hope that this disclaimer of jurisdiction would make the project more attractive to private investors and "lead to more gas at a lower price to the consumer than if [the Commission] controlled every detail and decision related thereto." Two Commissioners dissented, arguing that the Commission should take jurisdiction under Sections 3 and 7 of the Natural Gas Act over the regasification facilities and the "intrastate" facilities.

Following the Commission's decision, Distrigas "assertedly in reliance on the Commission's limited jurisdictional disclaimer, . . . proceeded to construction of its Everett and Staten Island facilities, expending very substantial sums on each." In a new filing, Distrigas also applied for Section 3 authorization to import significant additional quantities of natural gas and for Section 7 authorization to sell these additional volumes, as well as certain of the originally authorized volumes, in interstate commerce.

11/ The Commission did take jurisdiction under Section 7 of the Natural Gas Act over the sales of gas which was ultimately destined for resale in interstate commerce. However, it found that jurisdiction over such sales attached only at the tailgate of the regasification plant.

Meanwhile, at the Commission two of the original three person majority had left and had not been replaced. Therefore, the two dissenting Commissioners were now a majority. In response to Distrigas' applications, they found that circumstances had changed since Distrigas' original application had been acted upon by the Commission. Specifically, they stated that the original Distrigas application proposed new and increased sales for resale in interstate commerce. Therefore, the Commission held that Section 7 certification was mandated for all of Distrigas' facilities.

On appeal, Distrigas argued, among other things, that once the Commission's previous decision on the jurisdictional issue was final and Distrigas had subsequently acted in reliance on that decision by (1) contracting with its customers and (2) constructing its facilities, the Commission was foreclosed from changing its mind and asserting jurisdiction where it had previously declined to do so. Distrigas cited the Seatrain case, 12/ where the Supreme Court had overturned the Interstate Commerce Commission's attempt to revoke a certificate previously granted to a water carrier.

The Court found that the Commission had the authority to issue the order it had issued under Section 3 of the Natural Gas Act but remanded for additional proceedings before imposition of any requirements to certification under Section 7. The Court distinguished Seatrain on the basis of lack of statutory authority in that case, and noted that both Section 3 of the Natural Gas Act as well as the Commission's previous order specifically contemplated changes and amendments. The Court further found that if Distrigas had relied on an interpretation of the original Commission order to the contrary (i.e., that the original Commission order granted Distrigas a permanent immunity from regulation), Distrigas' reliance was misplaced.

12/ Supra, at 15.

As part of its basis for rejecting the estoppel argument, the Court concluded that Distrigas' claim of injury was at that point hypothetical in nature since Distrigas had not demonstrated that the Commission would not ultimately authorize Distrigas' proposal.

On remand, the Commission granted Distrigas' application subject to certain conditions.

The Distrigas case is one where the Court approved a changed Commission's reversal of a previous Commission's ruling upon which the company and its lenders had arguably relied to their detriment. As a basis for that approval the Court stated, "any 'right' to non-regulation that the Commission's previous decision can be supposed to have vested in Distrigas was entirely contingent on the Commission's continuing to view such non-regulation as in the public interest." However, two facts tend to distinguish Distrigas from the ANGTS. One is the conditions cited by the Court in the original Section 3 authorization, which arguably placed Distrigas and its lenders on notice that the rule could change. The other distinguishing fact was that the Court found that the Commission's decision had not yet injured Distrigas and that it might not in the future. Presumptively, the matter was resolved at the Commission level in a way which did not adversely affect Distrigas or its lenders. Nonetheless, one could conclude that the uncertainty caused by the Commission's reversal is the type of action the ANGTS lenders seek to protect themselves against.

b. Cost of Service Tariff: Pacific Gas Transmission Co. v. F.P.C., et al., 536 F.2d 393 (D.C. Cir. 1976), cert. denied, 429 U.S. 999 (1976).

This case involved a Commission order which, pursuant to Section 5(a) of the Natural Gas Act, changed in

part Pacific Gas Transmission Company's (PGT) cost-of-service tariff after a full hearing. Prior to the Commission decision, PGT had been permitted to adjust its rates automatically on a monthly basis to reflect all changes in its costs, including amounts for gas purchased from Canadian producers for resale in the United States. This tariff had been in effect since PGT was first authorized to import gas from Canada in 1960. 13/

In 1974 and 1975, after a hearing under Section 5(a) of the Natural Gas Act, the Commission modified PGT's cost-of-service tariff to provide that changes in the cost of gas purchased by PGT from Canadian suppliers could be passed on to PGT's customers only after PGT had applied for the rate increase pursuant to Section 4 of the Natural Gas Act, and after any suspension period imposed by the Commission thereunder. The Commission revised the tariff to provide that such filings would be subject to suspension by the Commission pursuant to Section 4 of the Natural Gas Act and, if suspended, subject to refund and possible reduction as provided in Section 4 of the Natural Gas Act. The Commission justified the revised tariff by stating that Canadian authorities had recently begun to require that significantly increased prices be charged for Canadian gas sold for resale in the United States. Furthermore, Canadian authorities had changed their pricing policy by referencing it to prices for alternate energy sources (primarily oil products) in markets served by Canadian gas. This formula change signaled further significant increases in the cost of gas purchased by PGT from Canadian producers (as much as four times higher than prior to the Section 5 proceeding). The Commission found that these changed circumstances rendered PGT's existing tariff "unjust and unreasonable" and required prior Commission review of rate increases for Canadian gas before they could be passed on to consumers in the United States.

13/ See Pacific Gas Transmission Company, 24 FPC 134 (1960).

On appeal, PGT argued in part that the Commission-ordered modification of its tariff could result in delay or outright denial of its recovery of increased Canadian purchased gas costs which, in turn, would financially destroy PGT. PGT also argued that the Commission was without power to modify the cost-of-service tariff which a previous Commission had approved in 1960 when PGT was originally authorized to commence the importation of Canadian natural gas.

The Court denied all of PGT's claims and affirmed the Commission order and its action revising the tariff under Section 5(a). In support of its holding, the majority noted that the Commission had granted prompt authorization under Section 4 for Canadian gas rate increases which took effect after the disputed tariff change. The majority opinion indicated that failure of the Commission to include such increases might well be to "abdicate" its responsibilities under Section 4. However, Judge Bazelon in a dissenting opinion directed considerable criticism towards the Commission for injecting uncertainty into PGT's financial position. As the dissent stated: ". . . the FPC concedes that had PGT been required to absorb even the initial 32 cent price increase for a short period of time it would have been driven out of business, and 2,000,000 consumers would have been deprived of 40% of their gas supply." (536 F.2d at 397.)

C. Advance Payments (30 day rule): Tennessee Gas Pipeline Co., et al. v. F.E.R.C., et al., 606 F.2d 1094 (D.C. Cir. 1979), cert. denied, 447 U.S. 922 (1980); Natural Gas Pipeline Co. v. F.E.R.C., 590 F.2d 664 (7th Cir. 1979); United Gas Pipe Line Co. v. F.E.R.C., 597 F.2d 581 (5th Cir. 1979); Trunkline Gas Co. v. F.E.R.C., 608 F.2d 582 (5th Cir. 1979).

These cases involve interstate natural gas pipelines which, pursuant to a series of Commission rulemakings, including most notably Order Nos. 465 and 499, made interest-free loans (advance payments) to natural gas

producers as exploration and development investments which were to be repaid by future delivery of gas. Pursuant to these Commission Orders the pipelines were allowed to include such advances in their rate bases, for rate of return purposes, as exploration and development investments. This policy was advanced by the Commission as an incentive for the addition of gas supplies. The Commission's rulemaking orders spelled out in detail the requirements for inclusion of advance payments in Account 166. However, insofar as the "timing" of the expenditures by the producers versus the date of the pipelines investment, the Commission was silent, except to the extent the orders stated that amounts included in Account 166 could receive favorable rate base treatment where they were found to be "reasonable and appropriate." Subsequent to these Orders, pipelines invested at least $5.5 billion in "advance payments" with producers. However, after these investments had been made, the Commission, acting under FPC Order No. 465, pursuant to the "reasonable and appropriate" language, disallowed rate base treatment for certain advances because they were made to the producers and included in the pipelines' rates more than "thirty days" before they were spent by the producers. As a result large amounts of advance payments were retroactively disallowed on a deferral basis for inclusion in pipeline companies' rate bases.

On appeal to three different Circuit Courts, the pipelines claimed serious injury and voiced loud complaints that the general language of Order Nos. 465 and 499 had offered no notice of the new specific timing rule imposed by the Commission. As acknowledged by the D.C. Circuit Court, ". . . substantial sums were involved and deferral has resulted in considerable losses for the pipelines' stockholders." (606 F.2d at 1108.)

The pipelines argued that, at the invitation of the Commission rulemaking orders, pipelines were encouraged to make advance payments to promote exploration and development of natural gas reserves for the interstate market. Pursuant to those orders, the pipelines argued, they had invested substantial sums of money in the advance payment program. Thus, they argued that it was unfair and illegal for the Com-

mission, pursuant to the reasonable and appropriate standard, to establish in individual pipeline rate cases decided after the rulemaking orders had issued and after the advance payments contracts had been executed, that rate base treatment of advance payments would not be allowed more than thirty days in advance of when they were spent by the producers.

The three separate circuit courts reversed the Commission orders decided on this basis. However, the D.C. Circuit in Tennessee rejected the pipelines' claims of retroactive ratemaking and detrimental reliance and directed the Commission on remand to develop a timing relationship supported by substantial evidence. The Fifth Circuit in the United and Trunkline cases and the Seventh Circuit in the Natural case found that it was impermissible retroactive ratemaking to impose a timing requirement on Order No. 465 advances and that the pipelines had relied to their detriment on the absence of a timing requirement in the Order when they made advances to producers. Therefore, they reversed the Commission decision on the Order No. 465 advances and directed inclusion of the designated amounts in the respective pipelines' rate bases. Since Order No. 499 contained at least an ambiguously general reference to a timing relationship, those portions of the Commission decision were remanded because of a lack of substantial evidence supporting that portion of the Commission orders. Although the Commission was reversed in these cases, language from the Court's opinion in Tennessee is illustrative of the "regulatory risk" inherent to an industry subject to the Commission's jurisdiction.

> We find that petitioners' arguments in support of their interpretation (of estoppel facts) are undercut by consideration of the character of the advance payment program as an experimental departure from well accepted and understood regulatory law. (606 F.2d at 1108.)

* * *

> One of the risks incurred by the pipelines has been the 'regulatory risk' that an experimental program such as advance payments might miscarry, and that administrative readjustment would not prevent substantial adverse impact. (606 F.2d at 1120.)

D. Dedication of Gas Reserves: Air Products & Chemicals, Inc. v. F.E.R.C., ___ F.2d ___ (5th Cir. 1981), Case No. 78-2011, decided July 16, 1981.

This case involves a Commission order which ended a prior Commission policy under the "Chandeleur incentive doctrine" (of approximately seven years duration) which allowed offshore natural gas producers to reserve for their own use a portion of gas reserves which otherwise would have been dedicated to the interstate market. The prior policy had allowed these reservations as an incentive to producers to expedite the exploration and development of offshore reserves of natural gas. The Commission, in its final order, found that the reservation incentive was no longer needed because, among other things, the interstate market was suffering severe curtailments and thus the gas which would be reserved by the producers was needed to serve the interstate market.

On appeal the producers argued, among other things, that they relied to their detriment on the prior FPC policy allowing reservations and that it was unfair and illegal for the Commission to reverse its policy in an adjudicated case instead of a rulemaking proceeding to be applied prospectively.

The Court remanded the case to the Commission because of the improper way in which the Commission relied on extra-record evidence to support its decision, but it rejected the producers' arguments of detrimental reliance on the prior Commission policy. The Court noted that the old Commission policy was continually attacked by consumer groups in various cases and that it was, at its inception, described by the FPC as experimental. In sum, the Court found that the policy was

never "well established" enough to have caused detrimental reliance thereon by producers or anyone else. The Court noted further that the producers were not precluded from selling the gas in interstate commerce for a fair price but rather were prohibited from reserving the gas for their own use.

E. Unsuccessful Project Costs: Tennessee, et al. v. F.E.R.C., 606 F.2d 1094 (D.C. Cir. 1979), cert. denied, 447 U.S. 922 (1980).

This proceeding involved, among other things, an attempt by Transcontinental Gas Pipe Line Corporation (Transco) to recover costs associated with four unsuccessful projects related to the production of synthetic natural gas (SNG). The Commission denied recovery of these costs because they were not "used and useful" in providing service and could not be charged to ratepayers. 14/

On appeal, Transco argued that it had spent $22 million on these ultimately unsuccessful projects in purported reliance on a Commission policy allowing recovery of the costs of the projects if they proved to be unsuccessful. The Court found that the Commission had no policy allowing recovery of these costs and then affirmed the Commission's decision.

14/ A possible concern of the lenders is that a dogmatic application of the "used and useful" maxim would result in similar treatment of the ANGTS if the project were to suspend operation after completion or, through no fault of the sponsors they were unable to commence operation after completion. The need for assurances to the contrary (the minimum bill) provides a major impetus for project financing as opposed to conventional financing.

Other cases in which the Commission is currently under criticism for assertedly changing policies to the detriment of jurisdictional companies include (i) applications for rehearing of Commission Opinion No. 90 15/ and Order No. 94, 16/ and (ii) the oil pipeline cases where revision of the ratemaking methodology formerly employed by the Interstate Commerce Commission is under consideration. 17/

However, these cases should not be taken as a suggestion that the Commission never accords finality to its orders. In Texaco, et al., Docket No. CI77-329, et al., 13 FERC ¶ 61,222 (1980), for instance, a United States Senator filed a pleading on July 21, 1980, seeking to reopen a case settled on February 10, 1978. Part of the Senator's argument was that changed circumstances justified reopening the case, but the Commission refused to grant the intervention and declined to disturb its earlier order.

Arguably, cases such as those described above represent a possible "justification" or reason why the sponsors have now sought the waiver from Congress. At the same time, however, these decisions and others of a similar nature have generated some sympathy in the courts and have begun to establish the proposition that estoppel is available as a defense against the government if the government's wrongful conduct threatens to work a serious injustice and if the public's interest would not be unduly damaged by the imposition of estoppel. Lazy FC Ranch, supra, 481 F.2d at 989. Nevertheless, because the estoppel doctrine has not been fully developed under the Natural Gas Act, it is fair to state that only a waiver would provide the lenders with the same sense of legal certainty that a firmly established "regulatory estoppel doctrine" would afford these investors. Whether this legal uncertainty "justifies" the requested waiver is a value judgment best left to Congress. With this in mind, it is appropriate to consider your questions as to hypothetical situations creating injury to project participants.

15/ 12 FERC ¶ 61,080 (1980).

16/ 12 FERC ¶ 61,080 (1980); FERC Statutes and Regulations, ¶ 30,178 (1980).

17/ Trans Alaska Pipeline System (TAPS) (Phase I), Docket Nos. OR78-1, et al.; Williams Pipe Line Company (Phase I), Docket Nos. OR79-1, et al.

10. Hypothetical Injuries to Project Participants

Our analysis has produced four general sets of hypothetical circumstances which might induce a Commission response changing the tariff provisions related to the project, absent the waiver. They are:

(1) a changed economic environment resulting in materially different costs of capital (i.e., interest rates and return on equity) from those extant at the time of initial approval;

(2) changed amounts of natural gas available to be transported resulting in a materially different economic life for the transportation system;

(3) changed economics of the gas to be delivered by the system, relative to other sources of energy supplies, warranting an altered revenue pattern in order to avoid more serious economic dislocations; and

(4) premature project failure.

As a consequence of these general events, the following hypothetical Commission actions might take place:

(a) Upon a finding of changed circumstances the Commission could determine, pursuant to Sections , 7 and 16 of the Natural Gas Act, that the cost-of-service tariff (which provides that Alaskan Northwest's rates will be adjusted twice a year by a formula that requires Alaskan Northwest to change its rates to reflect actual costs in its charges to shippers) was no longer appropriate. The Commission could then require Alaskan Northwest to charge a stated rate, such as a flat rate per MMBtu of natural gas transported, and require a filing pursuant to Section 4 of the Natural Gas Act to be made prior to the effectuation of any increase in that stated rate. The rate increase filing could be suspended for up to five months, and the proposed rates thereafter collected could be subject to possible reduction and refund with interest.

The risks to Alaskan Northwest in the event of a Commission-ordered change to a stated rate form of tariff involve the adverse economic impacts resulting from the regulatory lag attendant to putting into effect a proposed

rate increase under Section 4 of the Natural Gas Act. The regulatory lag consists of the sum of: (1) the time necessary to prepare a Section 4 rate filing plus (2) the one-month notice requirements between the time the filing is made and the earliest possible effective date (absent a waiver of the notice requirements) plus (3) a suspension period of up to 5 months beyond the proposed effective date. During the lag period, Alaskan Northwest sponsors would not be able to recover all of the costs previously covered by operation of the cost-of-service tariff.

As noted previously, the FPC modified in part the cost-of-service tariff of Pacific Gas Transmission Company to require Section 4 filings to recover increased Canadian purchased gas costs. However, the Court concluded that the result was justified inasmuch as the Commission had, pursuant to Section 4, allowed a "non-niggardly" flow-through by the company of increased gas costs, notwithstanding the dissent's concern that delay would have resulted in adverse consequences.

(b) Alternatively, the Commission could decide at a future time to leave the cost-of-service tariff intact but remove the minimum bill (which guarantees recovery of actual operation and maintenance expenses, actual current taxes and debt costs). 18/ The consequence of this action could

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18/ The minimum bill provides for the recovery of actual operation and maintenance expenses, actual current taxes, and all amounts necessary to service debt including interest and scheduled retirement of debt. Under no circumstances would debt service be impaired.

Recovery of equity investment and return on equity investment is, however, treated differently. The "90 percent billing adjustment ratchet" reduces charges to eliminate return on equity investment and associated taxes for any service diminution below 90 percent of tendered gas. This tariff provision would be applicable in instances when the reduction in service for any one month was greater than 10 percent. The reduction in charges to reduce the return on equity and

(Footnote 18 continued on next page)

be that during periods of interruption exceeding thirty days Alaskan Northwest would bear all of the financial consequences of the interruption because it would not be able to charge the shippers for any costs incurred during the period of interruption. 19/

(c) Another hypothetical involves a situation wherein the ANGTS project fails some time after the date construction had commenced. Assume further that upon review of

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18/ Footnote continued from prior page

associated taxes would be proportional to the percentage of volumes tendered but not transported. The pipeline would be permitted to recoup any such billing adjustments by transporting volumes in excess of the contract level in subsequent months. The charge for such "Billing Adjustment Gas" transportation would be computed by using the same billing adjustment (i.e., the same dollar per Dekatherm). Any service reduction below 100% but more than 90% would be accounted for as "No Billing Adjustment Gas." As such, this gas would be transported in subsequent months at no added charge to the shipper.

The "90 percent billing adjustment ratchet" also operates during periods of interruption of service. It ceases to be operative, however, for any period of total cessation of service for more than 30 days. Beginning with the thirty-first day of any total cessation of service, the portion of the charges attributable to "equity costs" would be collected subject to refund pending a showing by Alaskan Northwest that it should be permitted to retain equity costs collected during the period of cessation of service. Equity costs, in this context, are defined to be "that portion of depreciation expense not necessary for debt service and associated taxes." (Order No. 31, at 181-182.)

The above discussed ANGTS tariff provisions differ substantially from lower-48 pipeline tariff provisions in a number of important respects. It is fair to state that the ANGTS tariff contains unique, "first-of-a-kind", provisions which have not been previously granted by the Commission.

19/ This assumes that in eliminating the minimum bill the Commission would also eliminate the opportunity to collect equity costs subject to refund and to make a showing pursuant to the provisions described in note 18, supra.

the circumstances surrounding the project failure, a future Commission decided, pursuant to Sections 5, 7 and 16 of the Natural Gas Act, to reverse a previous decision in principle to require consumers to pay all debt costs regardless of the circumstances once final certification had been granted and debt servicing obligations had commenced. Thus, the partners of Alaskan Northwest (including sponsor-shippers) would be required to absorb all Alaskan Northwest debt costs as well as other (such as equity) Alaskan Northwest costs. Such a Commission decision would have an immediate severe financial impact on Alaskan Northwest, with the degree of severity being a function of the financial health of its partners.

(d) The Commission could decide several years in the future, pursuant to Section 5 of the Natural Gas Act, to direct the shippers of the gas to remove from their respective tariffs the rate adjustment (tracking) provisions which permit the shippers to flow through increases in transportation costs without the necessity of making a full filing under Section 4 of the Natural Gas Act (reflecting all current costs and revenues, not merely the increased costs of transportation). 20/ In these

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20/ While the Commission has decided in principle to allow the shippers to track in a timely manner amounts reflecting transportation costs paid to the ANGTS sponsors under tariffs approved by the Commission, the Commission has not yet decided what kind of tracking of these costs by the shippers would be permitted. For example, the tracking provision could require a periodic rate filing under Section 4 reflecting only the change in transportation cost, similar to the shipper's current purchased gas cost adjustment clauses. Or the provision could permit the shippers to adjust their rates automatically on a simultaneous basis to reflect changes in ANGTS transportation costs. Such a provision would be similar to fuel cost adjustment clauses permitted in rate schedules and tariffs of electric utilities for transactions which are subject to this Commission's jurisdiction.

It should also be noted that no decision has yet been made by the Commission governing pass-through by the shippers of transportation costs incurred under tariffs subject to the jurisdiction of Canadian authorities.

circumstances, the shippers could be subject to under recovery of the Alaskan Northwest transportation costs because of the same regulatory lag discussed above.

(e) If additional reserves of natural gas were found in Alaska sufficient to lengthen the economic life of the ANGTS beyond the 25-year life now inherent in the proposed depreciation rate, the Commission might at some future time reduce the depreciation rate so as to more accurately spread the recovery of the plant investment over the useful life of the project. 21/ Alaskan Northwest might oppose such a change on the ground that the resultant reduced amount of depreciation expense recovered on an annual basis would impair their ability to service debt having a shorter term.

(f) In the event of a premature end to the viability of the project after it had commenced operation (because of physical, market or other forces), the Commission might find that a faster write-off of debt was appropriate, rather than continued operation of the minimum bill provisions. This could cause financial harm to Alaskan Northwest if the debt-holder refused to allow Alaskan Northwest to accelerate repayment of its debt, particularly if the interest rate to be paid to the lenders on the debt is higher than the general level of interest rates being paid for comparable investments. Alternatively, absent a waiver, a future Commission could determine, based on either a change in policy perception or based on facts attributing fault to the sponsors for the project failure, that the sponsor-investors (as opposed to the consumers) should bear some part, or all, of the risk of loss of recovery of debt, and then appropriately adjust the tariff or minimum bill provisions.

(g) In the event that Alaskan Northwest transportation costs and the costs of Prudhoe Bay and other natural gas, increase significantly, a shipper's resale rate could be increased so as to adversely affect the marketability of a shipper's gas. Under this scenario, the shippers (particularly the non-sponsor shippers) might argue for a reduction in the Alaskan Northwest transportation charges so that the shippers could continue to market their gas. Absent a waiver the Commission would have the power to

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21/ See, Memphis, Light, Gas and Water Division v. FPC, 504 F.2d 225 (D.C. Cir. 1974).

order some sort of temporary or indefinite reduction to Alaskan Northwest's charges. In response, Alaskan Northwest, or some other party, might argue that the reduction in Alaskan Northwest's charges (regardless of the reason therefor) impaired the recovery of Alaskan Northwest's "minimum bill" costs and thus jeopardized the financial health of the project.

(h) Another hypothetical involves the pipeline-shippers' current purchased gas cost adjustment (PGA) clauses, which, as now written, would permit the shippers to pass through Alaskan purchased gas costs to their customers. If the Commission should decide to revoke or modify the PGA clauses, the shippers would be subject to regulatory lag in recovering Alaskan and possibly other purchased gas cost increases. To the extent that such a lag caused a financial strain on the shippers, it could affect the cash flow to the ANGTS.

(i) In Order No. 31, the Commission stated its intention to periodically review Alaskan Northwest's rate of return on common equity. Absent the waiver, the Commission's authority to conduct such periodic reviews would provide a basis to adjust the return on common equity downward to reflect any lowering of the cost of common equity to Alaskan Northwest. Such a lowering of common equity costs would most likely result from a general overall improvement in the economy resulting in an improvement in the financial markets, leading to a reduction in the return on equity needed by Alaskan Northwest to continue to render adequate service in the public interest. The argument that a reduction in equity return could impair collection of all debt costs in violation of the proposed waiver language would presumably be an argument by lenders and others that the interest coverage must be greater than one (i.e., 1.5, 2.0, etc.) in order to ensure that Alaskan Northwest's ability to pay debt is not impaired.

11. Hypothetical Injuries to Consumers

You have asked "what hypothetical situations there might be which would work to the injury of resale customers and consumers should the waiver be granted." At bottom the most injurious risk that could be borne by the consumer is that the project might be abandoned either before or after completion, and that the consumer, through the resale customer, would be surcharged for the investment in the project

but would not receive gas from it. Next most injurious is the risk that the consumer will have to pay for gas not received during sustained periods in which the pipeline is out of service. Arguably, for each risk which would exist to the sponsors and/or shippers in the absence of a waiver, there would exist a concommitant risk to the resale customers and/or consumers in the event a waiver is granted. However, in fairness these risks should be properly placed in the context of the facts of the proceeding and the legal status of the ANGTS project to date.

President Carter in his formal Decision, the Congress in its approval of the President's Decision and international agreements, and the Commission in its Recommendation to the President and in existing orders, have each concluded that this project is in the public interest. These approvals have led to the existing tariff, minimum bill and other provisions applicable to the ANGTS as described above. The project sponsors and lenders have nonetheless responded by seeking further assurance that the unique features of these determinations, as well as the Commission's final orders and rules, will not be altered or modified after adoption. Relevant here are the existing decisions of various authorities that the ANGTS may be project financed and that certain portions of the investment should be recoverable from consumers in events, including project interruption, where consumers do not receive the benefit of delivered gas. Thus, decisions have been made that impose risk on the consumers regardless of the waiver. Further, the Commission's ultimate orders and rules will allocate the remaining risks among the parties after consideration of all factors consistent with or affecting the public interest. Accordingly, an argument can be made that once the legal foundation for the ANGTS places the risks, the waiver would impose no substantial additional risk on the consumers, but only provide a method for assuring implementation of the federal decisions made. The extent to which a waiver would place additional onus on the consumers would include the implications of removing the "regulatory risk" from the sponsors. In other words, the consumers would then face the risk that a future Commission could not, based on changed circumstances or different policy perception, modify the ultimate ANGTS orders or rules within the parameters of their final issuance.

12. Reasonable Likelihood of These Events Occurring

From a legal standpoint, the likelihood that a future Commission would take or decline to take action of the type inquired about in your letter would appear to depend upon (a) whether a reconsideration of past policy determination occurs, and/or (b) the future existence of facts which would produce a policy response by the Commission. The likelihood of such facts occurring is a prediction or assessment that, presumably, has been made in connection with all federal determinations to date. In issuing the final orders and rules, the Commission is legally charged with the responsibility of weighing the risks, to both the sponsors and consumers, attendant to investing the sums necessary to complete the project. The risks are exceptionally difficult to quantify because of the infinite set of variables that exist, and in the end the question is one of judgment. Either the risks are too great for the consumers to be asked to bear (i.e., the project is not in the public interest), or they are not. The Commission may well be required to make that determination as part of its final certification of the project. 22/ Appropriately, the Congress must decide, through adoption or rejection of the waiver, whether to eliminate the "regulatory risk" inherent in continued Commission jurisdiction after final certification.

I am advised by the Chairman that he will support passage of a waiver designed to assure project financing of the ANGTS consistent with the positions expressed in this memorandum. 23/

22/ See President's Decision, Finance Condition No. 2, at pages 36-37.

23/ In this connection, the text of the ultimate waiver language, if any, is a matter of continuing interest to the Chairman, myself and the Office of the General Counsel. Without addressing any of the complexities involved with the final language, please be advised that we would welcome the opportunity to provide your Committee and other interested persons with any technical assistance or advice that may be requested.

Hopefully the foregoing provides you with an adequate response to your inquiry given the length of time taken and the resources available to prepare this memorandum. Please understand that this response is not intended, nor should it be taken, as an official Commission position. Rather, this memorandum represents the combined efforts of the Office of the General Counsel and other Commission staff members, as well as opinions of the Chairman and myself.

CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES
SUBCOMMITTEE ON FOSSIL AND SYNTHETIC FUELS
OF THE
COMMITTEE ON ENERGY AND COMMERCE
WASHINGTON, D.C. 20515

July 24, 1981

The Honorable Charles M. Butler, III
Chairman
Federal Energy Regulatory Commission
825 N. Capitol Street
Washington, D.C. 20426

Dear Chairman Butler:

As you know, the sponsors of the Alaska Natural Gas Transportation System (ANGTS) have communicated to the President their request that he propose to the Congress waivers of several provisions of law which are considered by the sponsors and their financial advisors to be necessary to the financing of the project.

Among the proposed waivers are several that deal with the regulatory authority of the Commission with regard to the ANGTS. The President has asked us and other Members of Congress to work together with his Administration in exploring the meaning and acceptability of the suggested waivers, because after their proposal they would by law not be subject to amendment. In order to fully understand the effects of those waivers which relate to regulatory processes, we have decided to solicit your assistance.

We request that you assign the most expert attorneys and specialists on your staff to provide us by August 1 with a written legal memorandum which presents their best judgment as to the effects on normal practice and procedure before the FERC of the following waiver of law:

Authority to Modify or Rescind Orders

Waive Sections 4, 5, 7, and 16 of the Natural Gas Act to the extent that such sections would allow the Commission to change the provisions of any final rule or order approving (a) any tariff in any manner that would impair the recovery of the actual operation and maintenance expenses, actual current taxes, and amounts necessary to

service debt, including interest and scheduled requirement of debt, for the approved transportation system; or (b) the recovery by shippers of Alaska gas of (1) all costs related to the purchase of such gas at just and reasonable rates, and (2) transportation of such gas pursuant to an approved tariff.

We want to understand (a) the full implications of such a waiver, (b) whether there have been past Commission actions which justify the desires of the sponsors to have these provisions waived, (c) what hypothetical situations there might be which would work to the injury of the pipeline sponsors of ANGTS or other participants in the project should there be no such waiver, (d) what hypothetical situations there might be which would work to the injury of resale customers and consumers should such a waiver be provided, and (e) the reasonable likelihood of such situations actually occurring.

We are not seeking an official Commission decision or statement on these questions, and certainly have no intent of affecting in any way future Commission decisions related to the ANGTS or any other matter, but seek instead to profit from the expertise available to you on your staff. We apologize for the extremely short time frame of our request, but we are attempting to gain this knowledge rapidly enough that a waiver package might be successfully dealt with during this session of Congress, under the procedures of the Alaska Natural Gas Transportation Act.

Thank you very much for your cooperation. If any questions arise please contact John Jimison or Michal Boland of our staff at 225-0320 or 225-3641.

Sincerely,

Philip R. Sharp
Chairman

Clarence J. Brown
Ranking Minority Member

PRS/jj

STATEMENT BY

MYER RASHISH

UNDER SECRETARY OF STATE

FOR

ECONOMIC AFFAIRS

BEFORE

A JOINT HEARING OF THE

SUB COMMITTEE ON ENERGY AND THE ENVIRONMENT

OF THE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

AND THE

SUBCOMMITTEE ON FOSSIL AND SYNTHETIC FUELS

OF THE ENERGY AND COMMERCE COMMITTEE

WASHINGTON, D.C.

OCTOBER 30, 1981

IT IS A PLEASURE TO BE HERE TODAY TO TESTIFY BEFORE YOUR TWO SUB COMMITTEES ON BEHALF OF SECRETARY HAIG. I REGRET THAT THE DEPARTMENT OF STATE WAS UNABLE TO ADDRESS THESE COMMITTEES LAST WEEK BECAUSE OF MY PARTICIPATION IN THE CANCUN SUMMIT. I APPRECIATE YOUR GIVING ME THE OPPORTUNITY AT THIS TIME TO PRESENT YOU WITH OUR VIEWS ON THE WAIVER TO EXISTING LAW WHICH THE PRESIDENT HAS SUBMITTED TO FACILITATE THE PRIVATE FINANCING OF THE ALASKAN NATURAL GAS TRANSPORTATION SYSTEM (ANGTS). IN PARTICULAR, I WOULD LIKE TO DESCRIBE WHAT WE BELIEVE ARE THE KEY BENEFITS THAT ANGTS WOULD PROVIDE THE UNITED STATES.

IN ORDER TO ASSESS THE ROLE THE ANGTS MIGHT PLAY IN THE U.S. ENERGY PICTURE, IT WOULD BE USEFUL TO BEGIN BY NOTING SOME OF THE FACTORS OVER THE PAST DECADE THAT HAVE LED POLICY MAKERS AND PRIVATE ENERGY PLANNERS ALIKE TO URGE THE EARLY COMPLETION OF A NATURAL GAS DELIVERY SYSTEM PROVIDING ALASKAN GAS TO THE LOWER 48 STATES.

THE IMPETUS OF ANGTS HAS ITS ROOTS IN THE TURBULENT GLOBAL ENERGY DEVELOPMENTS OF THE PAST DECADE. IN THE EARLY 1970'S, THE GROWTH IN AMERICAN ENERGY CONSUMPTION QUICKLY OUTSTRIPPED THE CAPACITY OF OUR DOMESTIC ENERGY PRODUCERS. IMPORTS NATURALLY FILLED THE GAP. IMPORTED ENERGY WAS STILL RELATIVELY CHEAP, EASY TO PROCURE, AND SEEMINGLY FREE OF POLITICAL RISKS.

BY SEPTEMBER 1973, OIL IMPORTS ALONE CONSTITUTED 38.3 PERCENT OF TOTAL OIL CONSUMPTION, UP FROM JUST 21.2 PERCENT IN 1968. WITH THIS RAPID GROWTH IN ENERGY IMPORTS

CAME INCREASED VULNERABILITY TO ENERGY IMPORT CUTOFFS. UNFORTUNATELY, MOST DID NOT RECOGNIZE THE SERIOUSNESS OF SUCH A DEVELOPMENT.

THE OIL EMBARGO OF 1973-1974, AND THE RESULTING ENERGY SHOCK HERE AT HOME, AWOKE THE AMERICAN PUBLIC AND POLICY MAKERS ALIKE TO THE DANGERS OF FURTHER INCREASING OUR DEPENDENCE ON FOREIGN OIL. SOARING ENERGY PRICES AND LONG LINES AT THE PUMP DROVE HOME IN A TANGIBLE WAY THAT INCREASING DEPENDENCE ON FOREIGN SOURCES FOR OUR ENERGY NEEDS WOULD ONLY MAKE THE UNITED STATES INCREASINGLY VULNERABLE IN TIMES OF UNCERTAIN SUPPLY. THE GLOBAL ENERGY CRISES IN 1979 AND 1980 AS A RESULT OF THE REVOLUTION IN IRAN AND THE IRAN-IRAQ WAR ONLY UNDERSCORE THE FACT THAT SUPPLY UNCERTAINTIES MAY BE INCREASINGLY COMMON IN THE FUTURE.

IT WAS AGAINST THIS BACKDROP THAT A VARIETY OF ALASKAN GAS PROPOSALS WERE CONSIDERED AND FROM WHICH ANGTS WAS ULTIMATELY SELECTED. FROM THE OUTSET, THE PRIVATE SECTOR WAS EXPECTED TO ASSUME THE CENTRAL ROLE REGARDLESS OF THE KIND OF TRANSPORTATION SYSTEM ULTIMATELY SELECTED. WHILE SUCCESSIVE ADMINISTRATIONS RECOGNIZED THAT THE GOVERNMENT HAD A LEGITIMATE OVERSEER ROLE, EACH STEADFASTLY MAINTAINED, AS THIS ADMINISTRATION DOES TODAY, THAT THE PRIVATE SECTOR SHOULD BE RESPONSIBLE FOR UNDERTAKING ALL PHASES OF THE PROJECT, INCLUDING ITS FINANCING.

WE BELIEVE EARLY COMPLETION OF ANGTS WILL ADD SIGNIFICANTLY TO THE ENERGY SECURITY OF THE UNITED STATES AND HELP

US REDUCE THIS VULNERABILITY TO WHICH WE HAVE BEEN EXPOSED IN THE PAST. WITH DIRECT ACCESS TO APPROXIMATELY 13 PERCENT OF U.S. GAS RESERVES, IT IS ESTIMATED THAT ANGTS WILL REPLACE APPROXIMATELY 400,000 BARRELS OF OIL A DAY, THUS FURTHER REDUCING U.S. VULNERABILITY TO INTERRUPTIONS OF OUR ENERGY IMPORTS. ON AN ENERGY EQUIVALENT BASIS, GAS SHIPPED VIA THE ALASKAN PIPELINE WOULD REPRESENT NEARLY 10 PERCENT OF TODAY'S CRUDE OIL IMPORTS. AS OUR NEED FOR ADDITIONAL GAS GROWS ANGTS IS EXPECTED TO PROVIDE AN ENERGY EQUIVALENT OF 600,000 BARRELS PER DAY OF IMPORT OIL.

COMPLETION OF ANGTS, AND THE READY ACCESS TO THE 48 THAT IT REPRESENTS, WILL ALSO SPUR EXPLORATION. THIS WILL UNDOUBTEDLY RESULT IN A SUBSTANTIAL INCREASE IN PROVEN RESERVES THAT GEOLOGISTS BELIEVE ALASKA HOLDS. WITHOUT THIS ACCESS, HOWEVER, EXPLORATION ACTIVITY WILL BE SIGNIFICANTLY LOWER, AND PROGRESS IN SUBSTANTIATING PROVEN RESERVES SIGNIFICANTLY REDUCED.

ANGTS WOULD ALSO PROVIDE AN INDIRECT BENEFIT TO OUR EUROPEAN ALLIES. BY GREATER USE OF DOMESTIC GAS RESOURCES, THE UNITED STATES WILL REDUCE ITS NEED FOR IMPORTED GAS IN THE YEARS AHEAD. WITH ASSURED ACCESS TO ALASKAN GAS, WE WOULD NOT NEED TO COMPETE WITH OUR EUROPEAN FRIENDS FOR ACCESS TO GAS SOURCES ELSEWHERE IN THE FREE WORLD NOTABLY IN AFRICA, THE MIDDLE EAST AND EVEN IN THIS HEMISPHERE. MAKING ADDITIONAL GAS AVAILABLE TO EUROPE WILL BE ESSENTIAL IF THE EUROPEANS ARE TO LIMIT THEIR VULNERABILITY TO ENERGY CUTOFFS FROM THE SOVIET UNION AND EASTERN EUROPE.

I WOULD ALSO LIKE TO EMPHASIZE THAT APPROVAL OF THIS WAIVER PACKAGE WOULD HAVE IMPORTANT FOREIGN POLICY BENEFITS IN OUR RELATIONS WITH CANADA. ENERGY PLANNERS HAVE LONG RECOGNIZED THAT CLOSE COOPERATION WITH OUR CANADIAN NEIGHBORS WOULD BE ESSENTIAL IN PROVIDING THE LOWER 48 STATES WITH SECURE, DEPENDABLE ACCESS TO ALASKAN GAS. CANADA, FOR ITS PART, KNOWS THAT A STRONG, ENERGY INDEPENDENT UNITED STATES IS IMPORTANT FOR THE SECURITY OF THE FREE WORLD. CANADIANS RECOGNIZE, MOREOVER THAT U.S. ACCESS TO ALASKAN GAS WOULD PROVIDE CANADA WITH GREATER FLEXIBILITY IN MANAGING ITS OWN ENERGY RESOURCES BY LIMITING FUTURE U.S. DEMAND FOR CANADIAN GAS. FINALLY, MANY CANADIANS BELIEVE THAT DEVELOPMENT OF ANGTS WILL PROVIDE IMPORTANT BENEFITS TO THE CANADIAN GAS INDUSTRY AND FURTHER CANADA'S RESOURCE DEVELOPMENT.

BILATERAL COOPERATIVE EFFORTS TO BRING ALASKAN NATURAL GAS THROUGH CANADA WERE FORMALIZED BY TREATY IN SEPTEMBER 1977. THIS TREATY AND THE COMMITMENTS IT REPRESENTS HAVE BECOME AN IMPORTANT SYMBOL OF ENERGY COOPERATION BETWEEN OUR TWO COUNTRIES. WE HAVE CONTINUED TO BUILD ON THIS TREATY THROUGH NUMEROUS DIPLOMATIC EXCHANGES THAT HAVE EXPANDED THIS INITIAL EFFORT.

FROM THE BEGINNING OF OUR DISCUSSIONS, CANADA HAS STRONGLY SUPPORTED THE PIPELINE PROJECT DESPITE ITS COMPLEXITIES AND UNCERTAINTIES. IN 1980, IN ORDER TO GIVE IMPETUS TO THE PIPELINE PROJECT, THE U.S. URGED THE CANADIAN GOVERNMENT TO AUTHORIZE THE CONSTRUCTION OF TWO SOUTHERN LEGS OF

THE PIPELINE (THE "PREBUILD" PORTION) THROUGH SOUTHERN ALBERTA, SASKATCHEWAN AND BRITISH COLUMBIA. WE ALSO URGED THE APPROVAL OF THE EXPORT OF CANADIAN GAS THROUGH THOSE SEGMENTS UNTIL THE ALASKAN GAS BEGAN TO FLOW. DOMESTIC OPPONENTS IN CANADA, HOWEVER, PRESSED THE CANADIAN GOVERNMENT NOT TO APPROVE THE CONSTRUCTION OR GAS EXPORT AUTHORIZATION IN VIEW OF THEIR OPINION THAT THE PROJECT WOULD NEVER RECEIVE THE PRIVATE FINANCING NECESSARY TO COMPLETE THE REMAINING SEGMENTS. CANADA, THE OPPONENTS CLAIMED, WOULD BE STUCK WITH THE SOUTHERN PORTION IN PLACE BUT GOOD ONLY FOR CARRYING ALBERTA'S GAS TO THE U.S. -- GAS WHICH MANY IN CANADA ARGUED CANADA WOULD NEED FOR ITS OWN MARKETS.

PRIME MINISTER TRUDEAU MADE THE DIFFICULT DECISION TO PROCEED WITH THE SOUTHERN LEGS ON THE BASIS OF ASSURANCES FROM BOTH THE ADMINISTRATION AND THE CONGRESS. PRESIDENT CARTER SAID IN A LETTER TO THE PRIME MINISTER THAT THE U.S. GOVERNMENT WAS COMMITTED TO THE PROJECT, WAS SATISFIED THAT IT WOULD BE COMPLETED, AND WOULD TAKE "APPROPRIATE ACTION" DIRECTED AT MEETING THE OBJECTIVE OF TIMELY COMPLETION. CONGRESS, FOR ITS PART, PASSED A CONCURRENT RESOLUTION SAYING "IT IS THE SENSE OF CONGRESS THAT THE SYSTEM...ENJOYS THE HIGHEST LEVEL OF CONGRESSIONAL SUPPORT FOR ITS EXPEDITIONS CONSTRUCTION AND COMPLETION..." THANKS TO THESE EXPRESSIONS OF SUPPORT, THE CANADIANS DID AUTHORIZE THE PRE-BUILD. THE WESTERN LEG WAS RECENTLY COMPLETED AND WORK IS ON SCHEDULE ON THE EASTERN LEG.

IT WOULD BE DIFFICULT TO OVEREMPHASIZE THE NEGATIVE IMPACT ON U.S.-CANADIAN RELATIONS IF THE U.S. GOVERNMENT DID NOT HONOR ITS ASSURANCES TO REMOVE STATUTORY IMPEDIMENTS TO PRIVATE FINANCING. THE CANADIANS WOULD UNDOUBTEDLY FEEL BETRAYED AND THE BILATERAL RELATIONSHIP WOULD SUFFER.

PRESIDENT REAGAN HAS REAFFIRMED HIS COMMITMENT TO THE PIPELINE'S CONSTRUCTION BASED ON PRIVATE FINANCING. THE WAIVER PACKAGE BEFORE THE CONGRESS TODAY IS THE CONCRETE EXPRESSION OF THIS GOVERNMENT'S WILLINGNESS TO LIVE UP TO THE ASSURANCES GIVEN TO PRIME MINISTER TRUDEAU AND THE CANADIAN GOVERNMENT. IN OUR VIEW, THIS WAIVER PACKAGE REMOVES UNREASONABLE RESTRICTIONS THAT WOULD UNNECESSARILY COMPLICATE THE PRIVATE SECTOR'S ROLE IN MAKING ANGTS A REALITY.

IN CONCLUSION, THE DEPARTMENT OF STATE BELIEVES THAT EARLY COMPLETION OF ANGTS THROUGH PRIVATE MEANS WILL PROVIDE IMPORTANT ENERGY SECURITY BENEFITS THAT THE UNITED STATES CAN ILL AFFORD TO REJECT. IT ADVANCES BILATERAL ENERGY COOPERATION WITH CANADA, YET PROTECTS THE FUNDAMENTALLY PRIVATE NATURE THAT HAS BEEN A PREREQUISITE FOR THIS ADMINISTRATION'S SUPPORT. WE BELIEVE THE PRESIDENT'S WAIVER PACKAGE ELIMINATES UNNECESSARY RESTRICTIONS THAT CAN ONLY COMPLICATE THE SPONSORING COMPANIES' ATTEMPTS TO ATTRACT FINANCIAL BACKING FOR THIS IMPORTANT PROJECT.

THIS CONCLUDES MY PREPARED TESTIMONY. I WILL BE HAPPY TO ANSWER ANY QUESTIONS THAT YOU MAY HAVE.

FOR RELEASE ON DELIVERY
EXPECTED AT 10:00 A.M.
October 30, 1981

STATEMENT OF THE HONORABLE ROGER W. MEHLE
ASSISTANT SECRETARY OF THE TREASURY (DOMESTIC FINANCE)
BEFORE THE SUBCOMMITTEE ON ENERGY AND THE ENVIRONMENT
AND THE SUBCOMMITTEE ON FOSSIL AND SYNTHETIC FUELS
U.S. HOUSE OF REPRESENTATIVES

Messrs. Chairmen and Members of the Subcommittees:

I am pleased to have this opportunity to assist you in your consideration of the waiver of law submitted by the President to Congress on October 15 for the Alaska Natural Gas Transportation System (ANGTS). In proposing this package of waivers to Congress, the President aims to facilitate the private financing, and hence construction, of this multi-billion dollar energy transportation system. I urge Congress to adopt this waiver proposal in support of the expeditious completion of this important energy project on a privately-financed basis.

Background

By enacting the Alaska Natural Gas Transportation Act of 1976, Congress recognized the importance to our Nation of transporting the Prudhoe Bay gas to the lower forty-eight States. The Act provided a unique and comprehensive process to designate and approve a sound proposal for a natural gas transportation system, and to expedite its construction and operation. The Act required the President to submit to Congress a financial analysis of the system

designated for approval, along with a determination of whether the designated system could be privately financed, constructed and operated.

In response to this statutory provision, the Treasury Department prepared an extensive study in 1977 of the sources of funds available to finance the proposals for the ANGTS. The report concluded that an economically viable system to transport gas from Alaska to the lower forty-eight States could be privately financed -- that is, without Federal financial assistance. The report found, however, that a private financing would be difficult to arrange without prior resolution of a number of issues, such as determining a rate of return on the investment, forming a final consortium of equity investors in the project, and determining the extent to which benefited parties would provide financial support to the project. The feasibility of private financing could be determined only after these issues were resolved.

In 1977, President Carter reflected Treasury's findings in the Decision and Report to Congress on the Alaska Natural Gas Transportation System which designated the proposal of the Alcan Pipeline Company, predecessor to Northwest Alaskan Pipeline Company, to transport the natural gas from Prudhoe Bay to the contiguous forty-eight States. The Decision also specified terms and conditions under which the private financing would occur. These terms included:

1. a prohibition against gas producers' equity interest, voting power or management control in the Alaskan segment;
2. the exclusion of the gas conditioning plant from the pipeline system; and
3. a prohibition against the use of consumer charges prior to completion and commissioning the entire system.

As stated in the Decision, the terms and conditions were not meant to limit or foreclose their later modification, but were intended to begin the process by which a set of effective and workable guidelines evolved. Without a doubt, the Decision recognized the unprecedented physical size of ANGTS as an energy transportation system, and its enormous debt financing requirements. What few realized, however, was the magnitude of the project's need for funds as the proposal would approach reality.

Resolving a number of technical issues associated with the pipeline proposal required almost four years. In May 1981, the gas producers and pipeline sponsors reached agreement on a conceivable plan for financing the system on a private basis. Major provisions of the plan included:

- Capital costs estimated at $27 billion ($21 billion for the pipeline, $6 billion for the gas conditioning plant), with an additional $3 billion for a completion assurance pool
- a debt/equity ratio of 75%/25%

. an equity split of 70%/30% between sponsors and producers respectively, with each group responsible for an equivalent percent of the debt of the pipeline project.

The plan aims to accommodate the private financing of the pipeline the cost of which has escalated substantially during the past four years from an estimated $10-$13 billion to $30-$40 billion.

Waiver Proposal

Since the sponsors' financing plan for the system would require key modifications in existing statutes, President Reagan transmitted the proposed waiver of law to Congress in accordance with the Alaska Natural Gas Transportation Act.

The package of waivers submitted by the President proposes both substantive and technical changes to existing law to facilitate the private financing of the project. Three specific waivers which I would particularly like to discuss concern producer equity participation, the inclusion of the gas conditioning plant in the system, and billing prior to completion of the entire transportation network.

Producer Participation. As stated in the Decision in 1977, the strength of the sponsoring consortium of gas transmission companies was a significant element of the financing. In 1981, the strength of the consortium remains an important element in financing the project; but the substantial increase in credit support required to fund the system relative to the aggregate financial capability of the pipeline sponsors necessitates producer

equity participation. Creditors of the project will be concerned that the equity owners of the pipeline system possess the financial strength to complete the project and to help assure repayment of the debt. The participation of the gas producers on an equity basis will substantially add to the financial capability of the project participants to support the project, and thus facilitate its private financing.

Gas Conditioning Plant. ANGTS comprises four pipeline segments -- an Alaskan segment which will run from the Prudhoe Bay reserves southward to the Canadian border; a Canadian pipeline segment which will extend from the Alaska-Yukon border to Central Alberta; and from Central Alberta, Eastern and Western Legs which will transport gas to the Chicago and San Francisco areas, respectively. An integral part of the system also is the gas conditioning plant which prepares and readies the natural gas for shipment. The purposes and benefits of the pipeline and conditioning plant are intertwined -- both are required in the delivery of gas from Alaska to the ultimate consumers. In arranging the private financing, therefore, potential creditors of the system will evaluate the risks inherent in the entire project, including the conditioning plant. Before extending any funds, they will require assurance that all parties of the closely-integrated system have financial backing for its completion. An underlying regulatory and tariff structure comprising the whole system as one unit, as the waiver would allow, seeks to provide such assurance.

Billing Commencement. The waiver of law also includes a provision allowing the Federal Energy Regulatory Commission (FERC) to allow billing for transportation charges through the pipeline system prior to completing and commissioning the entire system. This provision would separate the ANGTS into three parts for billing purposes: an Alaskan pipeline segment, an Alaskan gas conditioning plant segment and a Canadian pipeline segment. For the Canadian segment, the full cost of service would be recovered upon completion of that segment, but no billing would begin on that segment prior to a date established by FERC. Upon completion and successful testing of the Alaskan pipeline segment, the waiver would permit recovery of a minimum bill consisting of actual operation and maintenance expenses, actual current taxes, and amounts to service principal and interest on debt. The billing, however, would not commence prior to a date established by FERC. Likewise, recovery of a minimum bill on the gas conditioning plant segment could begin upon its completion and successful testing, but not prior to the date established by FERC. This waiver would provide some assurance against the risk of not completing one of the Alaskan portions, or of the Canadian segment. This waiver, therefore, would protect potential lenders against the unlikely event of no ompletion of related portions of the system, but lenders would bear the risk of non-completion of the segment financed by them.

Conclusion

The Alaska Natural Gas Transportation System is the largest construction project ever contemplated by private enterprise. Although the requisite financing is uniquely large, complex and difficult, private financial markets appear capable of providing the estimated funds required for the project. In the United States, between $400 billion and $500 billion of new credit is generated on an annual basis, and these amounts do not take into consideration the financial capacities of foreign markets which may fund a substantial portion of the needed capital for the project. Furthermore, the funding needs of the project will not be met at one point in time, but will probably be phased in over a number of years. Thus, the financing requirements of the pipeline project will likely have a minimal effect on the financial markets, interest rates, and financing of other energy projects. Since the waiver package aims to facilitate the private financing of the project, and since private investors will not provide funds if the project does not appear to be economically feasible, there will be a free market determination of the allocation of economic resources to the project. Resources will thus be diverted from other, less efficient energy projects. Adequate equity and debt capital should be available, given the market's judgment that the project is economically feasible. Under such circumstances, the project would be financed and would benefit the economy.

In this regard, the Economic Recovery Tax Act of 1981 will play a role in determining the project's feasibility. While the Investment Tax Credit may be available to project sponsors during the construction phase, this availability was not appreciably altered by the Economic Recovery Tax Act of 1981. The Act does provide more generous cost recovery than was available under prior law in that the cost recovery period is reduced. However, as under prior law, cost recovery is not allowed prior to the year in which the property is placed in service.

We concur in the judgment of private financial advisers to the pipeline sponsors and gas producers participating in the project that Congressional adoption of the waiver package is essential to developing any possible plan to finance the project privately. While we cannot be completely assured of private financing if these waivers are adopted, we are certain that the project will not be financed without the waivers. I therefore urge Congress to approve the proposed waivers.

I would be happy to answer any questions.

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STATEMENT OF

PETER M. SACERDOTE

PARTNER

GOLDMAN, SACHS & CO.

IN BEHALF OF

GOLDMAN, SACHS & CO.

LEHMAN BROTHERS KUHN LOEB INCORPORATED

AND

SHEARSON/AMERICAN EXPRESS INC.

Before the

ENERGY AND COMMERCE

SUBCOMMITTEE ON FOSSIL AND SYNTHETIC FUELS

and

INTERIOR AND INSULAR AFFAIRS

SUBCOMMITTEE ON ENERGY AND ENVIRONMENT

U.S. HOUSE OF REPRESENTATIVES

November 4, 1981

I am Peter M. Sacerdote, Partner of Goldman, Sachs & Co. This statement also reflects the views of Lehman Brothers Kuhn Loeb Incorporated and Shearson/American Express Inc. Our firms are investment banking financial advisors to Alaskan Northwest Natural Gas Transportation Company, the company designated by the President to design, construct, and operate the Alaskan pipeline segment of the Alaska Natural Gas Transportation System.

We have advised Alaskan Northwest on many issues relating to the development of a financing plan, including the identification of requirements for and sources of financing. We have assisted and advised our client on a wide range of subjects such as the incentive rate of return mechanism, the cost of service tariff, and the cost estimate structure. While our role to date on behalf of Alaskan Northwest has been limited to that of financial advisor, investment bankers also can assist in arranging financing, typically as agent in the direct placement of securities with institutional lenders and as organizers of syndicates for the underwriting of publicly offered securities. Unlike commercial banks, investment banking firms do not lend or otherwise provide capital directly to projects.

As financial advisors to Alaskan Northwest, Shearson/American Express Inc. (since 1976), Lehman Brothers Kuhn Loeb Incorporated (since 1978), and Goldman, Sachs & Co. (since 1979) have been directly involved with many of the participants and prospective supporters of the project. These include the transmission company sponsors, the North Slope producers, the State of Alaska, potential major foreign and domestic lenders and suppliers, and governmental export agencies supporting the supplier companies.

The three investment banking firms advising Alaskan Northwest have acquired substantial familiarity with many of the aspects of the project. This relates to our work with Alaskan Northwest and Fluor Corporation, the prime management contractor, on the cost estimate, the incentive rate of return mechanism, and certain project design issues. We have also worked with expert consultants with whom Alaskan Northwest has contracted for studies relating to the marketability and net national economic benefits of Alaskan gas. Finally, we have advised Alaskan Northwest that certain waivers of law have become necessary for private financing arrangements to go further.

We are here today to present our views on the waiver proposals which President Reagan has recommended to the Congress in support of the Alaskan Natural Gas Transportation System. Four have particular significance for financing. These are waivers which would permit North Slope gas producers an equity position in the Alaskan segment of the project, provide for the inclusion of the gas conditioning plant in the ANGTS, modify the conditions under which billing commencement of Alaskan gas consumers can begin and reduce the potential of certain regulatory initiatives which could undercut the security position of potential project lenders.

In our judgment, these four waivers are absolutely necessary to achieving the private sector financing required by the President's Decision. Without their approval, the project's future as a private venture is in grave doubt and the ultimate recovery of approximately 13 percent of our country's proven gas reserves and the substantial national and consumer benefits to be realized therefrom will be seriously jeopardized for the foreseeable future.

In arriving at these conclusions we considered the basis and rationale for the waivers in the context of the project's current cost estimate, which has more than doubled since the original 1977 estimate, and the current financial environment, which is markedly less favorable from that which existed when the project was originally approved. We also took into account the relationship that has necessarily evolved between the transmission company sponsors, producers, and potential lenders as a result of the greater financing requirements, and the less favorable financial environment.

HISTORY OF FINANCING INITIATIVES

The President's Decision presented an analysis of the project's anticipated capital requirements, which in 1977, were estimated at $13 billion in when spent dollars and set forth certain ground rules under which a private financing was to occur. These parameters included: (a) a prohibition against producer equity ownership in the Alaskan pipeline segment; (b) the exclusion of the conditioning plant from the ANGTS; (c) a prohibition against governmental financial support of the project; and (d) a prohibition against the use of consumer charges prior to the completion and commissioning for operation of the four pipeline segments of the ANGTS. Once commissioned for operation, the President required that consumers of Alaskan gas commence paying the irrevocable financial obligation provided for under the FERC gas tariff which at all times provides for the full payment of debt service costs. The President's Decision also envisioned that 75 percent of the financing would be debt which would be project financed, that is, the assets and cash flow of the project would provide the principal source of credit support to lenders.

A financing plan incorporating these parameters was developed shortly thereafter, incorporating the following features: During the construction phase, debt capital for the Alaskan pipeline

segment would be raised on a project financing basis with no corporate or government completion guarantees. The 25 percent equity component would be provided by the transmission company sponsors. Additionally, as mandated in the President's Decision, the conditioning plant would not be the responsibility of Alaskan Northwest.

In the absence of conventional corporate or government completion guarantees, the plan provided that lender concerns with completion risk were to be met through a detailed risk analysis coupled with a prearranged completion assurance pool to function as follows: The project's final cost estimate would be subject to an independent risk analysis and overrun probability assessment which would determine the amount required for an initial pool of capital. Commitments would also be obtained for a second capital pool, a completion assurance pool, which would be available in the improbable event that project costs exceeded the initial pool. Both capital pools would be irrevocably committed prior to the commencement of construction.

Once the four pipeline segments were certified as completed and commissioned for service, credit support for the project's debt would be provided through the FERC-approved gas tariff which would assure the payment of the project's debt service under all circumstances. Based on the tariff and regulatory provisions providing for the full and timely flow through of project costs to gas consumers, financing commitments would be secured from institutional lenders to refinance a portion of the commercial bank financing. In addition, the financing plan envisioned the possibility that public debt markets could also be used to refinance construction loans.

Changes in Circumstances Since the President's Decision

A number of significant developments have occurred since the President's Decision which have had the cumulative effect of increasing the financing which project sponsors must arrange. These factors have increased the financing requirements in when spent dollars from the 1977 estimate for the entire system (comprised only of the four pipeline segments and not the conditioning plant) of approximately $13 billion to the 1981 estimate of $27 billion for all Alaskan facilities. These developments include:

(a) escalation in project costs due to four years of higher than expected inflation;

(b) escalation in project costs due to the need to increase interest rate assumptions during the construction periods;

(c) inclusion of the $6 billion conditioning plant in the project;

(d) refinements in the pipeline design; and

(e) sizable increases in required reserves and contingencies.

In addition, the financial markets in the U.S. and abroad have been characterized since 1977 by increasing volatility, high interest rates, and major structural changes. The availability of long-term debt has been adversely affected by a decline in the appetite of long-term lenders for such debt because of the impact of inflation on their investment portfolios. On the other hand, the demand for fixed rate long-term funds has been strong and competition for the available capital has been intense.

A final category of developments requiring the rethinking and revision of the financing plan envisioned in the President's Decision were the changes mandated by the conditions for producer and lender participation, to which we now turn.

Before meaningful discussions could begin to arrange for the producer financial support envisioned by the President's Decision, much had to be accomplished, including resolution of (1) the wellhead pricing of Alaskan natural gas, as part of the Natural Gas Policy Act of 1978, (2) the incentive rate of return mechanism, and (3) key design specifications upon which the estimates and financing requirements could be determined. In May, 1981, soon after resolution of these milestones, but much later than had been anticipated in 1977, Alaskan Northwest and the producers entered into an agreement on financing plan concepts. This agreement incorporated the producers' requirements that, as condition for their financial support, the conditioning plant be included in the ANGTS, and the producers be permitted to own equity in the project with the rights and privileges normally attendant to such ownership. Current law prohibits satisfaction of these conditions.

Agreement on producer/sponsor financing plan concepts permitted presentation of a Project Overview incorporating the financing plan to major U.S. lenders for their review and reaction. We participated in all of these presentations, which were made in May, 1981. In a letter dated August 28, 1981, the four-bank group advised Alaskan Northwest of the results of their preliminary assessment of the financing concepts and the general availability of debt support for the project. They also suggested certain modifications to the financing approach to financing for Alaskan Northwest and the producing companies to consider.

In their letter, the banks advised Alaskan Northwest that a modification of the financing proposal should be considered which would permit some degree of debt repayment assurance during the precompletion phase, involving a combination of (a) acceptable debt assumption arrangements by the sponsors and producers, and (b) acceptable commencement of billing provisions prior to completion of the ANGTS. They also emphasized the importance

of (c) post-completion tracking mechanisms and (d) regulatory certainty throughout the life of the project.

Essential Steps Which Must be Taken in Response to New Circumstances

It is our judgment that the changes in circumstances just described now mandate suitable responses to realize the desired private financing of the ANGTS. Guidelines and terms of financing conceived of more than four years ago as embodied in the President's Decision must be modified to reflect and respond to new and unforeseeable developments. All project participants and beneficiaries will have to provide more support for the project. Most significantly, we have recognized the need for expanded sources of credit backing in order to raise the enormous sums of capital which must be raised. This must be provided in several forms, including conventional direct corporate assurances for large portions of project debt. The sponsors and producers have already agreed in principle to provide such assurances of project debt, notwithstanding that the President's Decision generally did not envision such support, particularly not from the transmission company sponsors. A positive aspect of the reliance on sponsor and producer corporate credit support is the reduction in external financing requirements which results. Since there would be an assured source of repayment of the bulk of project debt by the equity owners, the need to provide precommitted contingency financing is substantially reduced.

Obtaining the benefits of other financing plan modifications which are needed to achieve private financing of the ANGTS will depend upon the enactment of waivers of law, the subject of today's hearings. One of these waivers will provide the added support now called for from Alaska gas consumers to coincide with the addtional support which sponsors and producers will provide in the form of project debt assurance.

We would now like to review in some detail the justification and our reasons for supporting and recommending enactment of the waivers relating to the financing of the project.

COMMENTS ON THE PROPOSED WAIVERS

It is our considered judgment, based largely on the changes described earlier, that the approval of waivers permitting producer equity participation, incorporating the conditioning plant into the project, permitting billing commencement to begin upon completion of the Alaskan/Canadian segments and the conditioning plant, and providing regulatory certainty are critical to facilitating private financing.

Producer Equity Participation

Despite recognition in the President's Deciison that the producers should participate in financing the project, the equity restrictions imposed on them by the Decision are incompatible

with a meaningful producer contribution to financing. The producers expect a meaningful say in how their money will be spent. Without equity participation and its resulting voice in project management, the producers will not provide direct funding or credit backing for the project. There must be no misunderstanding that somehow private financing will be possible without significant producer support. The combined financial capability of the ten transmission company sponsors is no longer adequate to support a project of this magnitude.

Prudhoe Bay Gas Conditioning Plant

The agreement on financing concepts arrived at between producers and transmission company sponsors recognized financing realities that had been increasingly apparent as design and cost estimate work proceeded, as discussions between sponsors developed, and as preliminary opinions from the financial community were received. As the four-bank letter of August 28, 1981, confirmed, one financing absolute is that, in terms of financial risk assessment, the natural gas transportation-related functions of the gas conditioning plant constitute an indispensable part of the ANGTS. It performs certain functions which should be compensated for as part of the System. The gas conditioning plant function that is dedicated to readying gas for transmission is creditworthy only to the extent that the credit support for the ANGTS affords it security. By the same token, the other components of the System cannot obtain private financing unless the gas conditioning plant can be financed and constructed, and the debt and equity investment therein protected through the tariff mechanism underlying ANGTS. For financing purposes, this link in the chain forged by the ANGTS requires the same quality support afforded other components.

Potential lenders have indicated their insistence on viewing conditioning plant timing and completion risks as an integral part of project evaluation. Once this reality is accepted, the concept expressed in the financing concept agreement must follow, that is, that all components of the project group have an investment in the conditioning plant similar to their investment in the Alaska pipeline segment. These considerations dictate that the conceptual agreement on financing provide that the producers and the gas transmission companies share the equity and the responsibility for arranging or supporting the debt funds for the gas conditioning plant in the same proportion they agree to contribute to the Alaska pipeline segment.

Private financing without some such sharing would not be possible, for no lender could assess the risks of the project absent an evaluation of the gas conditioning plant risk, and could not provide funds to the truncated project without the same assurances being provided to the plant that the pipeline segments of the project is afforded. The financial community will not accept a situation where one integral part of the

project is subject to regulatory treatment creating credit support materially weaker than another integral part. Decoupling the project for billing-on-completion purposes is financially desirable because it reduces a real or imaginary completion timing risk, but the advantage is lost when the underlying credit support, the regulatory and tariff structure, is not available to each segment.

Impediments to fully incorporating the gas conditioning plant in the project are removed by the waiver. We believe that to achieve private financing, the plant must be in every sense a part of the project.

Billing Commencement Date

While the proposed billing commencement waiver will not necessarily ensure private sector financing, we believe that without such a waiver private sector financing is impossible.

A workable financing plan will require reducing the potential risks borne by the lenders by the maximum extent possible, given the magnitude of the capital required. This, in turn, requires the highest attainable level of lender participation both in terms of the number of lenders participating and the amount of debt provided by each lender.

To attract such extensive participation mandates that the total system be segmented for purposes of billing commencement. Such treatment would permit certain lending institutions to increase their participation in the project and remain within their lending limits. Segmentation of the project reduces the risk faced by lenders that their entire investment could be jeopardized in the very unlikely event that one segment is not completed. It permits a lender to lend to the Alaskan segment without having to worry about completion of the Canadian segment, a segment over which the Alaskan borrower would have no control.

Lastly, the U.S. government assured the Canadian government that the U.S. would permit the Canadian segment sponsors to recover tariffs attributable to their segment when it had been completed. If this treatment were given to the Canadian segment and not the Alaskan segment. the former would be a more attractive credit in the eyes of lenders. This perception, in our view, would seriously impair the availability of funds for the Alaskan segment. The requirement that FERC establish a "completion date" for the project and that no billing occur before that time would provide the most powerful incentive for all involved to complete all segments as close to that date as possible.

Regulatory Certainty

The cost recovery mechanisms for Alaskan Northwest and the shippers of Alaskan gas are the tariffs approved by the FERC and the Canadian National Energy Board pursuant to which Alaskan

Northwest charges the shippers for transportation service and the shippers, in turn, charge their customers. As the Commission found in its Orders 31 and 31B, these tariffs are the "economic lifeline of the project." Because of the extraordinary risks attendant to the project and the enormous amount of financing needed, lenders will require assurance that, once approved by the FERC, the tariffs will not be subject to future regulatory action which would impair the recovery of debt interest and principal.

CONCLUSION

In conclusion, we believe that further progress on the financing of the project is tied to favorable Congressional action on the proposed waivers of law. Assuming the four essential producer and financing waivers are approved, the obvious question is: Does this now make the project privately financeable? Based on the banks' August 28 response and our knowledge of the position of other potential supporters of the project, we believe the project can be privately financed, but support by the sponsors and producers above the levels they have preliminarily indicated will be required. If this additional support is forthcoming, we believe there will be funds available on a worldwide basis sufficient to provide the debt financing for the project. After completion, when ANGTS is operational pursuant to satisfactory tariff and tracking arrangements, the credit of the project itself should, in our view, provide adequate assurance of debt service and the continuing pledge of corporate credit by the sponsoring companies and the producers should not be required.

We understand that the companies which have supported this project for the past years and have collectively invested about $550 million to date are prepared to continue their strong support of the project. We remain optimistic that the aggregate credit so committed, together with the tariff and tracking mechanisms necessary to provide a basis for project credit after the line is operational, will permit us to continue in our determined efforts to meet the challenge of financing this project.

Before responding to such questions as the Members might pose, we would choose to close our prepared remarks with an affirmation of our strong belief in the merits of this project, and of our unshakable conviction that the project is necessary for the energy future of this country. Only if we can develop domestic resources, and provide the transportation systems to bring those resources to market, can we lessen our dependence on foreign oil. The benefits of this project, in terms of the balance of payments, lessening our dependence on insecure and uncertain supplies of energy, providing the necessary incentive for exploration and development of frontier resources, and in providing jobs and a major stimulus to the U.S. economy, all

of these argue most compellingly that the Congress should remove all barriers to private financing.

We cannot, of course, assure the Congress that approval of the waivers guarantees the financing of the project. The difficulties which still lie before us are great, and many issues remain to be resolved. We know that without the waivers we cannot proceed; with them, we will do our best to achieve a successful private financing for this vital energy project.

I thank you for the opportunity of appearing, and will be pleased to respond to such questions as you might have.

STATEMENT OF

JEROME F. HASS
Professor of Managerial Economics and Finance
Graduate School of Business and Public Administration
Cornell University

BEFORE THE

HOUSE SUBCOMMITTEE ON FOSSIL AND
SYNTHETIC FUELS OF THE
ENERGY AND COMMERCE COMMITTEE

AND

HOUSE SUBCOMMITTEE ON ENERGY AND
THE ENVIRONMENT OF THE
INTERIOR AND INSULAR AFFAIRS
COMMITTEE

November 4, 1981

Introduction

Mr. Chairman and members of the Committees: My name is Jerome E. Hass. I appreciate your invitation to appear before these distinguished committees to express my views on the waivers proposed by the President to facilitate the financing of the Alaska Natural Gas Transportation System (ANGTS).

I am Professor of Managerial Economics and Finance at Cornell University's Graduate School of Business and Public Administration. In 1976 I took leave from Cornell to become Chief of the Division of Economic Studies at the Federal Power Commission. During my 16 months in that position I became intimately familiar with natural gas issues in general and the ANGTS in particular as one of the two principal staffers who drafted the Commission's second nationwide natural gas wellhead pricing rule (Opinion No. 770) and the Recommendations to the President on the ANGTS. In the summer of 1977 I joined the Energy Policy and Planning group (Executive Office of the President) headed by Dr. Schlesinger and was one of the three principal staffers supporting the negotiations with Canada on the Agreement of Principles between the two countries and drafting the President's Decision and accompanying Report.

In late fall of 1977 I returned to my teaching position at Cornell. I have, however, remained an active participant in the development of the ANGTS. First I helped the FERC devise the incentive rate of return; second, I assisted the Secretary of Energy to bring the producers and sponsors together in the early stages of the development of the financing plan currently under discussion; thirdly, I have assisted the staff of the Office of the Federal Inspector in developing a deeper and more complete appreciation of the subtleties of federal regulation and ANGTS issues.

Thus I feel well qualified to speak on the issues before you today.

Participation by Producers

While I cannot speak for the President, Dr. Schlesinger, or the staff that assisted in the drafting of President Carter's Decision, as one-third of that staff I can state categorically that we erred. It was nonsensical to believe that the producers would be willing to take down or guarantee debt without commensurate control over the project during the planning and construction stages. We were extremely busy during the summer of 1977 and, when the Department of Justice (DOJ) proposed the condition which excluded any equity participation or control by producers, we simply did not fight it. It didn't take us long to recognize our error; when Dr. Schlesinger first met with the producers in early August, 1979 to elicit their financial support for the project, his office had already entered into discussions with the DOJ concerning the relaxation of their earlier position.

While there is no doubt that an important reason for having the producers take responsibility for a major piece of the total financial package is because they have the money to do so, it is also important to permit them to take a significant financial position in order to demonstrate their judgement and faith regarding the economic viability of the project. To my knowledge, no other parties have the expertise that these companies do with respect to managing large scale projects and arctic construction. I believe they will be the bellwether to the conventional investment community, who will be hard-pressed to find any other comparable expertise without a vested interest to consult with them on this viability of the project, and they will lead no one unless they make a substantial commitment.

Most important, it would be sheer folly (except, perhaps, in the case of extreme emergency) for the government to consider providing financial

support. With all due respect to the Army Corp of Engineers and the Office of the Federal Inspector, I do not believe they have nearly as much expertise as the producers and the capital market to objectively evaluate such a project. In other words, if producer equity participation is permitted and a private financing fails to materialize for lack of producer support, the project should be mothballed.

It is essential to recognize the particularly important role that Exxon plays in judging the economic viability of the project. Not only are they much bigger than their partners, but are also much more diversified and less dependent upon the Prudhoe Bay field and the ANGTS for their own economic viability:

	Company		
	Exxon	Arco	Sohio
1980 Sales	$64 Billion	$24 Billion	$11 Billion
Total Asset, end of 1980	$49 "	$17 "	$12 "
Market Value of Equity*	$26 "	$11 "	$10 "
Prudhoe Bay Net Reserves as Percent of Company Reserves, end of 1980			
Oil	24%	71%	99%
Gas	28%	64%	96%
Percent of 1980 Oil Production from Prudhoe Bay	20%	47%	97%

* October 23, 1981

Exxon does not have the intense interest which the other two companies must have in providing a delivery system for their gas. Exxon can afford to be objective and, if necessary, defer the project indefinitely. For this reason I am concerned that their role to date appears to be largely passive -- saying they will take their 11 percent "fair share" (36% of 30%) and nothing more, and that their commitment is finite -- $3.4 billion. This may not be a sufficient signal for the market -- even if the sponsors can handle their share. In 1979 Exxon proposed the producers take 40 percent of the action, and I would not be surprised to see that number reappear.

The producer's witnesses have made a point that the anticipated overall rate of return on their ANGTS investment is in the 10-13 percent range. This is true only if they purchase the debt themselves.

Capital	After Tax Rate of Return	Relative Importance	Weighted Return
Debt	.06 - .08	.75	.045 - .060
Equity	.22 - .30	.25	.055 - .075
			.100 - .135

If they resell the debt to some third party once construction is complete or never purchase debt (simply guarantee it during the construction period), their rate of return will be higher. They may also ask for commitment or guarantee fees which would increase their rate of return. Finally the calculation above ignores that the debt is likely to be repaid much more rapidly than equity, skewing the weighted average toward the higher return on equity through time.

State of Alaska Participation

A second error in the President's Decision was assigning an important role for the State of Alaska. There is no doubt that they will benefit significantly from the project. Aside from the original lease bonus bid of $900 million they received in 1969, they will receive one-eighth royalty, 10 percent severence tax, a 9.4 percent state income tax, and local property taxes. These last three items, on the gas alone, will amount to more than $1.2 billion in 1990 based on a projected NGPA price of $4.90/Mcf and production of 2 Bcf per day:

Royalty	(2 x 365 x $4.90 x .125)	$ 447 million
Severence	(2 x 365 x .875 x $4.90 x .10)	313 "
Income Tax	(Plant and Pipeline)	67 "
Property Taxes	(1.7% of net plant)	370 "
		$1,197 million

This is more than $2000 per capita at today's Alaska population and the calculation excludes the state income tax on producer profits from gas sales. This substantial benefit is consistent with an earlier Net National Economic Benefit study which estimated that the state would capture the lion's share of the NNEB (32 percent).[1/]

Whether the State participates in the financing is problematical. Given the substantial cash flow they are currently receiving from oil production, they seem to have the capacity to stall indefinitely, and there is little leverage which can be placed on them. No financing plan can be premised on their participation.

1/ "A review of Alaska Natural Gas Transportation System Issues," ICF Incorporated, May 1979; FERC Contract No. EJ-78-C-01-6395; p. 12.

The Billing Commencement Issue

President Reagan has requested a modification of the billing commencement condition in the Decision to permit a full cost of service to begin for the Canadian section once it is complete (after a date certain) and a minimum bill to cover operating expenses and debt services for each of the other two sections -- the conditioning plant and the Alaskan section pipeline.

With respect to the Canadian section waiver, such a modification appears essential for two reasons. First, as a matter of perceived equity, the anticipated after tax return for the Canadian equity sponsors is well below that anticipated on either Alaskan components or the lower-48 sections. While the NEB has set slightly higher allowed rates of return on equity than the FERC set on the Alaskan pipeline section, the U.S. equity sponsors are able to receive substantial tax benefits from the immediate partnership flow-through of investment tax credits and the tax savings arising from the interest on the debt of the project during construction. These tax benefits also reduce substantially the net cash flow the U.S. sponsors must provide. Canada has no investment tax credit; furthermore, it does not permit consolidated taxation, so that interest expenses during construction cannot be used to reduce the sponsors' tax obligations. Relatively speaking, the Canadian sponsors must put up 25¢ for each dollar of construction (75¢ debt) and earn roughly 18 percent while the Alaska pipeline equity sponsors put up much less than 15¢ (net of tax savings) and earn a 20 to 35 percent rate of return. Thus, in comparative terms, the Canadian sponsors are getting far less while putting up much more. Also, while NOVA and Westcoast, Foothills' equity sponsors, are large firms, the Canadian section of this project is comparatively large and constraining on their aggressive business orientation:

Canadian ANGTS Capital Outlays ($1980, CN)		$6.8 billion
Canadian Sponsors' Capital (12/31/80)		3.0 billion
ANGTS Capital as Percentage of Total Capital		227%
U.S. ANGTS Capital Outlays ($1980, plant and all pipe)		$17.2 billion
U.S. Sponsors' Capital (12/31/80, excluding TransCanada)		23.9 billion
U.S. Producers' Capital (12/31/80)		49.1 billion
Combined U.S. Capital		73.0 billion
ANGTS Capital as Percent of Capital of		
Sponsors	72%	
Producers	35%	
Combined		24%

It is, therefore, understandable why they desire billing to commence as soon as they have completed their section.

The second reason is that no U.S. creditworthy party appears ready, willing, and able to pay the Canadian sponsors other than ANGTS customers. The shippers could conceivably finance the tariff for a while, but all but one at this time are Alaska section sponsors, and it is likely their creditworthiness will be strained to the limit with having to provide debt guarantees on the conditioning plant and Alaska pipeline debt. The producers could also provide some interim financing, but they have excluded that possibility from the outset, when Exxon made its first proposal in October of 1979. So it appears that unless the government wishes to provide for this contingency, there is no other option.

While we are on the subject of Canadian tariffs, don't be surprised if the Canadian sponsors approach the National Energy Board (NEB) for larger rates of return than the NEB has specified. The original rates were set in a period when inflationary expectations were somewhat lower than they are today.

Since much of the case above is made on the basis of comparisons, the Alaska pipeline and plant sections would not seem to require such a broad waiver, so I was pleased to see the President chose to exclude the return of and on equity in the preoperational billing for these sections. In fact, it is not clear that any preoperational billing is necessary <u>if</u> creditworthy parties (the producers and sponsors) guarantee the debt until billing commences. But since their degree of creditworthiness is limited, and preoperational billing after the pipeline or plant is complete reduces the amount of producer and/or sponsor creditworthiness needed, this aspect of the waiver makes some sense.

So long as gas prices remain regulated at below the market clearing price, the situation can be described as "You can pay me now or you can pay me more later!" With the return of and on equity held hostage, there is virtually no doubt that the entire system will eventually be completed. Thus consumers of the pipeline companies that purchase the gas are having no significant additional risks imposed upon them with the passage of the waiver. They will have to pay some charges somewhat sooner than if the waiver were not permitted, but these payments would otherwise be added to rate base and be charged to customers later, with interest. The maximum charge to a customer appears to be in the neighborhood of $1.50/month for probably no longer than one year -- but this is clearly a function of the

debt repayment schedule. You and the FERC could keep this to a minimum by encouraging the sponsor to negotiate their debt repayment schedules to provide minimum repayment the first year of anticipated service.

To reiterate with respect to the additional "risk" borne by consumers if the waiver is granted, it is very low as long as the return of and on equity is withheld for the completed section. This is especially true if the Incentive Rate of Return (IROR) is deemed to continue to be operative, as it should; it provides a strong penalty for delay and should continue to be geared to completion of the entire system as the principal device to assure the planning and control necessary to achieve a timely and minimum cost completion.

Some earlier comments in this set of hearings have characterized these waivers as not consistent with our competitive system. That is true, but it must be remembered that the ANGTS system is itself to be a regulated entity, making that otherwise reasonable criterion largely irrelevant. Regulation of the return to equity takes the upside potential away from the equity investor and, correspondingly, they are reluctant to take more downside risks than necessary. It appears in this case that it will be necessary for the equity sponsors to guarantee the debt until the tariff triggers as a condition for private financing; if that is true, it appears reasonable to reduce that particular burden by granting them relief of that burden at the earliest reasonable date, as the waiver appears to have captured.

Inclusion of Conditioning Plant

The waiver package seeks to redefine the ANGTS system to include the conditioning plant and to clarify that Alaskan Northwest Natural Gas Transportation Company is a "natural gas company" under the Natural Gas Act at the time of final certification to construct and operate the pipeline and plant. These waivers accomplish two things.

First, they make parts of Section 110 of NGPA inoperative with respect to Prudhoe Bay gas and reverse FERC's Order No. 45 by effectively granting full conditioning cost recovery over and above the NGPA Section 109 wellhead price set by Congress. Only you can judge whether that is reasonable, but the Commission was clearly conditioning that recovery on significant participation by the producers in the financing of the project. You may wish to consider the same.

Second, it clearly makes the gas conditioning plant eligible for the special regulatory treatment provided by the Revenue Act of 1971 with respect to the investment tax credit (ITC). If the conditioning plant were kept separate, conceivably the Commission could capture the half billion or so dollars of investment tax credits it will generate for consumers while still allowing reasonable after tax profit to equity capital suppliers. Including the plant as part of a natural gas company's system blocks the Commission from considering the ITC in setting its rates. This is clearly a sweetener to system equity suppliers and imposes additional costs on gas consumers so long as gas price regulation continues.

Net National Economic Benefit

Mr. McMillian's testified that the Net National Economic Benefit (NNEB) of the project is estimated to be in the neighborhood of $40 to $90 billion with a median of $60 billion. In reviewing the study which supports this range, I have found two questionable assumptions. First, the study includes the present value of the NGPA wellhead price as a cost. But the only resource cost for the gas is the incremental expenses the producers will have to pay to sell gas and, assuming the proposed waterflooding program would have to be undertaken even if the gas is not sold, these costs are minimal. Deleting this cost element would add another $25 billion to the NNEB, making the median value $85 billion. However, the second assumption is that a 3 percent real interest rate is sufficient to discount the national costs and benefits. Most economists would disagree. In the Decision we used 10 percent as the rate to discount constant dollar costs and benefits. This would reduce the present value of the benefits from $110 billion to roughly $60 billion; the present value of the costs (excluding wellhead price) would fall from $25 billion to something like $20 billion. Thus the NNEB under this higher discount rate would be in the neighborhood of $40 billion. My personal belief is that 10 percent is too high and 3 percent is too low, making the NNEB fall between $40 and $60 billion for the "base" case.

A critical question, of course, is who receives the NNEB, whatever its value. There are five parties: producers, system capital (debt and equity) suppliers, State of Alaska, U.S. taxpayers, and consumers. Each gets a share of the pie, and their relative share depends critically on the value of the gas and the regulatory mode (i.e., will natural gas be

deregulated). I have earlier noted that substantial benefits accrue to the State. The U.S. taxpayer gets his/her share via the income taxes paid by the producers and the pipeline sponsors. The system capital suppliers get a very small and more or less fixed amount. If there is continued gas price regulation (ala NGPA), a large share is split between the producers and customers. If deregulation of natural gas is operative, the producers (and, to a lesser extent, the State and U.S. taxpayers) capture the share that would otherwise accrue to customers receiving the gas. This is because under deregulation, the price the customer pays is exactly equal to the national economic value of the gas and, insofar as it costs less than that to produce and deliver, the other parties share the difference.

Impact of Deregulation

Deregulation of all natural gas, including Prudhoe Bay gas, would not substantially affect the NNEB, per se, but would materially alter the allocation of risks and rewards in the sharing of whatever NNEB there was among the various participants. It would shift much greater risk on to the producers (and via the royalty provision, the State), but also provide the chance for them to gain substantial benefits. Consumers would bear no risk since, regardless of whether the project was completed or not and regardless of its cost, the price they will pay will be set solely by competitive forces in the end user market.

From a national perspective, in terms of assuring that design and construction of the system is done most efficiently, deregulation virtually eliminates the need for the incentive rate of return plan developed by the FERC in response to the terms set down in the President's Decision. Deregulation would result in producers receiving a netback price, so it would be in their own best interest to ensure that transportation costs were minimized. This might also create an incentive for the State to take an equity role in the pipeline to protect its interest in the netback and avoid a confrontation similar to that currently between the producers and the State over the TAPS tariffs. If so, this is a clear plus for advocating deregulation.

Deregulation would also make the issue of whether the conditioning plant should be part of the system moot from the customers' perspective.

Most importantly, it places the critical decision as to whether the NNEB is positive clearly in the hands of those best able to make that judgment -- the producers. If they proceed, they must have to bet that the gas will sell in a competitive market at a price sufficiently high to cover all costs of production and delivery, including an adequate return on invested capital. Virtually all the risk is borne by them and other equity sponsors of the ANGTS.

While this is undoubtedly a great benefit of deregulation, deregulation also presents some real problems. The first of these is the possibility of a windfall profits tax, and that possibility might be enough to dampen the enthusiasm of the producers for the project. Don't be surprised if they seek congressional assurances on this at some future date (such as during deregulation hearings).

The second problem has to do with short-term marketability. In a sense this is not a problem since the gas is sold on a long term basis, but netback pricing could result in a low or negative wellhead price in the early years of the project. Too some extent this problem can be reduced by altering the tariff structure over time from that premised on the conventional straight line depreciation and declining rate base to, by one means or another, an inverted depreciation schedule which results in a more levelized cost of service tariff. In fact, there is nothing theoretically wrong with having even negative depreciation (the asset appreciates in value) that would allow the delivered cost to rise through time, but there is a critical limit here: whenever tariffs on the system are deferred to be collected later (with interest), cash flow to service debt (and equity) is reduced. Thus the theoretic capability is practically limited by the real needs for cash flow from consumers to cover operating costs and service capital. Insofar as the debt capital suppliers will undoubtedly be pressing for early debt repayment, this will pose very practical limits on the degree of levelizing achievable.

Thus the producers (and State) may have no choice but to sell the gas for very low or even negative prices in the early years. But this is not an unusual case for any product that takes time to develop a market. As long as the potential to earn high profits is not endangered by the fear of a windfall profits tax, the producers and State should be able to work it out.

I am in favor of natural gas deregulation because it places decisions such as those you are facing today directly before those who are most affected and best able to ascertain the impacts. It is true that it would result in an immediate and large increase in residential gas bills, but then these consumers would be facing the true marginal cost of energy we pay as a nation. The result would be a higher degree of conservation of our scarce energy resources and better economic decision making on energy supply projects. I would like to see the natural gas deregulation issue settled quickly, for I fear that deferring it until the NGPA breaks down on 1/1/85 will only result in a new set of regulations. But that is a topic for another day.

New Tax Law Impact

In an earlier hearing, the question was raised regarding the impact of the new depreciation schedules on the project. With deregulation, of course, there would be no impact on consumers and the time value of the accelerated depreciation would be captured by the producers. Under continued regulation, as administered by the FERC, consumers would capture all of the time value benefits of the more rapid acceleration of depreciation of the system; none would be obtained by the pipeline equity suppliers or the producers. By deferring income tax payments, the new accelerated depreciation does assist somewhat in generating cash flow to service debt.

Conclusion

I am not an expert on the geopolitics of world oil or the geological prospects for domestic oil and natural gas production. In earlier testimony, Chairman Butler testified that there is a good likelihood that as much as 2 TCF (10%) of our nation's natural gas production may be depleted by the mid-80's as the Gulf of Mexico fields play out. If so, and other gas alternatives remain expensive, Alaska gas could be valued at least as high as crude oil and may even command a premium. On the other hand, if there is a natural gas "glut," its value will roughly equal #6 high sulfur resid, which traditionally has sold at roughly 80 percent of the price of crude oil. Thus as the world oil and domestic gas supply situation changes, so does the value of the ANGTS.

While the net value of the project clearly depends on the cost of the project and what we will pay for alternate fuels, we have a natural tendency to focus on the downside risk and seldom focus on the upside potential. The NNEB will increase substantially if we were to recognize that Prudhoe Bay gas sales will run at 2 Bcf per day for at least 35 years, and that's probably just the beginning of gas from Alaska and the Beaufort Sea that could be transported through the system. Already the Kuparuk formation is about to come on line and a number of "tight" holes have been drilled elsewhere. The pipeline can be expanded at relatively low cost to carry additional volumes and the anticipation of its presence will undoubtedly stimulate exploration activities.

As responsible policy-makers, it is imperative that Congress provide a framework in which a portfolio of energy alternatives be allowed to develop. In the absence of deregulation, approving the waiver package, perhaps with some modifications, will provide an opportunity for the marketplace to judge whether this project should proceed. Sound portfolio management requires that the various components of the portfolio be less than perfectly positively correlated with one another and the ANGTS proposal meets that critical test. If it turns out that world oil is abundant and cheap, and that large amounts of other gas are available at low cost, then the ANGTS project could end up a marginally costly (in an opportunity sense) venture. But if the world oil and domestic gas supplies prove to be unstable and costly, the ANGTS project will be a real winner for us. To me the ANGTS project is like insurance for the nation, but even better: the downside risk appears small and the upside potential enormous.

Statement of

Edmond R. du Pont, President
Edmond R. du Pont and Associates

Before the

Fossil and Synthetic Fuel Subcommittee

of the

House Energy and Commerce Committee

and the

Energy and Environment Subcommittee

of the

House Interior Committee

November 4, 1981

Mr. Chairman and Members of the Committee, I am Edmond R. duPont, President of Edmond R. duPont & Associates. I am pleased to have the opportunity to appear today to comment on the President's submission of a proposed waiver law relative to the Alaska Natural Gas Transportation System.

I wish to focus today on one aspect of the total analysis of this project; the comparison of the cost of gas during the life of the system to the cost of oil. The testimony presented by John McMillian (Oct. 20, 1981: pps. 46-47) made the following statement, "These costs, when deflated to 1980 dollars, average from $4.65 to $5.00 per million Btu's during the first twenty years of the project...This declining real cost is the basis for the bargain that the Alaskan gas represents for the nation..."

The problem with this statement is that a comparison is being made of a stream of prices that declines over time expressed in constant 1980 dollars with one that increases over time. The principles of finance require that such comparisons incorporate a discount factor to account for the fact that the person paying the lower price can invest the difference at a positive rate, thus a dollar saved now is worth more than a dollar saved later. For instance, at a 10 percent discount rate, a dollar saved now could earn another full dollar in seven years

with annual compounding; hence a dollar saved seven years from now is worth only half as much as one saved now. A dollar saved 14 years from now would be worth only a quarter as much.

Most analyses of this project show that the initial price for the gas would be in 1980 dollars about $8.50 to $9.00 per million btu, well above a projected oil price of about $5 to $6. The gas price is expected to decline in constant dollar terms and the oil price to rise. In most cases they cross over between two and five years after project completion and the oil price rises well above the gas price.

The application of discounting to such price streams will tend to reduce the impact of the lower gas prices in later years and of the high oil prices also, since the dollars in the later years have a lower present value. The higher the discount rate, the more this is true. It follows then that there is a single discount rate that gives the same present value to a rising and a declining price stream. At this rate the customer is indifferent whether he contracts for oil or gas. At a higher discount rate he prefers oil because it is currently cheaper. At a lower discount rate he prefers gas because it becomes cheaper later.

In fact, a purchaser of the gas in 1987 looking at a world with no real increase in oil prices would be indifferent as to which fuel he chose at a discount rate of 8 percent in real

(constant 1980 dollar) terms. As the expected price increase path for oil rises, this discount rate increases by about the same amount as the real rate of increase for the oil. If the project cost assumptions in this case are correct, the project is an economically attractive one so long as the real discount rate is less than 8 percent more than the expected real increase in the cost of oil.

A rate of 8 percent is less than the long run average return on common stocks, but greater than the normal real return for long term debt. The project, as presented, is not unambiguously attractive. It is necessary, then, to look at two questions. First, who pays the difference if the project is overpriced. Second, regardless of the long term economics, how can the gas be sold during the period in which it is priced higher than oil, assuming that a decontrolled gas market is in equilibrium at the oil price when the gas is delivered.

The answer to the first question is: either the customers, the producers, or the sponsors pay the difference if the project is overpriced depending on the exact mix of waivers and tariff provisions. When so much debt funding is at stake in a single project, lenders will demand guarantees from one or the other, or all three. I think these assurances are necessary because the loss of so much money in a single transaction would do significant harm to our major financial institutions and should be avoided.

Of the waivers at issue here, the inclusion of the conditioning plant and the billing data waiver shift the risk towards the customers. The waiver concerning authority to modify or rescind orders makes permanent whatever mix of risk burden is decided. The inclusion of producers as equity participants increases the capacity of the sponsors to bear the risk but does not necessarily shift any burden.

In the existing tariff order, the incentive return system shifts some risk to the sponsors, while the minimum bill shifts much of the risk of the debt holders to consumers. Appendix A contains a discussion of the risks of this type of project and the kinds of approaches commonly taken to transfer them.

The second question concerns the saleability of the gas. Bu 1987, a high enough percentage of lower 48 gas will be decontrolled under current law that we can expect the market to have reached a clearing price. Most analysts expect this price to be near that for crude oil, or slightly below it, to allow for fixed distribution costs to large industry and for the discount from crude cost that has been traditional for residual fuel oil in the past.

During the early years of the project, if normalized accounting is used, and the full cost of both gas and transportation are charged as a single unit price at the ANGTS delivery points, the Alaskan gas can be expected to cost more than the average market clearing price at the delivery points.

There are three ways to distribute the burden of this price. Two are relatively simple ways that could be found to level out the early costs to match the available market. The first is to set the wellhead price low in the early years with an escalator that reflects the appropriate discount rate, to provide a present value equivalent to a constant real rate. Alternatively, the transportation cost could be fixed and the wellhead cost freed of control with no take-or-pay limits on the delivery side of the line. In this way the full market burden would be shifted to producers who would have to adapt to the market continuously.

A second approach would be to use at least a partial flow-through accounting system. Perhaps the investment tax credit could be amortized over the first five years and flowed through to consumers. This would reduce cash flow to the sponsors at the beginning, but would also reduce rates substantially.

The third way is to execute a long term take-or-pay contract that guarantees passthrough of the price, whatever it is, and that it is passed through in the rates by both FERC and the states.

The first approach shifts the risk to the producers, the second to the sponsors and the third to consumers. The choice of who assumes the ultimate risk is up to you.

Mr. Chairman, that concludes my presentation. I would be pleased to answer any questions you may have.

Prepared Statement

Of

DANIEL E. MUSE

Commissioner
Colorado Public Utilities Commission

Before The

Subcommittee on Fossil and Synthetic Fuels

Of The House Committee on Energy and Commerce

And The

Subcommittee on Energy and the Environment

Of The House Committee on Interior and Insular Affairs

Washington, D.C.

November 9, 1981

Mr. Chairman, fellow Committee members, my name is Daniel Muse. I am a member of the Colorado Public Utilities Commission. It is both a great honor and a privilege to appear before you today on a matter of such profound public interest. I appear here because as a public utility commissioner, I feel uniquely qualified to address some of the issues raised by the waiver package proposed for the Alaska Gas Pipeline project which are the subject of these proceedings. As a Public Utility Commissioner, it is my responsibility to balance the interests of investor and ratepayer alike, and to set just and reasonable rates, charges and tariffs to adequately compensate the utility while insuring that the quality and quantity of service received by the ratepayer is consistent with the price he must pay for that service. In short, I am neither a friend nor foe of either interest but instead an arbiter for the public interest.

This role has made me sensitive to inequities wherever I find them. To my regret, I find them in the waiver package now before you. In a lett of August 11, 1981 to Chairman Sharp, the Colorado Public Utilities ommission raised several questions about the propriety of several aspects of the proposed waiver provisions. I will now amplify on the issues raised therein.

The first concern that we expressed was with respect to requests to waive provisions of Section 7(c) of the Natural Gas Act, which empowers FERC to conduct formal adjudicatory or evidentiary hearings on Certificates of Public Convenience and Necessity regarding the construction and operation of interstate pipelines such as the Alaska Natural Gas Transportation System. Sponsors of the waiver package

desire to substitute the written comment procedure in lieu thereof. The Colorado Commission firmly believes that FERC should be left the discretion to determine in formal evidentiary proceedings whether or not certain Certificates of Public Convenience and Necessity should be issued on this project. We do not believe that questions as to the necessity of construction of ANGTS have been adequately answered. We do not believe that it should be constructed at any cost nor that it should be constructed without an opportunity to assess whether conditions should be attached to the construction, performance or the rate of return to be allowed.

The Commission's concern about the need to build the ANGTS results from the fact that there are no current shortages of natural gas in the lower 48 states. Also the Commission envisions no shortages in the foreseeable future. In a recent FERC publication, the 28 pipeline companies that transport 99% of the natural gas used in interstate commerce projected no significant disruption of natural gas supplies for 1981-82 even if this is a colder than normal winter. The publication further indicates that this temporary surplus represents continued reductions in demand for natural gas because of conservation, a sluggish economy and price competition from alternate fuels such as fuel oil and coal. Evidence that there are reductions in demand for natural gas includes the decrease in Canadian and Mexican imports of natural gas by 21.4% for calendar year 1980.

Within the Rocky Mountain Region, gas reserves are very substantial. A geological survey conducted by Barlow and Haun, Inc. in January 1979

but updated in January 1980, placed regional known reserves at 14 TCF and undiscovered resources most probably between 73 and 89 TCF. That same survey indicates that REGIONAL reserves may actually exceed 143 TCF. Estimates of from 16.5 to 33 TCF of natural gas reserves in the overthrust belt area of Wyoming have prompted a consortium of interstate pipeline companies to plan the construction of the trailblazer pipeline system. The pipeline system will market this Rocky Mountain natural gas in the Eastern and Midwestern regions of the United States because of inadequate demand for these huge resources within the Rocky Mountain region. In Colorado, 98% of all gas consumed by jurisdictional utilities is purchased from Colorado Interstate Gas, Western Slope Gas Company or Colorado wellhead gas producers. Recent supply calculations from Colorado Interstate Gas and Western Slope indicate reserve-life indices that are increasing not decreasing. These increasing indices do not take into account possible future purchases by Colorado Interstate Gas of the 73 to 89 TCF yet to be discovered in the region. Western Slope Gas Company's 1980 sales were down approximately 15% from 1979. Sales levels in 1981 are expected to be 15% below the 1980 levels. Much of the reason for the reduced sales is conservation. Conservation has resulted from substantial natural gas price increases since enactment of N.G.P.A. in 1978. In November of 1978, the national ceiling rate for natural gas was $1.54 per MCF. The current rate for N.G.P.A. Section 102 gas is $2.94 per MCF. Since the N.G.P.A. went into effect the natural gas prices to customers in Colorado have risen dramatically. Commission staff estimates calculate that by 1985 ratepayers of Colorado's largest distribution utility will pay rates 428% higher than in 1978. In Colorado, less than 15% of the electrical energy is generated

by gas and oil and that percentage is declining. The reasons for the decline include the availability of high grade low cost coal as a primary generation fuel, the retirement and infrequent use of older oil- and gas-fired generators and the ability to purchase electricity from other utilities at cost below self-generated oil- or gas-fired generation.

In Colorado, the per capita gas consumption has decreased annually every year since 1976. These statistics by no means prove that the ANGTS is not necessary, but they do illustrate the need to quantify more precisely what existing reserve levels are in the lower 48 states and whether those levels will meet domestic needs in light of decreasing usage. Before we launch headlong into a venture as costly as the one now before us, such an examination should be a prerequisite. Evidentiary hearings would provide an appropriate forum for this kind of review. Estimates of reserve quantities could be put to the test, judgments about costs of construction and production could be validated or refuted. With the stakes being as high as they are, I see no good reason why such careful evaluation and analysis should not be undertaken. Formal hearings for Certificates of Public Convenience and Necessity would be the perfect vehicle for review.

Evidentiary hearings also would allow consideration of the appropriateness of attaching conditions to the construction and performance of the pipeline project. Cost overruns in public utility plant projects have become common place; some have run as high as 500%. Already the costs for this project have climbed to approximately 161% of earlier projections. Cost overruns, represented by higher construction costs, must be borne by the ratepayers unless abuse of management discretion is clearly demonstrated. Evidentiary hearings would have the advantage of helping to ascertain whether costs and other calculations

are realistic and, when appropriate, provide an opportunity to make necessary adjustments as a means of making the project more cost efficient.

Performance guidelines and criteria can be considered in certificate of necessity proceedings also. Part of the rationale for the project is the assumption that there are 26 TCF of recoverable natural gas. If the amount actually recoverable is substantially less, then the entire financial viability may be greatly impaired. In 1975, the Colorado Public Utilities Commission intervened in a Colorado Interstate Gas pipeline application for a Certificate of Public Necessity and Convenience. Colorado Interstate Gas wanted to construct a pipeline from Bear Paw region of North Central Montana into Wyoming to interconnect with Colorado Interstate Gas' existing pipeline system. The purpose was to bring what was estimated as substantial reserves from the Bear Paw region to Colorado Interstate Gas markets. During the course of the evidentiary hearings, the estimated reserve projections were discredited and as a consequence plans for the pipeline were scrapped. If these estimated North slope quantities can not be recovered then ratepayers who may be assessed fixed-charge expenses in advance may have paid for a project which is not fully used and useful in delivering economical natural gas.

Evidentiary hearings would allow FERC to set conditions on the allowance of full rate base treatment and also set an incentive rate of return if appropriate. In Colorado in the 1979 Trans-Colorado Pipeline case, our Commission established an incentive rate of return formula. The purpose was to guarantee a minimum volume flow of natural gas as a precondition to earning a rate of return. To provide an incentive, the Commission set a demand charge to be applied to the first

4000 MCF of gas sold, a commodity charge at the companies' actual cost, and a 15% rate of return on all demand above 4000 MCF. The more gas the pipeline company transports and sells, the greater the return on investment.

Evidentiary hearings are important. Ratepayers have a real and substantial stake in paying no more than is actually necessary for the provision of utility service. A comment procedure would be grossly inadequate to satisfy this valid interest. Please continue FERC authority to conduct evidentiary hearings.

The second major issue of concern expressed in the Colorado Commission's letter of August 11 was the proposed waiver of provisions of Sections 4 and 5 limiting FERC's ability to alter or amend filed rates or to reduce charges by ANGTS owners. The waiver conditions, if adopted, will prohibit FERC from changing the initial rates of return even though economic conditions may change drastically. Such a result is totally inconsistent with fundamental principles of public utility rate making. This perpetual guarantee of a fixed rate of return may result in excessive profits for investors and unjust and unreasonable rates for ratepayers. Rates of return are directly tied to the cost of equity capital which fluctuates either up or down based on general economic conditions such as inflation.

In Colorado during the period 1973-1975, when the cost of borrowing money was high, this Commission increased allowable rates of return to address adverse market conditions in an effort to facilitate the acquisition of investor equity. As a consequence, the allowable rate of return climbed from 12.53% in September, 1972 for the state's largest gas and electric utility to 15% in March, 1975. When the economy improved substantially in 1976 and 1977, the allowed rate of return was

reduced to 13.9% because the cost of equity capital declined to this level. If the high cost of equity capital that we are now experiencing declines in similar fashion, the 17.5% rate of return will provide a windfall to investors of the ANGTS. The allowance of a rate of return only 1% higher than the actual cost of equity capital for ANGTS will result in an over-collection of revenues of 6.1%. Excess earnings would be in the range of $125,000,000 on an annualized basis or more than $3 billion over the life of the project (assuming a 25% equity contribution). Under these circumstances, a rate of return subject to adjustment would seem essential.

The establishment of a 17.5% rate of return on equity for the project causes me concern for another reason as well. The pre-billing provisions, if implemented, would in effect reduce substantially any risk of loss to the investors of this project. Any rate of return should be based upon risks comparable to the investor's risk in this venture, not general market investor risks. I think it can be legitimately argued that the allowance of pre-billing would result in an investor risk approaching zero. In such an instance, the riskless capital rates of treasury bonds may be the appropriate measure of a fair return. For calendar year 1981, the treasury bond rate has averaged 12.94% on 20-year capital market bonds, and 12.74% on 30-year market bonds. Since the ANGTS project is estimated to have a 25-year life, the rate of return on equity paralleling these rates would seem to be appropriate.

The waiver provisions to limit the allowable suspension period to one day rather than the current five-month period have been advanced by the package sponsors because of concerns that operation of

the suspension mechanism may lead to needless delays in recovering increased operating expenses of the project. This justification for waiving the suspension period is not persuasive for several reasons.

First, the FERC is not required to suspend filed rates. By statute, it is empowered to allow filed rates to become effective on 30-days notice or shorter notice if application therefor is made in appropriate circumstances. The FERC does allow rates to become effective without suspension. The same option would be available with respect to the ANGTS project. There is no reason to suspect that the FERC would act arbitrarily or capriciously in suspending rates and tariffs. For that reason FERC should be allowed to continue to exercise its administrative discretion unimpaired.

A second reason to reject such a waiver provision is that without a suspension period, ratepayers will be deprived of the use of their money for the entire period of any adjudication of rates and tariffs. If a refund is awarded, with the waiver of suspension provision in effect, ratepayers will be deprived of their capital five months longer than at present. The prospects of long delays before refunds are provided is real. Although refunds provide reimbursement on a dollar for dollar basis, plus interest, full compensation for the use of ratepayer money may still not be realized. Full compensation would be realized only when the interest rate on refunds is equal to the lost opportunity to invest in alternative investments. In addition, the reduced purchasing power of the refunded dollar could result in a net loss in the real value of money, when those funds are withheld for long periods of time. By allowing FERC discretion to suspend, these time value of money problems will be mitigated.

The third major area of concern expressed by the Colorado PUC, in the August 11th letter, is the possible application of pre-billing costs to ratepayers for all expenses prudently incurred during the construction phase of the project. Such a provision expressly shifts the risk of project failure to the ratepayers which is antithetical to basic principles of public utility ratemaking. Traditionally, a public utility asset only becomes a chargeable expense to ratepayers when it becomes used and useful in the provision of utility service.

In the regulatory arena, this view has been long held for several reasons. First, the investors in public utility projects will have an opportunity to earn an assigned rate of return on a product which has a guaranteed market once the plant is completed. In light of this circumstance, it has been deemed appropriate for any pre-completion risk to be borne by those who stand to profit once the facility becomes operational. Because investors have a real and substantial stake in seeing the plant completed and at the earliest possible date, deferral of any contribution by ratepayers provides an incentive to complete the project efficiently and quickly.

In addition, if ratepayers are required to pay for public utility service before they actually receive the benefit, an economic inequity clearly results. Although payment is made now, they may get an inferior product later or conceivably receive nothing at all if the project is a failure. A third problem with ratepayer contributions before project completions is an inevitable mismatch between who pays for the project in advance and who actually receives the benefits. Some of the ratepayers who are now on the Colorado public utility system will not be on the system in 1987 when ANGTS is scheduled for completion.

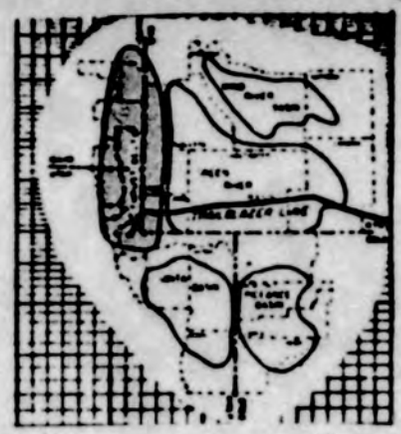
For these reasons, the implementation of pre-billing would create substantial problems for Colorado ratepayers and is not favored by the Colorado PUC. If it is determined that pre-billing is necessary, certain precautions should be taken to minimize the potential harm.

Any pre-billing requirements should include an express provision for refunds or a credit to be offset against billings after the pipeline becomes operational. An interest component should be built into the refund or credit mechanism. If refunds or credits cannot be implemented because of administrative difficulty or other valid reasons, then the funds provided by ratepayers should be treated as contributions in aid of construction and thereby either considered as a reduction of rate base or as zero cost capital. The effect of allowing such a mechanism would limit the pipeline owners to a return only on capital they actually invest in the project rather than on the entire value of the plant.

In summary, the ANGTS program with the proposed waiver package causes me grave concern. If the requested waivers are implemented, the ratepayers will be making a massive investment in a project where there exist serious questions as to necessity and feasibility.

Thank you for this opportunity to testify.

BARLOW & HAUN, INC.
GEOLOGISTS



Casper, Wyoming
January 31, 1980

Mr. Leon Kreisler
Natural Gas Pipeline Company of America
122 South Michigan Avenue
Chicago, Illinois 60603

Re: Trailblazer Pipeline Project
DOCKET No. CP79-80
2ND AMEND. & REVISED EXHIBITS

Dear Mr. Kreisler:

Mr. Kieser asked us to provide you with an overview of gas supply as it is being developed in the area of the proposed Trailblazer system. As you know our firm has from time to time provided gas supply information to the Trailblazer group and the following comments are a summation and review of some of the data.

In January, 1979 Barlow & Haun, Inc. analyzed the gas reserve and potential resource in the basins adjacent to and in the area of the proposed Trailblazer Pipeline. Our estimates were as follows:

BASIN OR AREA	RESERVES		UNDISCOVERED RESOURCE		
	Cumulative Production	Remaining	Min.	Most Likely	Max.
Thrust Belt	0.01	1.25 to 2.5	10.0	16.5 to 33	49.1
Green River	3.90	6.6	9.4	22.75	46.4
Wind River	1.15	3.0	12.3	19.9	24.0
Uinta-Piceance	1.10	1.3	9.0	12.0	22.0
Hanna-Laramie	0.09	0.001	0.001	0.001	0.002
Denver	1.00	1.6	0.5	1.0	2.0
Great Plains	Minor	Minor	0.2	0.4	0.8
Total	7 TCF	14 TCF		73 to 89 TCF	

Developments in 1979 have not caused our perspective of this potential gas supply to change. A range of values had been given for the Thrust Belt because the play was in an early stage. Although the play is still in an early stage encouraging results during 1979 favor the upper range of estimates for remaining reserves and most likely resource.

In July, 1979 we studied drilling rates and gas discovery rates in greater detail for response to FERC's question 50d to Trailblazer regarding the timing of

Testimony

of

Robert A. Georgine, President

Building and Construction Trades Department, AFL-CIO

Before the

House Subcommittee on

Fossil and Synthetic Fuels

November 9, 1981

Mr. Chairman, I am Robert A. Georgine, President of the Building and Construction Trades Department, AFL-CIO.

Our Department represents 4.5 million workers in the building and construction trades.

I thank you for the opportunity to present the views of our organization on the importance of the Alaska Natural Gas Transportation System both to the energy security of this country and to the positive impact construction of the project will have on our economy.

Let me state at the outset that the various members of the AFL-CIO, including the Building and Construction Trades Department, strongly support the waiver of law proposed by the President.

THE ANGTS, WHICH WILL CONSIST OF A GAS CONDITIONING PLANT AND 4,800 MILES OF PIPELINE AND RELATED FACILITIES, WILL PROVIDE A VITAL TRANSPORTATION LINK CONNECTING VAST NATURAL GAS RESERVES IN ALASKA TO MARKETS IN THE LOWER 48 STATES.

ITS EXPEDITIOUS CONSTRUCTION TO ASSURE DELIVERY OF OVER 13 PERCENT OF THIS COUNTRY'S PROVEN NATURAL GAS RESERVES UNQUESTIONABLY IS IN THE NATIONAL INTEREST.

WITHOUT THIS TRANSPORTATION LINK TO MOVE ALASKAN GAS RESERVES TO LOWER 48 STATE MARKETS, THIS COUNTRY WILL INCREASE ITS DEPENDENCE ON OPEC OIL -- OIL WHICH REMAINS SUBJECT TO EMBARGO OR DRASTIC PRICE INCREASES.

WITHOUT THIS TRANSPORTATION LINK, THIS COUNTRY COULD AGAIN EXPERIENCE THE DISASTROUS EFFECTS OF GAS CURTAILMENTS, INCLUDING THE TEMPORARY CLOSING OF FACTORIES AND WORKER LAYOFFS EXPERIENCED IN THE MID 1970'S.

THE ANGTS WILL PROVIDE THE FOLLOWING BENEFITS TO THE UNITED STATES:

- PROVIDE NATURAL GAS THAT WILL BE NEEDED BY HOMES, BUSINESSES AND INDUSTRY IN THE 1980's AND THEREAFTER;
- PROVIDE A LOWER-COST ENERGY ALTERNATIVE TO FOREIGN OIL OVER THE LIFE OF THE PROJECT;
- ENHANCE U.S. NATIONAL SECURITY BY REDUCING OUR DEPENDENCE ON FOREIGN OIL;
- STIMULATE THE DEVELOPMENT OF ADDITIONAL NATURAL GAS SUPPLIES IN THE NORTHERN REGIONS OF ALASKA;
- IMPROVE THE U.S. BALANCE OF PAYMENTS.

THE INTEREST OF THE INDIVIDUAL MEMBERS OF THE BUILDING TRADES IN OBTAINING THESE BENEFITS IS IDENTICAL TO THAT OF ALL AMERICANS.

OUR MEMBERS REPRESENT A SUBSTANTIAL PERCENTAGE OF THE U.S. POPULATION, AND AN ENDORSEMENT OF THIS PROJECT BY THIS SEGMENT OF SOCIETY SHOULD BE APPROPRIATELY CONSIDERED BY CONGRESS IN ACTING UPON THE WAIVER PACKAGE.

EVEN MORE IMPORTANT TO THE BUILDING TRADES IS THE FOLLOWING BENEFIT:

- CREATION OF A SIGNIFICANT NUMBER OF NEW JOBS FOR U.S. WORKERS IN CONNECTION WITH THE CONSTRUCTION AND OPERATION OF THE ANGTS.

AT THE PRESENT TIME, ABOUT 1,000 PEOPLE ARE WORKING ON THE ALASKA PIPELINE SEGMENT OF THE PROJECT.

NEXT YEAR, EMPLOYMENT WILL PEAK AT ABOUT 3,100 -- APPROXIMATELY 60 PERCENT ASSOCIATED WITH THE GAS CONDITIONING PLANT AND 40 PERCENT WITH THE PIPELINE SEGMENT AND THE COMPRESSOR STATIONS.

ABOUT 600 OF THE 3,100, OR 20 PERCENT OF THE WORKFORCE WILL BE IN ALASKA.

IN 1983, PEAK EMPLOYMENT WILL REACH APPROXIMATELY 9,500, OF WHICH 65 PERCENT WILL BE IN THE LOWER 48 STATES.

FROM 1984 THROUGH THE END OF CONSTRUCTION IN 1987, THE MAJORITY OF EMPLOYMENT WILL OCCUR IN ALASKA.

THE PROJECT'S PEAK EMPLOYMENT WILL OCCUR DURING 1985 AT OVER 16,000 WORKERS, 90 PERCENT OF WHOM WILL BE LOCATED IN ALASKA.

THE MANPOWER PROJECTIONS FOR 1982 THROUGH 1987 ARE SHOWN IN THE ATTACHED TABLE.

THE EXPERTISE NECESSARY TO CONSTRUCT THE NORTH SLOPE GAS CONDITIONING PLANT AND THE ALASKAN PIPELINE SEGMENT OF THE ANGTS WILL INCLUDE ASBESTOS WORKERS, CARPENTERS, CATERERS, ELECTRICIANS, IRON WORKERS, LABORERS, OPERATING ENGINEERS, WELDERS, TEAMSTERS, MASONS, BOILERMAKERS, MILLWRIGHTS, SHEET METAL WORKERS, PAINTERS, PIPEFITTERS AND PLUMBERS.

EXPENDITURES FOR CRAFT LABOR ALONE WILL TOTAL MORE THAN $2 BILLION IN 1980 DOLLARS FOR WAGES AND RELATED BENEFITS.

THESE STATISTICS DEMONSTRATE THAT THE ANGST WILL HAVE A SIGNIFICANT POSITIVE EFFECT ON OUR NATION'S ECONOMY AND EMPLOYMENT.

THIS IS PARTICULARLY IMPORTANT IN VIEW OF THE CURRENT DEPRESSED STATE OF THE CONSTRUCTION INDUSTRY.

IN ADDITION, THE OPPORTUNITY TO WORK ON THE ANGST WILL BE OPEN TO ALL.

THE DEPARTMENT OF THE INTERIOR HAS ISSUED FINAL RULES TO ENSURE THAT NO PERSON OR FIRM WILL BE EXCLUDED FROM PARTICIPATING IN ANY ACTIVITY CONNECTED WITH THE CONSTRUCTION OR OPERATION OF THE ANGST ON THE BASIS OF RACE, CREED, COLOR, NATIONAL ORIGIN, AGE OR SEX.

THE OFFICE OF THE FEDERAL INSPECTOR ALSO HAS APPROVED THE PROJECT'S AFFIRMATIVE ACTION PLAN WHICH MANDATES EQUAL OPPORTUNITY ON THE PROJECT FOR EMPLOYMENT AND CONTRACTING AND ASSURES THAT ALL AMERICANS WILL RECEIVE A FAIR SHARE OF THE OPPORTUNITIES CREATED BY THIS PROJECT.

THE BUILDING AND CONSTRUCTION TRADES WELCOME THE OPPORTUNITY TO PARTICIPATE WITH INDUSTRY IN CONSTRUCTION OF THE LARGEST PRIVATELY FINANCED PROJECT EVER UNDERTAKEN AND ARE PREPARED TO MEET THE CHALLENGES OF THE ANGTS.

TIMELY CONSTRUCTION OF THE ANGTS AT THE LOWEST POSSIBLE COST TO ALASKAN GAS CONSUMERS WILL REQUIRE DEDICATION, COMMITMENT AND COOPERATION BY EVERYONE INVOLVED.

WE ARE EAGER TO DO OUR PART TO HELP OUR COUNTRY BECOME MORE INDEPENDENT FROM ALL SOURCES OF FOREIGN ENERGY.

THIS CONCLUDES MY PREPARED REMARKS.

Alaska Natural Gas Transportation System
Alaska Segment

PROJECT MANPOWER

1982 - 1987, By Quarter

Year/Quarter		--Pipeline & Comp. Stations-			----Conditioning Plant-----			------Total Project------		
		Alaska	Lower 48	Sub-Total	Alaska	Lower 48	Sub-Total	Alaska	Lower 48	TOTAL
1982	1st	190	720	910	20	820	840	210	1,540	1,750
	2nd	280	890	1,170	170	900	1,070	450	1,790	2,240
	3rd	280	920	1,200	240	1,000	1,240	520	1,920	2,440
	4th	260	950	1,210	340	1,560	1,900	600	2,510	3,110
1983	1st	900	890	1,790	390	4,650	5,040	1,290	5,540	6,830
	2nd	2,300	810	3,110	460	3,690	4,150	2,760	4,500	7,260
	3rd	2,550	680	3,230	510	4,260	4,770	3,060	4,940	8,000
	4th	2,500	510	3,010	780	5,660	6,440	3,280	6,170	9,450
1984	1st	4,400	360	4,760	810	5,540	6,350	5,210	5,900	11,110
	2nd	6,900	340	7,240	940	3,630	4,570	7,840	3,970	11,810
	3rd	8,200	350	8,550	1,060	4,260	5,320	9,260	4,610	13,870
	4th	6,000	330	6,330	1,210	4,200	5,410	7,210	4,530	11,740
1985	1st	8,900	280	9,180	1,090	3,190	4,280	9,990	3,470	13,460
	2nd	13,200	270	13,470	1,100	1,450	2,550	14,300	1,720	16,020
	3rd	12,300	250	12,550	1,230	530	1,760	13,530	780	14,310
	4th	7,000	230	7,230	1,200	430	1,630	8,200	660	8,860
1986	1st	8,500	210	8,710	1,190	430	1,620	9,690	640	10,330
	2nd	9,100	210	9,310	1,200	430	1,630	10,300	640	10,940
	3rd	4,900	170	5,070	900	420	1,320	5,800	590	6,390
	4th	1,800	150	1,950	80	410	490	1,880	560	2,440
1987	1st	400	80	480	40	280	320	440	360	800
	2nd	770	80	850	20	240	260	790	320	1,110
	3rd	550	70	620	20	210	230	570	280	850
	4th	150	60	210	10	180	190	160	240	400

WRITTEN SUBMISSION IN SUPPORT OF ORAL TESTIMONY TO BE DELIVERED BEFORE THE HOUSE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS AND THE HOUSE COMMITTEE ON ENERGY AND COMMERCE REGARDING THE ALASKA NATURAL GAS PIPELINE WAIVER PACKAGE

SUBMITTED BY

THE COUNCIL FOR YUKON INDIANS

WHITEHORSE, YUKON TERRITORY, CANADA

INTRODUCTION

The Council for Yukon Indians, representing all of the 6,000 native Indian people in the Yukon Territory, Canada, would like to thank the Joint Committee for being given the opportunity to testify before you on November 9th, 1981.

We believe that our message to your Committee may very well be met with both surprise and even some anxiety. However, we are of the opinion that our government, the Government of Canada, has been misleading the United States authorities with respect to the status of our outstanding native land claims. We wish to take this opportunity to set the record straight. We believe that you, the American legislators who are considering the present Bill, should be fully aware of the disturbing fact that even after eight years of negotiation, the Canadian Government has failed to reach a settlement with our people regarding our long outstanding claim to ownership of our land. This claim includes the entire pipeline corridor through the Yukon Territory.

We suggest that after you have heard our oral testimony, you might invite Canadian government officials to testify before your Joint Committee. We suggest that you invite them to refute our representations. We suggest that they will be forced to confirm the embarrassing circumstances which they have brought upon themselves.

The Council for Yukon Indians is committed to the position that there will be no construction of the pipeline

within the Yukon Territory until our people have achieved a just and equitable settlement of our outstanding land claims.

BACKGROUND

The proposed pipeline corridor is routed through hundreds of miles within the Yukon Territory.

Native people make up more than a quarter of the total population of the Territory.

No treaty has ever been signed between our people and any level of government to extinguish our aboriginal title to the Yukon Territory. Indeed, Americans faced a similar situation in Alaska where construction of the Alyeska pipeline was delayed until a settlement with the Alaska native people was achieved in the early 1970s.

The Canadian Government recognizes our claim. Negotiations have been proceeding for some time between our organization and the Government of Canada. However, there is still no settlement. Consequently, the proposed pipeline corridor is on land upon which there is a pre-existing claim of ownership by the native people of the Yukon.

It is impossible to predict when our people and the Government will agree to a settlement. Unless and until the Canadian Government's attitude changes, the negotiations will be arduous, rocky and burdened with uncertainty.

CANADIAN GOVERNMENT POSITION

We said at the outset that our Government has misled the U.S. Government. We believe that Canadian officials have continuously left the American Government with the impression that the outstanding native claims in the Yukon were either not worthy of American concern or that these claims would be expeditiously dealt with and settled.

For example, President Carter made a statement in a report to Congress in which he indicated:

> The problem of resolving native claims in the Yukon Territory in Canada has once threatened to delay construction. However, the Government of Canada has recently assured the U.S. that resolution of these claims will not delay construction and will not result in any monetary costs or claim against the pipeline. Under the agreement it is expected that construction in the Yukon will commence by January 1, 1981.

We are also led to believe by the U.S. oil producers that they, too, have been given the impression by the Canadian Government that our claims were either settled or at least were not an obstacle to the pipeline project.

POSITION OF FOOTHILLS PIPELINES (YUKON) LTD. (the Canadian developer)

We are not certain what the Canadian developer has told you about our situation, but we believe that Foothills Pipelines is clearly on record as saying that there should be no pipeline construction until settlement of native claims.

For example, Foothills, in an undertaking before the National Energy Board (Undertaking #1, Appendix 5-2, National Energy Board Report), indicated:

> Foothills has taken the position that construction of a pipeline in the Yukon should not proceed until there is a broad acceptance of the project by the residents of that area.
>
> (Ref.: Mr. S.R. Blair's testimony to the National Energy Board, December 10/76 - transcript pp. 18780-18793)

Mr. Blair, who is president and chief executive officer of the company, clearly stated his commitment to the National Energy Board:

> ... as a responsible pipeline operator, we would not proceed to run over the local people where even a significant majority, even 5% or 2% of responsible local citizens say, "we don't care what permits you have got, we don't care what licence or what legal document you are holding in your hand; we don't want you in here and get off". For such a particular case I have asserted that we don't go in there; we talk and keep talking and persuading until we can get in and that is a truth of responsible pipeline management.
>
> ... we would regard such outright hostility and defiance by a significant representation among the responsible citizens resident in the region as constituting a force majeure which should be referred back to the Board and among the contracted parties for further review.
>
> (N.E.B., Exhibit N-GH-5-112, April, 1977)

In a press statement by Foothills Pipelines on October 17, 1979, Mr. Robert Blair stated:

> In recent meetings with the CYI as well as with the Government of Canada, Foothills (Yukon) has urged that such negotiations be resumed and carried to completion or common agreement before construction activity could raise questions of land occupancy legal rights.

THE CYI POSITION

Our position is clearly on record. We take the postiion that there must be no pipeline construction within our territory until we agree to a just and equitable settlement of our claim.

Any attempt at construction of the pipeline within our territory will be met with firm legal action to prevent the project from proceeding.

This is not a hollow threat. We took legal action to upset the decision of the National Energy Board in respect to this very pipeline, only to be frustrated by the Canadian Parliament which passed special legislation superseding the National Energy Board decision. Our law suit was made academic.

CYI also challenged the Foothills oil pipeline application before the National Energy Board. We succeeded on a preliminary motion in having the Foothills application thrown out by Canada's regulatory energy tribunal.

We are committed to continuing with our course of action with the objective of blocking the construction of this pipeline until we have reached a just and equitable settlement of our claim. Such a position should not come as any surprise to you, a nation which has so jealously upheld the doctrine that native people maintain aboriginal

title to land for which no treaties have been signed. Your Government, recognizing this serious impediment to the construction of the Alyeska pipeline, and facing the threat of litigation by way of injunction, expeditiously settled the Alaska claim.

We plead with you to recognize and respect our interest. We recognize that the U.S. Government cannot settle our claim - but you can demand that one of the terms of passing this proposed Congressional Bill be that the native claims in the Yukon Territory must be settled before pipeline construction commences.

To do otherwise is to walk recklessly into a labyrinth of unknowns, fraught with lawsuits, time delays and huge financial cost overruns which will be borne ultimately by the American consumer.

Sound planning dictates that before construction commences, the pipeline route be free from all encumbrances, including aboriginal ownership.

The United States must tell the Canadian authorities in no uncertain terms that a precondition to this mammoth pipeline project proceeding is the settlement of our claim. We thank you for your assistance to that end.

Thank you.

THE COUNCIL FOR YUKON INDIANS

SEE APPENDIX ATTACHED

APPENDIX

Selected passages and quotes relevant to the Council for Yukon Indians' submission

1. President Carter's statement in a report to Congress:

> *The problem of resolving native claims in the Yukon Territory in Canada has once threatened to delay construction. However, the Government of Canada has recently assured the U.S. that resolution of these claims will not delay construction and will not result in any monetary costs or claim against the pipeline. Under the agreement it is expected that construction in the Yukon will commence by January 1, 1981.*

2. The Hon. Allan MacEachen, the Canadian Minister responsible for the pipeline:

> *It is a matter with all its implications for the Government of Canada. I believe that there was some interest in the United States in knowing whether we intended to charge the pipeline, for example, for any settlement that might be negotiated, so that assurance was clearly given. I believe that as I recollect was one very important concern.*
>
> *The second point is we believe that through the process of negotiations with the Indian representatives we can and ought to be able to reach a settlement of native land claims. We believe that and we are proceeding on that basis, that it should be possible to arrive at a fair and just settlement.*

Minutes of Proceedings of the
Special Committee on the
Northern Pipeline Act;
27-2-78; 1:41

3. The Hon. Allan MacEachen:

Mr. Chairman, I would prefer that Mr. Faulkner would deal more fully with the question of land claims. I have given what I know to be the importance that the government attaches to the settlement of the claims, and I am aware of varying time frames that have been advanced.

Your question, however, is quite specific, and says "What will we do if we do not succeed?" Well we are operating on the assumption that we must succeed. Presumably there is in the back of your mind the thought that maybe if these claims are not settled they will become a deterrent in the construction phase. That may be in the back of your mind; I am not sure that it is. We have not made contingency plans against the possibility that we would fail in reaching a settlement; at least, I have not.

Maybe the Minister of Indian Affairs can throw more light on that.

....

There are, as I understand it, various legal devices that can be used in situations of this kind. We have been quite conscious of the opportunity that a bill of this kind might be sent to remove, for example, some of these legal devices. We have not done that. We are operating on the assumption that we can reach a settlement, that we must reach one, and it is certainly not my intention to expose to the Committee contingency plans as to what we would do or not do two or three years down the road. We are putting our emphasis on the negotiations and we have not, in this bill, removed any of the legal remedies that may be currently available to any group in the country that might wish to take action in the courts.

Minutes of Proceedings of the
Special Committee on the
Northern Pipeline Act;
27-2-78; 1:71

4. The Hon. Hugh Faulkner, Minister of Indian Affairs, speaking in Parliament:

> *I would now like to look specifically at the Yukon Indian land claim. I have purposely left the most pressing issue to last, and that is this issue of the Yukon land claim relative to the pipeline. The pipeline is a reality which cannot be avoided. It is therefore in the interests of both the government and the Yukon Indian people to ensure that the land claim is settled quickly and fairly, and that both sides do everything possible to avoid prejudicing the negotiations toward the settlement of the claim. We have three full years before construction starts in earnest in the Yukon, and I believe this should be sufficient to achieve a just settlement of the claim and to make a good start on its implementation.*

Hansard, February 14, 1978, p. 2845

5. The Hon. Hugh Faulkner, Minister of Indian Affairs:

> *Well, I have not been directly involved in this business of land claims very long, but I have been interested in the issue for a long time. I have always felt that the fair and just settlement of land claims was one of the most important things we are doing, not only as a government, but as a country. And I am convinced that the fair and just settlement of the land claims north of 60 is a precondition to the sort of normal political economic evolution that everyone in the north would like to see take place.*

Minutes of Proceedings before the Special Committee on the Northern Gas Pipeline; Vol. 3:10; 1-3-1978

6. Telex of The Hon. Hugh Faulkner, Minister of Indian Affairs, to Daniel Johnson, President of the Council for Yukon Indians on September 20, 1977 (excerpts):

> *I want to make it clear that the announced agreement in principle for a gas pipeline through the Yukon has not altered in any way the*

Government's view that the successful resolution of your claim is of paramount importance. The process that is now leading to a settlement will continue to receive my complete support.

...

... The pipeline agreement we have reached with the U.S.A. underlines the importance of resuming discussions at the earliest possible date.

Found in Appendix "NGP-5" to Minutes of Proceedings of the Special Committee on the Northern Gas Pipeline, Vol. 7, March 8, 1978.

7. Press statement of Foothills Pipe Lines (Yukon) Ltd., issued October 17, 1978 (excerpt):

It has been known publicly that the Indian people in the Yukon Territory are represented for land settlement negotiations by the Council of Yukon Indians. In recent meetings with the C.Y.I. as well as with the Government of Canada, Foothills (Yukon) has urged that such negotiations be resumed and carried to completion or common agreement before construction activity could raise questions of land occupancy legal rights.

8. Testimony of Mr. Robert Blair, Chief Executive Officer of Foothills Pipe Lines (Yukon) Ltd. before the National Energy Board:

Foothills has taken the position that construction of a pipeline in the Yukon should not proceed until there is a broad acceptance of the project by the residents of that area.

Mr. S.R. Blair's testimony to the N.E.B., 10 December, 1976, transcript pp. 18780-18793.

... as a responsible pipeline operator, we would not proceed to run over the local people where even a significant minority, even 5% or 2% of of responsible local citizens say, "We don't care what permits you have got, we don't care what licence or what legal document you are

holding in your hand; we don't want you in here and get off". For such a particular case I have asserted that we don't go in there; we talk and keep talking and persuading until we can get in and that is a truth of responsible pipeline management.

If matters came to such a pass, as there is good reason to believe might occur in the Mackenzie Valley region based on the positions taken by the elected leaders of the Indian Brotherhood of the Northwest Territories and of chiefs and band councils in the settlements, we would hesitate rather than crash ahead. While a permit could be issued for the construction of the pipeline containing a condition that construction must commence by a certain date or the permit could then be withdrawn by the National Energy Board and while we would be under serious contractual commitments to proceed with construction, we would regard such outright hostility and defiance by a significant representation among the responsible citizens resident in the region as constituting a force majeur which should be referred back to the Board and among the contracted parties for further review.

N.E.B. Exhibit N-FH-5-112,
April, 1977

9. Further testimony by Mr. Robert Blair before the National Energy Board, April, 1977:

One point I want to make with the greatest emphasis at my command is that it would be wrong, morally and politically, to trample roughshod over the claims and aspirations of those Canadians who are members of northern native organizations in the name of expediency. I just do not think that a responsible government would consider doing so ...

10. Mr. Justice T.R. Berger in his report entitled Northern Frontier, Northern Homeland: The Report of the Mackenzie Valley Pipeline Inquiry:

At the heart of my recommendations is the need to settle native claims. This need bears

directly on all the social, economic and environmental subjects discussed in this report, and indirectly, but no less compellingly, on all matters related to the North: it requires a recognition of the special and collective nature of the native interest in the North.

Vol. 2: Terms and Conditions

11. Mr. Justice T.R. Berger in his report entitled Northern Frontier, Northern Homeland: The Report of the Mackenzie Valley Pipeline Inquiry:

... the social consequences of the pipeline will not only be serious - they will be devastating.

Vol. 1.

12. Mr. Harry Allen, Chairman of the Council for Yukon Indians:

Our land claims talks have been interrupted by insufficient and erratic funding; unilateral northern development of our resources; no consultation on matters of constitutional and northern development in the Yukon; deficient social programs, and total disregard of our presence in our homeland.

Minutes of Proceedings of the Special Committee on the Northern Gas Pipeline, March 6, 1978; 5:8