

1085 HRES ARRC MTG-ARK NAT GAS TRANS SYSTEM (MISC DOCS)

MTGS

with

ARRC

Department Commissioners - Range 28
\$ 54,480 — \$63,120

ARRC Commissioners - Range 30
\$ 58,656 — \$70,068

Questions:

Sec. 37.12.090 requires annual report to legislature — is that available?

Sec. 37.12.100 Annual audit
Is that available?

Why aren't Commissioners here when were asked well in advance and they told Chairman Osterback at 5:00 yesterday afternoon that 2 of the Commissioners would be here for this meeting??

Sec. 37.12.120 Requires Public access to information. How is that requirement met?

consultation with the Department of Fish and Game, shall determine which communities are economically impacted fishing communities.

(b) If the economic disaster is due to a fisheries failure based on consideration of need, the legislature may appropriate to the Alaska economic disaster impact fund from the renewable resource fund (ch. 130, SLA 1974). If there is an insufficient balance in the renewable resource fund to meet emergency needs that may be determined under the provisions of AS 44.33.285, the legislature may appropriate from the general fund. The Alaska economic disaster impact fund balance may not exceed \$5,000,000. The commissioner of revenue, after determining that there is in the Alaska economic disaster impact fund a surplus above an amount sufficient to meet anticipated demands, may invest the surplus as provided in ch. 10 of this title. Interest derived from investment of these surplus funds shall be deposited to the renewable resource fund. If the economic disaster is due to other than a fisheries failure, the legislature may appropriate from the general fund to the Alaska economic disaster fund to meet emergency needs.

(c) Unappropriated or otherwise unencumbered balances remaining in the Alaska economic disaster impact fund at the close of each fiscal year shall not lapse as provided in AS 37.25.010 but shall be available in perpetuity for fund purposes.

(d) Within the first 10 days of each legislative session the commissioner of commerce and economic development shall submit to the legislature a detailed report of all expenditures from the fund and all actions taken under AS 44.33.285. (§ 9 ch 277 SLA 1976)

Chapter 12. Alaska Renewable Resources Corporation.

Section	Section
10. Alaska renewable resources corporation created	70. Powers
15. Purposes	76. Duties
20. Allocation	80. Financial assistance
25. Board of trustees	85. Eligibility for financial assistance
30. Composition of the board of trustees	90. Reports and publications
35. Term of office	95. Budget and appropriations
40. Removal and vacancies	100. Annual audit
45. Qualifications of board members	105. Cooperation with other agencies
50. Quorum	110. Tax exemption
55. Compensation of board members	115. Technical assistance
60. Employment of personnel	120. Public access to information
65. Conflicts of interest	125. Definitions

Cross references. — As to the Alaska Renewable Resources Investment Fund, see AS 37.11.050 et seq. As to termination of the Alaska Renewable Resources Corporation, see AS 44.66.010.

Editor's note. — Section 1, ch. 179, SLA 1978, provides: DECLARATION OF POLICY. It is the policy of the state to

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the state to

"(1) rehabilitate, enhance, and develop its renewable resources and, insofar as is consistent with sound resource management policies, develop its human resources by providing maximum opportunities for employment and a higher standard of living for its citizens; and

"(2) utilize the funds set aside under ch. 11 of this title to further the (A) development of renewable resources that will contribute to a stable self-sustaining state economy, employment opportunities, and lifestyle alternatives for its citizens, and (B) commercial, traditional, and common uses of the state's renewable resources."

Section 2, ch. 179, SLA 1978, provides: FINDINGS. (a) "The legislature finds that Alaska has renewable resources that are not being utilized to their full potential. Many problems which confront the state, including high unemployment and unstable economy, could be mitigated by the expanded use and development of its renewable resources.

"(b) It is further found that Alaska's economy has historically depended upon sporadic and non-stable development.

"(c) It is further found that several key factors have contributed to the slow development of renewable resource industries, including,

"(1) insufficiency of research and development financing and venture capital financing;

"(2) a lack of knowledge within the business and financial communities about conditions affecting renewable resource industrial development in the state and a lack of scientific information concerning many resources; and

"(3) a lack of technology appropriate to Alaska.

"(d) It is further found that the state's policy of assisting the development of viable industries is best accomplished by providing assistance to the private sector to identify and demonstrate new products, markets, and technologies."

Legislative history report. — For report on ch. 179, SLA 1978 (HB 682), see 1978 House Journal, p. 830.

Sec. 37.12.010. Alaska Renewable Resources Corporation created. There is created the Alaska Renewable Resources Corporation to carry out the purposes of this chapter. The corporation is a public corporation of the state and an instrumentality of the state within the Department of Revenue, but has a legal existence independent of and separate from the state. The exercise by the corporation of the powers conferred by this chapter is considered an essential function of the state. (§ 3 ch 179 SLA 1978)

Sec. 37.12.015. Purposes. The purposes of the corporation are to

(1) facilitate the rehabilitation, enhancement, and development of the state's renewable resources so as to strengthen the self-sustaining sectors of the state economy;

(2) sponsor research and development of technologies and innovations for the rehabilitation and enhancement of the state's renewable resources to achieve an appropriate use of the resources;

(3) identify new products, markets, and technologies for renewable resource industries in the state which will constitute an appropriate use of the resources; stimulate the research and development of these products, markets, and technologies; assist in the demonstration of their technical and economic feasibility; and assist in their introduction into commercial markets. (§ 3 ch 179 SLA 1978)

Sec. 37.12.020. Allocation. (a) There shall be allocated to the corporation from the receipts described in AS 37.11.020 five per cent of the total receipts paid the state from mineral lease bonuses and rentals for state land and royalties derived from minerals produced on state land. Payments of the amount allocated by this section shall be made to the corporation by the Department of Revenue on a monthly basis.

(b) Fifty per cent of all actual receipts of the corporation, from whatever source except receipts from the corporation's investments, shall be deposited into the renewable resources investment fund (AS 37.11.050). (§ 3 ch 179 SLA 1978)

Sec. 37.12.025. Board of trustees. A board of trustees of the corporation is established as its governing body. (§ 3 ch 179 SLA 1978)

Sec. 37.12.030. Composition of the board of trustees. The board of trustees consists of three members appointed by the governor and confirmed by a majority of the members of the legislature in joint session. The board shall annually elect a chairman from among its members. A chairman may not succeed himself. (§ 3 ch 179 SLA 1978)

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Sec. 37.12.035. Term of office. The members of the board of trustees shall be appointed for terms of four years, and they may be reappointed. Terms shall be staggered. The initial terms shall be one member serving for two years, one member serving for three years, and one member serving for four years. (§ 3 ch 179 SLA 1978)

Sec. 37.12.040. Removal and vacancies. (a) The governor may remove a board member from office by and with the consent of a majority of the members of the legislature in joint session. A removal by the governor shall be in writing and state the reason for removal. If the legislature is not in session, the governor may suspend a member of the board. Upon suspension, a board member may not participate in board business and may not be counted for the purpose of establishing a quorum. A suspended member shall continue to receive his salary as a board member until the legislature in joint session consents to his removal. The joint session shall be held within 30 days from the date of removal if the removal occurs while the legislature is in session or within 30 days of convening of the legislature if the legislature is not in session. If the legislature refuses to consent to his removal, the board member shall be reinstated to his position.

(b) A vacancy on the board shall be promptly filled by appointment by the governor and confirmation by a majority of members of the legislature in joint session. An appointee to fill a vacancy shall hold office for the balance of the term for which his predecessor on the board was appointed. If a vacancy arises on the board while the legislature is not in session, the governor may appoint an interim board member until such time as the legislature in joint session fails to confirm the interim member's appointment.

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(c) A vacancy on the board does not impair the authority of a quorum of the board to exercise all the powers and perform all the duties of the board. (§ 3 ch 179 SLA 1978)

Sec. 37.12.045. Qualifications of board members. (a) No person may be appointed to the board who has not been a resident of the state for at least three years.

(b) No member of the board may hold any other state or federal office, position, or employment, whether elective or appointive, except as a member of the armed forces of the United States or the state. (§ 3 ch 179 SLA 1978)

Sec. 37.12.050. Quorum. Two members of the board constitute a quorum for the transaction of business and the exercise of the powers and duties of the board. (§ 3 ch 179 SLA 1978)

Sec. 37.12.055. Compensation of board members. Board members are in the exempt service under AS 39.25 and receive an annual salary within Range 30 of the salary schedule for state employees established by AS 39.27.011. (§ 3 ch 179 SLA 1978)

Sec. 37.12.060. Employment of personnel. The board may employ and determine the salary of an executive director. The executive director may, with the approval of the board, select and employ additional staff as necessary. The executive director and all employees of the board are in the exempt service under AS 39.25. (§ 3 ch 179 SLA 1978)

Sec. 37.12.065. Conflicts of interest. (a) Members of the board of trustees are subject to the provisions of AS 39.50.

(b) No member or employee of the board may acquire an interest, direct or indirect, in a corporation, company, association, or project owned, controlled, or invested in by the corporation. If a member or employee owns or controls such an interest, he shall immediately disclose the interest in writing to the board and refrain from participating in any manner in any activity relating to that interest. (§ 3 ch 179 SLA 1978)

Sec. 37.12.070. Powers. In carrying out the corporate powers of the corporation, the board may

- (1) adopt, alter, and use a corporate seal;
- (2) prescribe, adopt, amend, and repeal bylaws;
- (3) sue and be sued in the name of the corporation;
- (4) enter into any agreements necessary to the exercise of its powers and functions;
- (5) accept grants from and contract with the federal government and the state or its political subdivisions and to that end comply with the provisions of federal, state, or local programs where necessary, except that it may not enter into any agreements whereby any permanent state

or local government position is funded or partially funded in connection with a project;

(6) accept grants and loans from other sources than those in (5) of this section to be held and used for the purposes of the corporation;

(7) appear in behalf of the corporation before boards, commissions, departments, or other agencies of municipal, state, or federal government;

(8) acquire, hold, use, lease, sell, or otherwise dispose of property of any kind, real, personal, or mixed, or any interest in it;

(9) hold, as a means of securing the providing of financial assistance, patents, copyrights, trademarks, royalties, or any other evidences of protection or exclusivity issued under the laws of the United States or any state or nation;

(10) prepare, publish, and distribute technical studies, reports, bulletins and other materials it considers appropriate;

(11) invest, in such form as it considers appropriate, in projects which are economically viable and income-producing;

(12) provide grants for projects having broad public application which do not have direct income-producing potential;

(13) adopt regulations governing the exercise of its corporate powers;

(14) deposit funds, or invest surplus funds through the treasury division of the Department of Revenue which may invest in any investments authorized in AS 39.35.110 so long as its investment policy is consistent with the prudent-man rule;

(15) do all acts and things necessary or desirable to carry out the purposes of the corporation. (§ 3 ch 179 SLA 1978)

Sec. 37.12.075. Duties. In carrying out the purposes of this chapter, the board shall

(1) seek to maintain the productivity of healthy renewable resources and expand the productivity of depleted or underutilized renewable resources;

(2) provide financial assistance for projects which the board finds will accomplish the purposes of the corporation as set out in § 15 of this chapter;

(3) promote the utilization of the state's renewable resources in the state and the development of import substitution and export markets;

(4) annually prepare long-range operating and financial plans and the budget for the forthcoming year;

(5) monitor approved projects for compliance with this chapter and provide operational and performance evaluations (post-audits) of projects receiving financial assistance and an overall assessment, expressed in qualitative and quantitative terms, of the degree to which the purposes of the corporation, as set out in § 15 of this chapter, have been achieved; and

(6) attempt to fund activities which will tend to maximize returns to the state and local governments and its citizens in such forms as tax revenues and resident employment and income. (§ 3 ch 179 SLA 1978)

Sec. 37.12.080. Financial assistance. (a) In providing financial assistance, the board shall

(1) consider the proposals of qualified applicants only after the applicant has submitted a detailed proposal in the form prescribed by the board; no assistance may be approved by the board unless it finds, in writing, that

(A) the proposed project, if successful, will further the purposes of the corporation as set out in § 15 of this chapter;

(B) the application contains an adequate plan for project implementation, including, when applicable, a complete business, financial and marketing plan for commercial activities;

(C) sufficient capital is not available from other sources on reasonable terms;

(D) the applicant has agreed that if new renewable resource industrial activity results from the proposed project, his best efforts will be employed to keep that activity in the state for a minimum period of time specified by the board;

(E) the applicant demonstrates that sufficient technical and business expertise to accomplish the objectives of the proposed project is available;

(F) all costs, including additional governmental cost, associated with and ancillary to the project and future obligations generated by the project have been identified, including any necessary operating, maintenance, or other support costs for the life of the project;

(G) potential resource use conflicts that may result from the proposed project are identified and evaluated, and when necessary, plans to mitigate or resolve those conflicts and to preserve for the future options for the use of the state's renewable resources are included in the application;

(2) use the financial mechanism most appropriate to the conditions of the applicant and the proposed project and which will most effectively utilize the funds available; grants may be made by the board of up to 90 per cent of the total project costs for the following purposes:

(A) projects for the applied research and development of products, technologies, or innovations for the rehabilitation, enhancement, or development of the state's renewable resources;

(B) projects for the demonstration, on a one-time basis, of the economic or technical feasibility of a new product, market, or technology involving a renewable resource; or

(C) projects for the rehabilitation, enhancement, or development of a common-property resource where the benefits from the project cannot be captured by any single economic unit.

(3) in evaluating projects, consider the preferences and priorities of the residents of the region in which the project is to be located;

(4) require investments made by the corporation to be secured by means determined to be appropriate by the board.

(b) The board may not

(1) invest or otherwise provide assistance of more than five per cent of the resources of the corporation or \$1,500,000, whichever is less, in a single project or applicant unless the legislature has approved the investment by concurrent resolution;

(2) invest in more than 49 per cent of the outstanding corporate stock or other corporate obligations issued by an applicant unless the legislature has approved the investment by concurrent resolution;

(3) make a loan for a period in excess of 30 years unless the legislature has approved the loan by concurrent resolution;

(4) assume the responsibility for management of any project in which it has invested and may not exercise voting rights for that purpose or for any other purpose which is within the scope of managerial control; or

(5) provide funds to any state agency unless that expenditure is included in the corporation's annual budget;

(6) allocate to grants more than 10 per cent of the annual appropriation of the corporation.

(c) Nothing in this section prevents the board from taking such action and exercising such rights as it considers necessary for the protection of its financial interests in the event of

(1) actual or threatened default on any of the board's investments;

(2) actual or threatened insolvency of a project in which the board has made an investment; or

(3) any other immediate or actual circumstance or event which jeopardizes an investment made by the board.

(d) Projects for which financial assistance is granted shall comply with all applicable provisions of law. (§ 3 ch 179 SLA 1978)

Sec. 37.12.085. Eligibility for financial assistance. The board may provide financial assistance if it finds that an applicant is qualified to receive assistance. An applicant is qualified if

(1) he has submitted a proposal to the board in accordance with § 80(a)(1) of this chapter

(2) he is a resident of the state for three years or, if the applicant is a partnership, corporation, or other association, the majority interest is beneficially owned by residents of the state and a majority of the owners are residents of the state; and

(3) his projects which have previously received financial assistance from the corporation, if any, have complied with all requirements of that assistance and have performed with sufficient success or promise to warrant further aid. (§ 3 ch 179 SLA 1978)

Sec. 37.12.090. Reports and publications. (a) The board shall prepare and distribute in non-technical language materials describing the purposes and activities of the corporation.

(b) The board shall publish an annual report for the governor, the legislature, and the public at the time of submitting its annual budget request. Each annual report shall include financial statements and audit reports, a statement detailing the sources from which the corporation received money, a statement detailing the investments made by the corporation, a summary and evaluation of the data required by § 75(5) and (6) of this chapter, a list of public facilities required by or complementary to the corporation's investment activity, and any other information that the board of trustees believe would be of interest to the recipients of the report. (§ 3 ch 179 SLA 1978)

Sec. 37.12.095. Budget and appropriations. (a) The corporation may expend money only as appropriated by the legislature. The corporation is subject to the Executive Budget Act (AS 37.07) except as provided in (b) and (c) of this section.

(b) The budget of the corporation shall include the categories and amounts of proposed financial assistance broken down by financing mechanism and resource sector affected and all funds received by the corporation whether through allocations made by this chapter, appropriation, or otherwise. The total amount of the corporation's operating budget shall be specified separately in its budget and be appropriated from the general fund.

(c) The unexpended and unobligated portion of the appropriations, other than appropriations for operating expenses, does not lapse into the general fund at the end of a fiscal year, but remains available for appropriation as provided in this section in subsequent fiscal years. (§ 3 ch 179 SLA 1978)

Sec. 37.12.100. Annual audit. The corporation shall have its financial record audited annually by an independent outside auditor. The legislative auditor may prescribe the form and content of the financial record of the corporation and shall have access to these records at any time. (§ 3 ch 179 SLA 1978)

Sec. 37.12.105. Cooperation with other agencies. All departments, agencies, and public corporations of the state shall provide information, services and facilities to the corporation on its request. The corporation shall reimburse the department, agency, or corporation for expenses reasonably incurred on the corporation's behalf. (§ 3 ch 179 SLA 1978)

Sec. 37.12.110. Tax exemption. The corporation is exempt from all taxes and assessments in the state. All security instruments issued by the corporation, their transfer, and their income are exempt from all taxes and assessments in the state. (§ 3 ch 179 SLA 1978)

Sec. 37.12.115. Technical assistance. (a) The corporation may provide financing for pre-investment activities including feasibility studies, when, in its opinion, the proposed project is of high priority and the financing is not available from other sources on reasonable terms and conditions. Amounts so advanced may form a part of a later investment if the enterprise or project is financed by the corporation.

(b) The corporation may provide funding for technical and management advice and assistance to qualified applicants as it considers necessary in the circumstances. (§ 3 ch 179 SLA 1978)

Sec. 37.12.120. Public access to information. Information in the possession of the corporation is a public record, except that information which discloses the particulars of the business or affairs of a private enterprise or investor is confidential and is not a public record. Confidential information may be disclosed only for the purposes of an official law enforcement investigation or when its production is required in a court proceeding. These restrictions do not prohibit the publication of statistics presented in a manner that prevents the identification of reports, items, persons, or enterprises. (§ 3 ch 179 SLA 1978)

Sec. 37.12.125. Definitions. In this chapter, unless the context otherwise requires,

(1) "applicant" means a person making application to the corporation for financial assistance;

(2) "board" means the Board of Trustees of the Alaska Renewable Resources Corporation;

(3) "corporation" means the Alaska Renewable Resources Corporation;

(4) "project" means products, markets, innovation, or technological developments for the rehabilitation, enhancement, or development of renewable resources and includes applied research for those products, markets, or technological developments;

(5) "rehabilitation, enhancement, and development" means any activity or program which improves the health and well-being of a renewable resource or renewable resource population leading to an increase in the quality or productivity of the resource and to an increase in the benefits derived from the resource to the citizens of the state;

(6) "renewable resource" means non-human living organisms; natural components of the environment, including the air, land, and water; and energy systems which are naturally recurring or replenished. (§ 3 ch 179 SLA 1978)

Chapter 14. Trust Funds.

Article

1. Mental Health Fund (§§ 37.14.010 — 37.14.050)
2. University Fund (§§ 37.14.060 — 37.14.100)
3. Public School Fund (§§ 37.14.110 — 37.14.150)
4. Custody and Investment of Trust Funds (§§ 37.14.160 — 37.14.170)

(3) should the Legislative Budget and Audit Committee recommend within the 45-day period that the state not initiate the additional activity, the governor shall again review the revised program and if he determines to authorize the expenditure, he shall provide the Legislative Budget and Audit Committee with a statement of his reasons before commencement of expenditures under the revised program.
(am §§ 4, 5 ch 60 SLA 1979)

Effect of amendments.

The 1979 amendment, effective May 19, 1979, substituted "an act making the transfers between appropriations" for "(h) of this section" at the end of the second

sentence of subsection (e) and rewrote subsection (h).

As the rest of the section was not affected by the amendment, it is not set out.

Chapter 12. Alaska Renewable Resources Corporation.

Section

70. Powers

Sec. 37.12.070. Powers. In carrying out the corporate powers of the corporation, the board may

(16) [Terminates June 30, 1984] provide funds to the Alas. Council on Science and Technology, to be awarded and administered in the manner prescribed by AS 44.19.181 — 44.19.189 when the funds are to be expended to accomplish a corporate purpose under AS 37.12.015.
(am § 2 ch 56 SLA 1979)

Effect of amendment. — The 1979 amendment, effective July 1, 1979, added paragraph (16).

As the rest of the section was not affected by the amendment, it is not set out.

Editor's note. — Section 1, ch. 56, SLA 1979, effective July 1, 1979, provides: "FINDINGS. The legislature finds that there is a need for development of small-scale and low-cost alternatives for Alaskans in regard to building design, food production, recycling, transportation,

energy generation, waste disposal, and small-scale residential and industrial enterprise. Therefore, the legislature finds that the development and wider use of low-cost and small-scale technologies appropriate to Alaska should be encouraged."

Section 8, ch. 56, SLA 1979, effective July 1, 1979, provides for the termination of the act relating to northern technology on June 30, 1984. As part of that act, AS 37.12.070(16) will terminate on that date.

Chapter 15. State Bonding Act.

Article 3. International Airports Revenue Bonds.

Section

410. Bond authorization

Sec. 37.15.410. Bond authorization. For the purpose of providing part or all of the money to be used, with or without any grants or other money which may become available, the issuance and sale of revenue

INVESTMENTS

TEPA, Inc. Anchorage	Chemical treatment of fish waste for protein production	\$550.0
SeaWard Shipyard Ketchikan	Repair and maintenance marine facility for servicing forestry and fishing industry	\$500.0

LOANS

Kokechek Corp. Chevak, Hooper Bay and Scammon Bay	Direct loan to joint venture corporation for catching and marketing herring (49% ARRC ownership)	\$300.0
Solar Homes Anchorage	Partial guarantee (\$20 risk) of construction loan for energy efficient, solar assisted house	\$120.0
Pacific Barge and Boat Works Eagle River	Materials loan for con- struction of fishing boats	\$ 97.0
Flying Fish and Crab Anchorage	Partially refundable (\$5 at risk) escrow deposit for demonstration of innovative crab machine technology	\$ 25.0
The Wood Yard Juneau	Logging and firewood pro- duction equipment and working capital	\$ 65.0
Southern Southeast Regional Aquaculture Ketchikan	Working capital for fall egg- take, spring release and related requirements	\$382.0
Fisherman's Supply Manufacturing Homer	Working capital and supplier line of credit	\$ 50.0
Sea Fisher Products Petersburg	Working capital and pack loan for processor	\$200.0
Steik Sawmill Soldotna	Working capital and equipment loan	\$ 20.0
Anchor Renewable Farms Anchorage	Controlled environment agricultural project	\$ 93.0
American Eagle Juneau	Working capital and pack loan for floating processor	\$150.0
Alyeska Candy Kitchen Anchorage	Working capital and equip- ment for wild berry processor	\$ 37.6
Alaska Seafood Marketing Anchorage	Underwriting of organization for the promotion of Alaska seafood products	\$ 74.0

TEPA, Inc. TA 80-01 Anchorage	Business planning assistance, deal negotiations and legal costs leading to investment (\$15.0 capitalized)	\$ 3.0
SeaWard Shipyard TA 80-02 Ketchikan	Management and financial and financial controls, marketing analysis and development of business plan	\$ 25.0
Schnabel Lumber Company TA 80-03 Haines	Complete evaluation of economic feasibility engineering estimate, business plan, financial structuring and capital requirements Request: \$3,000.0	\$ 25.0
Kokechek Corp. TA 80-04 Chevak, Hooper Bay and Scammon Bay	Expedite materials shipment and prepare for boat building in villages; legal work creating corporation and preparing contracts	\$ 15.0
Interior Villages Association TA 80-05 Fairbanks	Assistance in developing appli- cation to ARRC for sub-regional development plan	\$ 8.0
Alaska Bait Producers TA 80-06 Juneau	Business planning, markets analysis and capital requirements Request: \$500.0	\$ 5.0
Alaska Timber Corporation TA 80-07 Ketchikan	Preliminary financial feasibility evaluation and structuring Request: \$1,600	\$ 6.7
Alka Processors TA 80-08 Anchorage	Business plan evaluation and analysis of capital require- ments, markets and overall feasibility Request: \$550	\$ 15.0
Sea Fisher Products, Inc. TA 80-09 Petersburg	Preliminary economic feasibility and business plan evaluation Request: \$200.0	\$ 3.0
Kenai Harbor Development Corp. TA 80-10 Kenai	Limited determination of economic feasibility for boat harbor Request: \$550.0	\$ 2.0
Pacific Barge and Boat Works TA 80-11 Eagle River	Business planning, management analysis and capital require- ments Request: \$280.0	\$ 5.0
Mastercraft TA 80-12 Anchorage	Financial control analysis, business planning and market strategy development Request: Open	\$ 20.0
Stoknavik Co-op TA 80-13 Chevak, Hooper Bay and Scammon Bay	Organization implementation, strategic planning and start-up assistance	\$ 15.0

TA 80-14 Palmer	business environment for milk production in Alaska Request: Open	\$.8
Fisherman's Supply and Manufacturing TA 80-15 Homer	Business planning and management analysis Request: Open	\$ 5.7
Totem Air TA 80-16 Anchorage	Business planning analysis, evaluation of markets, and capital requirements Request: \$550.0	\$ 3.0
Yeager Processing TA 80-17 Bethel	Business planning assistance and evaluation of capital requirements Request: Open	\$ 10.0
Sea Catch, Inc. TA 80-18 Kenai	Business assessment and analysis of markets, costs of production, capital requirements and overall operations evaluation Request: \$550	\$ 8.0
Steik Sawmill TA 80-19 Soldotna	Economic feasibility of very small logging operation Request: \$20.	\$ 1.0
Pine TA 80-20 Tok	Business plan review and market evaluation Request: \$30.	\$ 1.5
Alyeska Candy Kitchen TA 80-21 Anchorage	Business planning guidance and financial planning Request: \$250.	\$ 2.0
Danielson TA 80-22 Juneau	Business planning, marketing evaluation and financial structuring Request: \$60.	\$ 5.0
Southern Southeast Regional Aquaculture TA 80-23 Ketchikan	Assistance in defining financial plan and capital requirements	\$ 2.2
Cape Romanzoff TA 80-24 Bethel	Organization planning preparation of application and financial structuring	\$ 15.0
Flying Fish and Crab TA 80-25 Anchorage	Assist in structuring approach to demonstration of new technology	\$ 3.0
Choquette Project TA 80-26 Juneau	Assistance in evaluation of conceptual approach to fishery project	\$.7
The Wood Yard TA 80-27 Juneau	Assist in financial planning and analysis of fire wood enterprise	\$ 1.7

GRANTS

Future Farmers of America Palmer, Nome, Delta Junction	Travel Assistance for representatives attending national Conference	\$ 6.0
Alternative Energy Conference Anchorage	Partial sponsorship of first annual conference on alternative energy sources	\$ 2.5

OTHER APPLICANTS/VENTURES PENDING

Seward Fisheries: Homer	Seeking \$400.0 participation in processing plant
Anderson:	Seeking undisclosed amount for crab processing machine distribution rights
Blaine:	Seeking undisclosed amount for processing facility
Nash:	Seeking \$900. to develop a gashol plant
Mulligan:	Seeking \$300.0 to establish business growing foundation seed for winter hardy grass
Owens:	Seeking \$100-350 to expand marine sales and service business
Haney:	Seeking \$200.0 to convert and operate small vessel floating maintenance facility
Countrymen:	Seeking \$300.0 to expand food processing and retail outlet for wild berries products
Woelker:	Seeking \$100.0 for bison and cattle raising operation
Robinson:	Seeking \$550.0 as equity investment in marine repair facility
Metzner:	Seeking \$375.0 for a mushroom growing operation
Dahl:	Seeking undisclosed amount for Yakutat Fish Company shore based freezer facility
Roggasch:	Seeking \$200.0 to expand business of construction of super insulated houses
Hill:	Seeking \$550.0 to expand firewood harvesting and sales business
McMahon:	Seeking \$100-200.0 to expand aluminum skiff manufacturing business
Kruckenber:	Seeking undetermined amount to help finance \$2.5 million pulp mill
Eager:	In process of developing business of raising seed potatoes

Willis: Conceptual process for developing business plan of harvesting and processing Alaska birch

Seward Fisheries: Seeking \$400.0 loan for processing plant

Sheldon Jackson: Seeking \$8.0 for feasibility study of seedling nu. series 1, Southeast

Northern Southeast Regional Aquaculture: Seeking \$200.0 for continuing administration and initiation of two construction projects

Miller: Seeking feasibility study for forest products specialty manufacturing process

Valdez Fisheries Development Association: Seeking financial assistance for hatchery

Fitzsimmons: Seeking financial assistance for fire-wood business

Waterer: Seeking information regarding investment capital for fish processing

Kerber: Seeking financial assistance for fish marketing

Ball Brothers: Seeking capital availability information for fish processing

Kurka: Seeking financial assistance for fish processing

St. George-Tanaq: Interested in future relationship regarding bottomfish processing

Alaska House of Representatives



COMMITTEE ON NATURAL RESOURCES
POUCH V • JUNEAU, ALASKA 99811

Full

MEMORANDUM

TO: The Honorable Terry Gardiner
Speaker of the House

DATE: May 5, 1980

FROM: Alvin Osterback, Chairman
House Resources Committee

SUBJECT: "TEPPA" Files
in Renewable
Resources

Terry please see the attached information regarding "TEPPA". I feel it is necessary to subpoena these records.

Sec. 24.25.010 (b) refers to subpoena powers. I will ask my committee to sign in favor of the subpoena.

Sufficient time has passed for Renewable Resources to get the records. I have not put out any press releases to date on this issue.

Attachments (2)

CO CHAIRMEN

REP ALVIN OSTERBACK (465.3715) • REP BILL MILES (465.3770)

VICE-CHAIRMAN

REP FRED ZHAROFF

REP PAT CARNEY • REP C.V. CHAT CHATTERTON • REP SAM COTTEN
REP DICK ELIASON • REP JACK FULLER • REP RICK HALFORD

Alaska
Renewable
Resources
Corporation

May 1, 1980

Box 1647
Juneau, Alaska
99802
(907) 465-4616

The Honorable Alvin Osterback, Chairman
House Resources Committee
Pouch V
Juneau, Alaska 99811

Dear Representative Osterback:

I have requested that the public record information in the possession of the Corporation be forwarded to Juneau. I expect the courier service to deliver the files later this morning.

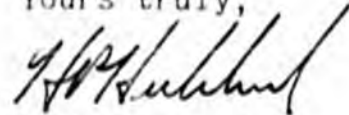
Suite One
313 "E" Street
Anchorage, Alaska
99501
(907) 272-2500

I am enclosing for your information a copy of that portion of the ARRC statute regarding the confidentiality of its files relating to the particulars of an applicant's proprietary business and commercial information. This same provision is accorded all other loan application files in the possession of state agencies. The obvious rationale is identical to that of the privacy provisions for personal and business income tax returns.

Enclosed is a recent letter regarding the subject of confidentiality of ARRC's files which may be of interest to you.

To reiterate again, the trustees of ARRC would be pleased for an opportunity to meet with you or the Committee on Natural Resources to discuss any activities of interest and concern to the committee. Particularly, we would be pleased to review the circumstances leading up to and including the negotiations regarding the award of financial assistance to TEPA, Inc.

Yours truly,



Phil Hubbard

cc: Representative Terry Gardiner
Representative Bill Miles
Senator Bill Sumner

Sec. 37.12.115. TECHNICAL ASSISTANCE. (a) The corporation may provide financing for pre-investment activities including feasibility studies, when, in its opinion, the proposed project is of high priority and the financing is not available from other sources on reasonable terms and conditions. Amounts so advanced may form a part of a later investment if the enterprise or project is financed by the corporation.

(b) The corporation may provide funding for technical and management advice and assistance to qualified applicants as it considers necessary in the circumstances.

Sec. 37.12.120. PUBLIC ACCESS TO INFORMATION. Information in the possession of the corporation is a public record, except that information which discloses the particulars of the business or affairs of a private enterprise or investor is confidential and is not a public record. Confidential information may be disclosed only for the purposes of an official law enforcement investigation or when its production is required in a court proceeding. These restrictions do not prohibit the publication of statistics presented in a manner that prevents the identification of reports, items, persons, or enterprises.

Sec. 37.12.125. DEFINITIONS. In this chapter, unless the context otherwise requires,

(1) "applicant" means a person making application to the corporation for financial assistance;

(2) "board" means the board of Trustees of the Alaska Renewable Resources Corporation;

(3) "corporation" means the Alaska Renewable Resources Corporation;

(4) "project" means products, markets, innovation, or technological developments for the rehabilitation, enhancement, or development of renewable resources and includes applied research for those products, markets, or technological developments;

(5) "rehabilitation, enhancement, and development" means any activity or program which improves the health and well-being of a renewable resource or renewable resource population leading to an increase in the quality or productivity of the resource and to an increase in the benefits derived from the resource to the citizens of the state;

(6) "renewable resource" means non-human living organisms; natural components of the environment, including the air, land, and water; and energy systems which are naturally recurring or replenished.

* Sec. 4. AS 37.11.040 is amended to read:

Sec. 37.11.040. FUND BALANCES. Unappropriated or otherwise unencumbered balances remaining in the Alaska renewable resources development fund at the close of each fiscal year shall be transferred to the Alaska renewable resources investment fund.

Alaska House of Representatives



COMMITTEE ON NATURAL RESOURCES
POUCH V • JUNEAU, ALASKA 99811

April 30, 1980

Alaska Renewable Resources
P.O. Box 1647
Juneau, AK. 99802

Dear Commissioner Hubbard:

I am concerned about the "TEPPA" transaction. Please send my office your full and complete records on all information regarding this transaction.

I would like this material tomorrow, Thursday, May 1.

Sincerely,

A handwritten signature in cursive script that reads "Alvin Osterback".

Alvin Osterback
Chairman
House Resources Committee

AO:ss

CO-CHAIRMEN

REP. ALVIN OSTERBACK (465-3715) • REP. BILL MILES (465-3779)

VICE-CHAIRMAN

REP. FRED ZHAROFF

REP. PAT CARNEY • REP. C.V. "CHAT" CHATTERTON • REP. SAM COTTEN
REP. DICK ELIASON • REP. JACK FULLER • REP. RICK HALFORD

Alaska House of Representatives



COMMITTEE ON NATURAL RESOURCES
POUCH V • JUNEAU, ALASKA 99811

May 1, 1980

Alaska Renewable Resources
P.O. Box 1647
Juneau, AK. 99802

Dear Commissioner Hubbard:

I was somewhat dismayed at your telephone call to me on April 30, 1980 at 5:00 p.m. I specifically requested the "TEPPA" file - not a meeting with you. You informed me that you could not give me a copy of the file regarding the "TEPPA" transaction.

I ask you under what authority you refuse me the file? Public funds were used in the transaction and I believe I have access to that information?

Your response is requested as I asked for the file by today, May 1, 1980.

Cordially yours

A handwritten signature in cursive script that reads "Alvin Osterback".

Alvin Osterback
Chairman
House Resources Committee

AO:ss

CO-CHAIRMEN

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Alaska House of Representatives



COMMITTEE ON NATURAL RESOURCES
POUCH V • JUNEAU, ALASKA 99811

May 1, 1980

Alaska Renewable Resources
P.O. Box 1647
Juneau, AK. 99802

Dear Commissioner Hubbard:

I was somewhat dismayed at your telephone call to me on April 30, 1980 at 5:00 p.m. I specifically requested the "TEPPA" file - not a meeting with you. You informed me that you could not give me a copy of the file regarding the "TEPPA" transaction.

I ask you under what authority you refuse me the file? Public funds were used in the transaction and I believe I have access to that information?

Your response is requested as I asked for the file by today, May 1, 1980.

Cordially yours,

A handwritten signature in cursive script that reads "Alvin Osterback".

Alvin Osterback
Chairman
House Resources Committee

AO:ss

bcc: Senator Ferguson
Senator Sumner

CO-CHAIRMEN

REP. ALVIN OSTERBACK (465-3715) • REP. BILL MILLS (465-3779)

VICE-CHAIRMAN

REP. FRED ZHAROFF

REP. PAT CARNEY • REP. C.V. "CHAT" CHATTERTON • REP. SAM COTTEN
REP. DICK ELIASON • REP. JACK FULLER • REP. RICK HALFORD

CARPENETI & COUNCIL

ATTORNEYS AT LAW
319 SEWARD STREET, SUITE 203
JUNEAU, ALASKA 99801

WILLIAM T. COUNCIL
WALTER L. CARPENETI

(907) 586-1788

*We don't
need to
discuss this*

April 11, 1980

Wilson L. Condon
Deputy Attorney General
Pouch K
Juneau, AK 99811

Re: Alaska Renewable Resources Corporation; audits by
Attorney General and Legislative audit

Dear Wil:

This is to confirm the understanding we reached on Tuesday, April 8, 1980, respecting the audits of the Alaska Renewable Resources Corporation to be conducted by the Office of the Attorney General and by the Division of Legislative Audit.

There is a controversy over whether the investigative powers of those two state agencies include the right of access to the records of the Alaska Renewable Resources Corporation. The Office of the Attorney General and the Division of Legislative Audit maintain that their power to examine corporation records is without limitation. The corporation maintains that it owes a fiduciary duty to applicants to preserve the confidentiality of information which discloses the particulars of the business or affairs of a private enterprise or investor. The basis of this duty is found in the Legislature's directive to the corporation in Alaska Statute 37.12.120. The corporation maintains that it is bound to preserve the confidentiality of such information, and that it can be required to release that information only in extraordinary circumstances as provided by the statute. The interpretation given to that statute by the Office of the Attorney General and the Division of Legislative Audit is that, while the statute may prevent access by a member of the general public to confidential information, the corporation must nevertheless give those two state agencies access to any and all corporate files as they may request.

While there remains a dispute as to the meaning of Alaska Statute 37.12.120, the corporation has concluded that at least in the peculiar circumstances of this controversy,

Wilson L. Condon
April 11, 1980
Page Two

compliance with the conditions set out below will enable it to meet its obligations under the statute. In reaching this agreement the corporation has placed substantial reliance on the position of the Office of the Attorney General that it and the Division of Legislative Audit have plenary power to examine the records of the corporation.

It is understood that the Office of the Attorney General is conducting an investigation of the records of the corporation for the limited purpose of examining the basis for the corporation's providing financial assistance to Tepas, Inc. The specific question to be addressed in the course of that investigation is the legality of the use by Tepas, Inc., of a portion of that financial assistance to locate, at least initially, part of its physical plant outside of the state of Alaska. All of the corporation's records relating to providing financial assistance to Tepas, Inc., will be made available to the Office of the Attorney General. It is understood that any files which disclose the particulars of the business or affairs of a private enterprise or investor, unless having some relevance to the objective of the investigation, will not be examined. A trustee or other representative of the corporation will be permitted to inspect any notes taken or copies of corporate records made in the course of the investigation before those notes or copies are removed from the corporation's offices. Finally, in view of the fact that the corporation is placing substantial reliance on the interpretation of Alaska Statute 37.12.120 made by the Office of the Attorney General, that office agrees to indemnify and hold harmless the corporation and its trustees and employees against any claims arising from the release of corporation records in connection with the investigation.

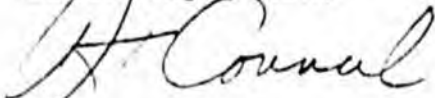
It is understood that the Division of Legislative Audit will conduct an investigation of all records of the corporation relating to providing financial assistance to applicants. The purpose of the audit is to determine if the corporation's performance in the course of providing financial assistance to applicants conforms to law and to the directives of the Legislature as found in the corporation's enabling legislation, the legislative history of that legislation and the appropriations to the corporation. All records of the corporation relating to providing financial assistance to applicants will be provided. It is understood that any files which

Wilson L. Condon
April 11, 1980
Page Three

~~disclose the particulars of the business or affairs of a private enterprise or investor will not be examined where they do not relate to the object of the audit. A trustee or other representative of the corporation will be permitted to inspect any notes taken or copies of corporate records made in the course of the investigation before those notes or copies are removed from the corporation's offices. Finally, the Office of the Attorney General agrees to indemnify and hold harmless the corporation and its trustees and employees against any claims arising from the release of corporation records in connection with the investigation.~~

Unless I hear from you otherwise, I will assume that this letter correctly sets out the substance of our agreement.

Sincerely yours,



William T. Council

WTC/bl

cc: Alaska Renewable Resources Corporation

Cross reference. — As to fiscal notes on bills effecting state retirement systems, see AS 24.30.036.

Effect of amendment. — The 1978 amendment rewrote this section.

Editor's note. — Section 5, ch. 121, SLA 1978, provides: "It is the intent of the legislature that the report required under AS 24.20.540 (d) not be submitted until the First Session of the Eleventh Legislature."

Sec. 24.20.560. Staff for the board. The board, with the approval of the Legislative Council, may employ a full-time executive secretary and actuaries as necessary for the completion of its responsibilities. The Legislative Affairs Agency shall provide the board with office space and additional professional and clerical assistance as necessary under the auspices of the Legislative Council. (§ 1 ch 130 SLA 1977; am § 3 ch 121 SLA 1978)

Effect of amendment. — The 1978 amendment rewrote this section.

Sec. 24.20.570. Definitions. In §§ 500 — 560 of this chapter "board" means the Legislative Board of Retirement Benefits. (§ 4 ch 121 SLA 1978)

Chapter 25. Witnesses.

Section

- 10. Issuance and form of subpoena
- 20. Service of subpoena
- 30. Disobeying subpoena or refusing to testify
- 40. Arrest for disobedience to subpoena
- 50. Witness fees and mileage.

Section

- 60. Oath and penalty for violation of oath
- 70. Grant of immunity on claim of privilege of self-incrimination
- 80. Punishment for disobedience to subpoena or refusal to testify

Jerry

Sec. 24.25.010. Issuance and form of subpoena. (a) A subpoena requiring the attendance of a witness before either house of the legislature may be issued by the president or the speaker.

(b) A subpoena requiring the attendance of a witness before a standing or special committee of the legislature may be issued by the chairman of a committee when authorized to do so by a majority of the membership of the committee and with the concurrence of the president or the speaker, or with the concurrence of the house or the senate.

(c) A subpoena requiring the attendance of a witness before an interim committee established by either house of the legislature, or by both, may be issued by the chairman of a committee when authorized to do so by a majority of the membership of the committee and with the concurrence of the president or the speaker.

- (d) The subpoena is sufficient if
- (1) it states before whom the proceeding is held;
 - (2) it is addressed to the witness;
 - (3) it requires the attendance of the witness at a time and place certain;
 - (4) it is signed

(A) by the president or the speaker under (a) of this section, or
(B) by the committee chairman with the concurrence of the president or the speaker under (b) and (c) of this section.

(e) This section does not apply to the Legislative Council nor to the Legislative Budget and Audit Committee. (§ 4-4-1 ACLA 1949; am § 1 ch 94 SLA 1975)

Cross references. — For legislative council's power to issue subpoenas, see AS 24.20.060(2). For legislative budget and audit committee's power to issue subpoenas, see AS 24.20.201(a) (2).

Effect of amendment. — The 1975 amendment rewrote this section.

Am. Jur. and ALR references. — 49 Am.

Jur., States, Territories and Dependencies, §§ 40 to 44; 58 Am. Jur., Witnesses, § 15.

Power of legislative body to compel attendance of witnesses, 50 ALR 21; 65 ALR 1518.

Testing validity or scope of command of subpoena duces tecum in proceeding before legislative committee, 180 ALR 339.

Sec. 24.25.020. Service of subpoena. A person over the age of 19 years who is competent as a witness in the state courts may serve the subpoena. His affidavit that he delivered a copy to the witness is evidence of service. (§ 4-4-2 ACLA 1949; am § 8 ch 245 SLA 1970)

Legislative committee report. — Chapter 245, SLA 1970 (HCSSB 899 am H), was identical to CSHB 406 (Jud.). For

report on CSHB 406 (Jud.), see 1970 House Journal Supplement No. 6.

Sec. 24.25.030. Disobeying subpoena or refusing to testify. If a witness neglects or refuses to obey a subpoena, or neglects or refuses to testify or to produce upon reasonable notice any material and proper books, papers or documents in his possession or under his control, the senate or house of representatives may by resolution entered on its journal commit him for contempt. If contempt is committed before a committee, the committee shall report the contempt to the senate or house of representatives, as the case may be, for such action as may be considered necessary. (§ 4-4-3 ACLA 1949)

Am. Jur. and ALR references. — 12 Am. Jur., Contempt, § 54; 49 Am. Jur., Territories and Dependencies, § 39.

Perjury or false swearing as contempt, 11 ALR 343; 78 ALR 817.

Sec. 24.25.040. Arrest for disobedience to subpoena. A witness who neglects or refuses to attend in obedience to subpoena may be arrested by the sergeant-at-arms and brought before the senate or house of representatives, as the case may be. The only warrant or authority necessary authorizing arrest is a copy of a resolution of the senate or house of representatives signed by the president of the senate or speaker of the house of representatives, as the case may be, and countersigned by the secretary of the senate or the clerk of the house of representatives, as the case may be. (§ 4-4-4 ACLA 1949)

Sec. 24.25.050. Witness fees and mileage. A person appearing before

either house, or both, or a legislative committee in response to a subpoena is entitled to \$20 for each day's attendance, and for the time necessary in coming and returning to his place of residence and mileage at the rate of 15 cents a mile for the distance traveled in going to and returning from the place of attendance. The witness fee and mileage fee shall be paid out of the state treasury upon presentation of a certificate of attendance and mileage due, signed by the presiding officer of the house which authorized issuance of subpoena. (§ 4-4-5 ACLA 1949; am § 4-4-5 SLA 1951)

Sec. 24.25.060. Oath and penalty for violation of oath. The president of the senate and speaker of the house of representatives and the chairman of every committee of either body may administer an oath to a witness appearing before the respective bodies. A person who wilfully swears or affirms falsely concerning any matter material to the subject under investigation or inquiry is guilty of perjury and upon conviction is punishable by imprisonment for not less than one year nor more than five years. (§ 4-4-6 ACLA 1949)

Am. Jur. and ALR references. — 41 AM. Perjury or false swearing as contempt,
Jur., Perjury, § 1 et seq. 11 ALR 342; 73 ALR 817.

Sec. 24.25.070. Grant of immunity on claim of privilege of self-incrimination. (a) A person called as a witness before the senate, house of representatives, or a committee of either or both, who refuses to answer any question or to produce any book, paper or document relating to the matter under inquiry, on the ground that the answer or the production may tend to incriminate him, may be granted immunity from punishment for the offense to which the question or evidence relates by resolution of the house which is conducting the inquiry. The resolution shall be entered upon its journal, and the witness may then be compelled to answer the question or produce the evidence.

(b) If a witness is granted immunity and compelled to testify or produce evidence after claiming the privilege of self-incrimination, he may not thereafter be prosecuted in any court for the offense to which the question or evidence relates. (§ 4-4-7 ACLA 1949)

Am. Jur. and ALR references. — 58 Am. Waiver of privilege, 144 ALR 1007.
Jur., Witnesses, §§ 46, 434.
Privilege against self incrimination, 120
ALR 1102.

Sec. 24.25.080. Punishment for disobedience to subpoena or refusal to testify. A person subpoenaed as provided in this chapter who fails, neglects or refuses to attend at the time and place where his presence is required, or fails, neglects or refuses to produce the books, papers, or instruments or other evidence designated in the subpoena, or who having attended in response to the subpoena, or having appeared voluntarily, refuses to testify as to any material and proper matter

RESOURCES COMMITTEE
HOUSE OF REPRESENTATIVES
ALASKA STATE LEGISLATURE

In the Matter of the Investigation)
of Certain Matters Concerning the)
Alaska Renewable Resources Corporation)

SUBPOENA DUCES TECUM

TO: Philip Hubbard, Trustee
Dean Olson, Trustee
William Spear, Trustee
Alaska Renewable Resources Corp.
2nd Floor, Madsen Building
Juneau, Alaska 99801

Under the authority of art. II of the Alaska
Constitution, and in accordance with AS 24.25.010(b), the
Resources Committee of the Alaska House of Representatives

directs you to appear at Room 116 of the State Capitol Bldg
Building, Juneau, Alaska, on May 8, 1980, at
~~8:30 AM~~ o'clock to give testimony on:

1. The reasons for the resignation of Jack Milnes
as a trustee of the Alaska Renewable Resources Corporation
(ARRC).

2. The recent financial assistance agreement
between ARRC and TEPA, Inc.

3. Major problems currently facing ARRC.

In addition, you are to produce at that time and
place all correspondence, applications, and other records
pertaining to items 1 and 2 above.

Information made confidential by AS 37.12.120, and
which is required by this subpoena to be produced, must be
identified as such by ARRC. The House Resources Committee and
all other legislators and staff participating in this
investigation will keep that information confidential.

DATED: May 5, 1980
Juneau, Alaska

Alvin Osterback, Co-chairman
Resources Committee
House of Representatives
Alaska State Legislature

Bill Miles, Co-chairman
Resources Committee
House of Representatives
Alaska State Legislature

CONCUR:

Terry Gardiner
Speaker of the House
Alaska State Legislature

RESUME

NORMAN EWEI', STATON, JR.

ADDRESS

R.R. 6 - Box 68098
Juneau, Alaska 99803

Telephone: (907) 789-2656

PERSONAL

Date of Birth: June 16, 1951
Place of Birth: Ketchikan, Alaska
Health: Excellent
6'1" - 175 lbs.
Marital Status: Single

PROFESSIONAL
LICENSE

Admitted to Alaska Bar Association
October 1978

LAW SCHOOL

University of Oregon School of Law
Eugene, Oregon

Doctorate of Jurisprudence
May 1976

Clinical Experience: Corrections Clinic
Trial Practice Lab

UNDERGRADUATE
EDUCATION

Gonzaga University
Spokane, Washington

B.A., Political Science
May 1973

Sitka High School
Sitka, Alaska
Graduated June 1969

**WORK
EXPERIENCE**

Assistant Attorney General
to Avrum M. Gross

Division of Transportation
August 1979 to present

Division of Business Regulation &
Taxation
February 1979 to August 1979

Manager, Staton's, Inc., Sitka, Alaska
Family-owned business
January 1977 to June 1978

Consultant for Alaska Native Foundation
Anchorage, Alaska
June 1976 to September 1976

Corrections Clinic: Federal habeas
corpus petitions for inmates of
Oregon State Penitentiary
September 1975 to June 1976

PUBLIC SERVICE

Advisory Committee on Minority Sentencing
Practices
Appointed by Honorable Jay Hammond

Addressed:

Alaska Native Brotherhood
Convention 1980

Rural Community Action
Program Convention 1980

Governor's Commission on the
Administration of Justice 1980

Board of Governors Legal Educational
Opportunities Committee
Alaska Bar Association

REFERENCES

Wilson Condon, Deputy Attorney General
State of Alaska - Juneau, Alaska

Byron Mallot, Chairman
Board of Directors
Sealaska Corporation - Juneau, Alaska

Michael Rubenstein, Executive Director
Alaska Judicial Council
Anchorage, Alaska

consultation with the Department of Fish and Game, shall determine which communities are economically impacted fishing communities.

(b) If the economic disaster is due to a fisheries failure based on consideration of need, the legislature may appropriate to the Alaska economic disaster impact fund from the renewable resource fund (ch. 130, SLA 1974). If there is an insufficient balance in the renewable resource fund to meet emergency needs that may be determined under the provisions of AS 44.33.285, the legislature may appropriate from the general fund. The Alaska economic disaster impact fund balance may not exceed \$5,000,000. The commissioner of revenue, after determining that there is in the Alaska economic disaster impact fund a surplus above an amount sufficient to meet anticipated demands, may invest the surplus as provided in ch. 10 of this title. Interest derived from investment of these surplus funds shall be deposited to the renewable resource fund. If the economic disaster is due to other than a fisheries failure, the legislature may appropriate from the general fund to the Alaska economic disaster fund to meet emergency needs.

(c) Unappropriated or otherwise unencumbered balances remaining in the Alaska economic disaster impact fund at the close of each fiscal year shall not lapse as provided in AS 37.25.010 but shall be available in perpetuity for fund purposes.

(d) Within the first 10 days of each legislative session the commissioner of commerce and economic development shall submit to the legislature a detailed report of all expenditures from the fund and all actions taken under AS 44.33.285. (§ 9 ch 277 SLA 1976)

Chapter 12. Alaska Renewable Resources Corporation.

Section	Section
10. Alaska renewable resources corporation created	70. Powers
15. Purposes	75. Duties
20. Allocation	80. Financial assistance
25. Board of trustees	85. Eligibility for financial assistance
30. Composition of the board of trustees	90. Reports and publications
35. Term of office	95. Budget and appropriations
40. Removal and vacancies	100. Annual audit
45. Qualifications of board members	105. Cooperation with other agencies
50. Quorum	110. Tax exemption
55. Compensation of board members	115. Technical assistance
60. Employment of personnel	120. Public access to information
65. Conflicts of interest	125. Definitions

Cross references. — As to the Alaska Renewable Resources Investment Fund, see AS 37.11.050 et seq. As to termination of the Alaska Renewable Resources Corporation, see AS 44.66.010.

Editor's note. — Section 1, ch. 179, SLA 1978, provides: **DECLARATION OF POLICY.** It is the policy of the state to

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1, ch. 179, SLA
RATION OF
the state to

"(1) rehabilitate, enhance, and develop its renewable resources and, insofar as is consistent with sound resource management policies, develop its human resources by providing maximum opportunities for employment and a higher standard of living for its citizens; and

"(2) utilize the funds set aside under ch. 11 of this title to further the (A) development of renewable resources that will contribute to a stable self-sustaining state economy, employment opportunities, and lifestyle alternatives for its citizens, and (B) commercial, traditional, and common uses of the state's renewable resources."

Section 2, ch. 179, SLA 1978, provides: FINDINGS. (a) The legislature finds that Alaska has renewable resources that are not being utilized to their full potential. Many problems which confront the state, including high unemployment and unstable economy, could be mitigated by the expanded use and development of its renewable resources.

"(b) It is further found that Alaska's economy has historically depended upon sporadic and non-stable development.

"(c) It is further found that several key factors have contributed to the slow development of renewable resource industries, including.

"(1) insufficiency of research and development financing and venture capital financing;

"(2) a lack of knowledge within the business and financial communities about conditions affecting renewable resource industrial development in the state and a lack of scientific information concerning many resources; and

"(3) a lack of technology appropriate to Alaska.

"(d) It is further found that the state's policy of assisting the development of viable industries is best accomplished by providing assistance to the private sector to identify and demonstrate new products, markets, and technologies."

Legislative history report. — For report on ch. 179, SLA 1978 (HB 682), see 1978 House Journal, p. 830.

Sec. 37.12.010. Alaska Renewable Resources Corporation created. There is created the Alaska Renewable Resources Corporation to carry out the purposes of this chapter. The corporation is a public corporation of the state and an instrumentality of the state within the Department of Revenue, but has a legal existence independent of and separate from the state. The exercise by the corporation of the powers conferred by this chapter is considered an essential function of the state. (§ 3 ch 179 SLA 1978)

Sec. 37.12.015. Purposes. The purposes of the corporation are to
(1) facilitate the rehabilitation, enhancement, and development of the state's renewable resources so as to strengthen the self-sustaining sectors of the state economy;

(2) sponsor research and development of technologies and innovations for the rehabilitation and enhancement of the state's renewable resources to achieve an appropriate use of the resources;

(3) identify new products, markets, and technologies for renewable resource industries in the state which will constitute an appropriate use of the resources; stimulate the research and development of these products, markets, and technologies; assist in the demonstration of their technical and economic feasibility; and assist in their introduction into commercial markets. (§ 3 ch 179 SLA 1978)

Sec. 37.12.020. Allocation. (a) There shall be allocated to the corporation from the receipts described in AS 37.11.020 five per cent of the total receipts paid the state from mineral lease bonuses and rentals for state land and royalties derived from minerals produced on state land. Payments of the amount allocated by this section shall be made to the corporation by the Department of Revenue on a monthly basis.

(b) Fifty per cent of all actual receipts of the corporation, from whatever source except receipts from the corporation's investments, shall be deposited into the renewable resources investment fund (AS 37.11.050). (§ 3 ch 179 SLA 1978)

Sec. 37.12.025. Board of trustees. A board of trustees of the corporation is established as its governing body. (§ 3 ch 179 SLA 1978)

Sec. 37.12.030. Composition of the board of trustees. The board of trustees consists of three members appointed by the governor and confirmed by a majority of the members of the legislature in joint session. The board shall annually elect a chairman from among its members. A chairman may not succeed himself. (§ 3 ch 179 SLA 1978)

Sec. 37.12.035. Term of office. The members of the board of trustees shall be appointed for terms of four years, and they may be reappointed. Terms shall be staggered. The initial terms shall be one member serving for two years, one member serving for three years, and one member serving for four years. (§ 3 ch 179 SLA 1978)

Sec. 37.12.040. Removal and vacancies. (a) The governor may remove a board member from office by and with the consent of a majority of the members of the legislature in joint session. A removal by the governor shall be in writing and state the reason for removal. If the legislature is not in session, the governor may suspend a member of the board. Upon suspension, a board member may not participate in board business and may not be counted for the purpose of establishing a quorum. A suspended member shall continue to receive his salary as a board member until the legislature in joint session consents to his removal. The joint session shall be held within 30 days from the date of removal if the removal occurs while the legislature is in session or within 30 days of convening of the legislature if the legislature is not in session. If the legislature refuses to consent to his removal, the board member shall be reinstated to his position.

(b) A vacancy on the board shall be promptly filled by appointment by the governor and confirmation by a majority of members of the legislature in joint session. An appointee to fill a vacancy shall hold office for the balance of the term for which his predecessor on the board was appointed. If a vacancy arises on the board while the legislature is not in session, the governor may appoint an interim board member until such time as the legislature in joint session fails to confirm the interim member's appointment.

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(c) A vacancy on the board does not impair the authority of a quorum of the board to exercise all the powers and perform all the duties of the board. (§ 3 ch 179 SLA 1978)

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Sec. 37.12.045. Qualifications of board members. (a) No person may be appointed to the board who has not been a resident of the state for at least three years.

(b) No member of the board may hold any other state or federal office, position, or employment, whether elective or appointive, except as a member of the armed forces of the United States or the state. (§ 3 ch 179 SLA 1978)

Sec. 37.12.050. Quorum. Two members of the board constitute a quorum for the transaction of business and the exercise of the powers and duties of the board. (§ 3 ch 179 SLA 1978)

Sec. 37.12.055. Compensation of board members. Board members are in the exempt service under AS 39.25 and receive an annual salary within Range 30 of the salary schedule for state employees established by AS 39.27.011. (§ 3 ch 179 SLA 1978)

Sec. 37.12.060. Employment of personnel. The board may employ and determine the salary of an executive director. The executive director may, with the approval of the board, select and employ additional staff as necessary. The executive director and all employees of the board are in the exempt service under AS 39.25. (§ 3 ch 179 SLA 1978)

Sec. 37.12.065. Conflicts of interest. (a) Members of the board of trustees are subject to the provisions of AS 39.50.

(b) No member or employee of the board may acquire an interest, direct or indirect, in a corporation, company, association, or project owned, controlled, or invested in by the corporation. If a member or employee owns or controls such an interest, he shall immediately disclose the interest in writing to the board and refrain from participating in any manner in any activity relating to that interest. (§ 3 ch 179 SLA 1978)

Sec. 37.12.070. Powers. In carrying out the corporate powers of the corporation, the board may

- (1) adopt, alter, and use a corporate seal;
- (2) prescribe, adopt, amend, and repeal bylaws;
- (3) sue and be sued in the name of the corporation;
- (4) enter into any agreements necessary to the exercise of its powers and functions;
- (5) accept grants from and contract with the federal government and the state or its political subdivisions and to that end comply with the provisions of federal, state, or local programs where necessary, except that it may not enter into any agreements whereby any permanent state

or local government position is funded or partially funded in connection with a project;

(6) accept grants and loans from other sources than those in (5) of this section to be held and used for the purposes of the corporation;

(7) appear in behalf of the corporation before boards, commissions, departments, or other agencies of municipal, state, or federal government;

(8) acquire, hold, use, lease, sell, or otherwise dispose of property of any kind, real, personal, or mixed, or any interest in it;

(9) hold, as a means of securing the providing of financial assistance, patents, copyrights, trademarks, royalties, or any other evidences of protection or exclusivity issued under the laws of the United States or any state or nation;

(10) prepare, publish, and distribute technical studies, reports, bulletins and other materials it considers appropriate;

(11) invest, in such form as it considers appropriate, in projects which are economically viable and income-producing;

(12) provide grants for projects having broad public application which do not have direct income-producing potential;

(13) adopt regulations governing the exercise of its corporate powers;

(14) deposit funds, or invest surplus funds through the treasury division of the Department of Revenue which may invest in any investments authorized in AS 39.35.110 so long as its investment policy is consistent with the prudent-man rule;

(15) do all acts and things necessary or desirable to carry out the purposes of the corporation. (§ 3 ch 179 SLA 1978)

Sec. 37.12.075. Duties. In carrying out the purposes of this chapter, the board shall

(1) seek to maintain the productivity of healthy renewable resources and expand the productivity of depleted or underutilized renewable resources;

(2) provide financial assistance for projects which the board finds will accomplish the purposes of the corporation as set out in § 15 of this chapter;

(3) promote the utilization of the state's renewable resources in the state and the development of import substitution and export markets;

(4) annually prepare long-range operating and financial plans and the budget for the forthcoming year;

(5) monitor approved projects for compliance with this chapter and provide operational and performance evaluations (post-audits) of projects receiving financial assistance and an overall assessment, expressed in qualitative and quantitative terms, of the degree to which the purposes of the corporation, as set out in § 15 of this chapter, have been achieved; and

(6) attempt to fund activities which will tend to maximize returns to the state and local governments and its citizens in such forms as tax revenues and resident employment and income. (§ 3 ch 179 SLA 1978)

Sec. 37.12.080. Financial assistance. (a) In providing financial assistance, the board shall

(1) consider the proposals of qualified applicants only after the applicant has submitted a detailed proposal in the form prescribed by the board; no assistance may be approved by the board unless it finds, in writing, that

(A) the proposed project, if successful, will further the purposes of the corporation as set out in § 15 of this chapter;

(B) the application contains an adequate plan for project implementation, including, when applicable, a complete business, financial and marketing plan for commercial activities;

(C) sufficient capital is not available from other sources on reasonable terms;

(D) the applicant has agreed that if new renewable resource industrial activity results from the proposed project, his best efforts will be employed to keep that activity in the state for a minimum period of time specified by the board;

(E) the applicant demonstrates that sufficient technical and business expertise to accomplish the objectives of the proposed project is available;

(F) all costs, including additional governmental cost, associated with and ancillary to the project and future obligations generated by the project have been identified, including any necessary operating, maintenance, or other support costs for the life of the project;

(G) potential resource use conflicts that may result from the proposed project are identified and evaluated, and when necessary, plans to mitigate or resolve those conflicts and to preserve for the future options for the use of the state's renewable resources are included in the application;

(2) use the financial mechanism most appropriate to the conditions of the applicant and the proposed project and which will most effectively utilize the funds available; grants may be made by the board of up to 90 per cent of the total project costs for the following purposes:

(A) projects for the applied research and development of products, technologies, or innovations for the rehabilitation, enhancement, or development of the state's renewable resources;

(B) projects for the demonstration, on a one-time basis, of the economic or technical feasibility of a new product, market, or technology involving a renewable resource; or

(C) projects for the rehabilitation, enhancement, or development of a common-property resource where the benefits from the project cannot be captured by any single economic unit;

(3) in evaluating projects, consider the preferences and priorities of the residents of the region in which the project is to be located;

(4) require investments made by the corporation to be secured by means determined to be appropriate by the board.

(b) The board may not

(1) invest or otherwise provide assistance of more than five per cent of the resources of the corporation or \$1,500,000, whichever is less, in a single project or applicant unless the legislature has approved the investment by concurrent resolution;

(2) invest in more than 49 per cent of the outstanding corporate stock or other corporate obligations issued by an applicant unless the legislature has approved the investment by concurrent resolution;

(3) make a loan for a period in excess of 30 years unless the legislature has approved the loan by concurrent resolution;

(4) assume the responsibility for management of any project in which it has invested and may not exercise voting right for that purpose or for any other purpose which is within the scope of managerial control; or

(5) provide funds to any state agency unless that expenditure is included in the corporation's annual budget;

(6) allocate to grants more than 10 per cent of the annual appropriation of the corporation.

(c) Nothing in this section prevents the board from taking such action and exercising such rights as it considers necessary for the protection of its financial interests in the event of

(1) actual or threatened default on any of the board's investments;

(2) actual or threatened insolvency of a project in which the board has made an investment; or

(3) any other immediate or actual circumstance or event which jeopardizes an investment made by the board.

(d) Projects for which financial assistance is granted shall comply with all applicable provisions of law. (§ 3 ch 179 SLA 1978)

Sec. 37.12.085. Eligibility for financial assistance. The board may provide financial assistance if it finds that an applicant is qualified to receive assistance. An applicant is qualified if

(1) he has submitted a proposal to the board in accordance with § 80(a)(1) of this chapter;

(2) he is a resident of the state for three years or, if the applicant is a partnership, corporation, or other association, the majority interest is beneficially owned by residents of the state and a majority of the owners are residents of the state; and

(3) his projects which have previously received financial assistance from the corporation, if any, have complied with all requirements of that assistance and have performed with sufficient success or promise to warrant further aid. (§ 3 ch 179 SLA 1978)

Sec. 37.12.090. Reports and publications. (a) The board shall prepare and distribute in non-technical language materials describing the purposes and activities of the corporation.

(b) The board shall publish an annual report for the governor, the legislature, and the public at the time of submitting its annual budget request. Each annual report shall include financial statements and audit reports, a statement detailing the sources from which the corporation received money, a statement detailing the investments made by the corporation, a summary and evaluation of the data required by § 75(5) and (6) of this chapter, a list of public facilities required by or complementary to the corporation's investment activity, and any other information that the board of trustees believes would be of interest to the recipients of the report. (§ 3 ch 179 SLA 1978)

Sec. 37.12.095. Budget and appropriations. (a) The corporation may expend money only as appropriated by the legislature. The corporation is subject to the Executive Budget Act (AS 37.07) except as provided in (b) and (c) of this section.

(b) The budget of the corporation shall include the categories and amounts of proposed financial assistance broken down by financing mechanism and resource sector affected and all funds received by the corporation whether through allocations made by this chapter, appropriation, or otherwise. The total amount of the corporation's operating budget shall be specified separately in its budget and be appropriated from the general fund.

(c) The unexpended and unobligated portion of the appropriations, other than appropriations for operating expenses, does not lapse into the general fund at the end of a fiscal year, but remains available for appropriation as provided in this section in subsequent fiscal years. (§ 3 ch 179 SLA 1978)

Sec. 37.12.100. Annual audit. The corporation shall have its financial record audited annually by an independent outside auditor. The legislative auditor may prescribe the form and content of the financial record of the corporation and shall have access to these records at any time. (§ 3 ch 179 SLA 1978)

Sec. 37.12.105. Cooperation with other agencies. All departments, agencies, and public corporations of the state shall provide information, services and facilities to the corporation on its request. The corporation shall reimburse the department, agency, or corporation for expenses reasonably incurred on the corporation's behalf. (§ 3 ch 179 SLA 1978)

Sec. 37.12.110. Tax exemption. The corporation is exempt from all taxes and assessments in the state. All security instruments issued by the corporation, their transfer, and their income are exempt from all taxes and assessments in the state. (§ 3 ch 179 SLA 1978)

Sec. 37.12.115. Technical assistance. (a) The corporation may provide financing for pre-investment activities including feasibility studies, when, in its opinion, the proposed project is of high priority and the financing is not available from other sources on reasonable terms and conditions. Amounts so advanced may form a part of a later investment if the enterprise or project is financed by the corporation.

(b) The corporation may provide funding for technical and management advice and assistance to qualified applicants as it considers necessary in the circumstances. (§ 3 ch 179 SLA 1978)

Sec. 37.12.120. Public access to information. Information in the possession of the corporation is a public record, except that information which discloses the particulars of the business or affairs of a private enterprise or investor is confidential and is not a public record. Confidential information may be disclosed only for the purposes of an official law enforcement investigation or when its production is required in a court proceeding. These restrictions do not prohibit the publication of statistics presented in a manner that prevents the identification of reports, items, persons or enterprises. (§ 3 ch 179 SLA 1978)

Sec. 37.12.125. Definitions. In this chapter, unless the context otherwise requires,

(1) "applicant" means a person making application to the corporation for financial assistance;

(2) "board" means the Board of Trustees of the Alaska Renewable Resources Corporation;

(3) "corporation" means the Alaska Renewable Resources Corporation;

(4) "project" means products, markets, innovation, or technological developments for the rehabilitation, enhancement, or development of renewable resources and includes applied research for those products, markets, or technological developments;

(5) "rehabilitation, enhancement, and development" means any activity or program which improves the health and well-being of a renewable resource or renewable resource population, leading to an increase in the quality or productivity of the resource and to an increase in the benefits derived from the resource to the citizens of the state;

(6) "renewable resource" means non-human living organisms; natural components of the environment, including the air, land, and water; and energy systems which are naturally recurring or replenished. (§ 3 ch 179 SLA 1978)

Chapter 14. Trust Funds.

Article

1. Mental Health Fund (§§ 37.14.010 — 37.14.050)
2. University Fund (§§ 37.14.060 — 37.14.100)
3. Public School Fund (§§ 37.14.110 — 37.14.150)
4. Custody and Investment of Trust Funds (§§ 37.14.160 — 37.14.170)

(3) should the Legislative Budget and Audit Committee recommend within the 45-day period that the state not initiate the additional activity, the governor shall again review the revised program and if he determines to authorize the expenditure, he shall provide the Legislative Budget and Audit Committee with a statement of his reasons before commencement of expenditures under the revised program.
(am §§ 4, 5 ch 60 SLA 1979)

Effect of amendments.

The 1979 amendment, effective May 19, 1979, substituted "an act making the transfers between appropriations" for "(h) of this section" at the end of the second

sentence of subsection (e) and rewrote subsection (h).

As the rest of the section was not affected by the amendment, it is not set out.

Chapter 12. Alaska Renewable Resources Corporation.

Section

70. Powers

Sec. 37.12.070. Powers. In carrying out the corporate powers of the corporation, the board may

(16) [Terminates June 30, 1984] provide funds to the Alaska Council on Science and Technology, to be awarded and administered in the manner prescribed by AS 44.19.181 — 44.19.189 when the funds are to be expended to accomplish a corporate purpose under AS 37.12.015.
(am § 2 ch 56 SLA 1979)

Effect of amendment. — The 1979 amendment, effective July 1, 1979, added paragraph (16).

As the rest of the section was not affected by the amendment, it is not set out.

Editor's note. — Section 1 ch. 56, SLA 1979, effective July 1, 1979, provides: "FINDINGS. The legislature finds that there is a need for development of small-scale and low-cost alternatives for Alaskans in regard to building design, food production, recycling, transportation,

energy generation, waste disposal, and small-scale residential and industrial enterprise. Therefore, the legislature finds that the development and wider use of low-cost and small-scale technologies appropriate to Alaska should be encouraged."

Section 2 ch. 56, SLA 1979, effective July 1, 1979, provides for the termination of the act relating to northern technology on June 30, 1984. As part of that act, AS 37.12.070(16) will terminate on that date.

Chapter 15. State Bonding Act.

Article 3. International Airports Revenue Bonds.

Section

410. Bond authorization

Sec. 37.15.410. Bond authorization. For the purpose of providing part or all of the money to be used, with or without any grants or other money which may become available, the issuance and sale of revenue

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K-ST CAPITOL
JUNEAU, AL .A 99811
465-3664

May 5, 1980

The Honorable Alvin Osterback
Co-chairman
House Resources Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Re: Alaska Renewable Resources
Corporation Subpoena

Dear Representative Osterback:

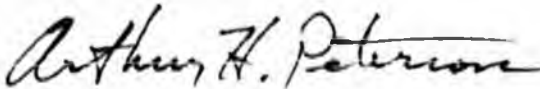
As requested by your committee's assistant, Diane Morrison, you will find the following documents attached for your use:

- a subpoena duces tecum for the three trustees of the Alaska Renewable Resources Corporation;
- an affidavit of service.

In order to make this subpoena valid, you must have the authorization of a majority of your committee and get Speaker Gardiner's concurrence, in accordance with AS 24.25.010(b). Also it must be served in accordance with AS 24.25.020.

Yours truly,

AVRUM M. GROSS
ATTORNEY GENERAL

By: 
Arthur H. Peterson
Assistant Attorney General

AHP:jal
Enclosures

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K-STATE CAPITOL
JUNEAU, ALASKA 99811
465-3664

May 6, 1980

The Honorable Alvin Osterback
Co-chairman
House Resources Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

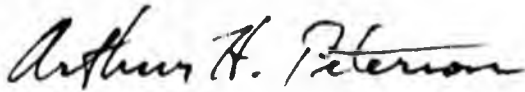
Re: Alaska Renewable Resources
Corporation Subpoena

Dear Representative Osterback:

My note of yesterday did not expressly mention that each of the individuals named in the subpoena should be individually served, and the affidavit of service should make clear that each individual was served.

Yours truly,

AVRUM M. GROSS
ATTORNEY GENERAL

By: 
Arthur H. Peterson
Assistant Attorney General

AHP:jal

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GAS TRANS.

MISC DOCS.

95th Congress }
1st Session }

COMMITTEE PRINT

DECISION AND REPORT TO CONGRESS
ON THE ALASKA NATURAL GAS
TRANSPORTATION SYSTEM

SELECTED MATERIALS

PRINTED AT THE REQUEST OF

HENRY M. JACKSON, *Chairman*
COMMITTEE ON ENERGY AND
NATURAL RESOURCES
UNITED STATES SENATE



Publication No. 95-56

OCTOBER 1977

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gas Pipeline

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MEMORANDUM OF THE CHAIRMAN

To Members of the Senate Committee on Energy and Natural Resources:

The Alaska Natural Gas Transportation Act (Public Law 94-586), passed by Congress on October 1, 1976, and signed by the President on October 22, 1976, established a special decisionmaking process for the selection of a transportation system to move natural gas from the North Slope of Alaska to United States markets. The act was designed to expedite the selection of such a transportation system and to provide for the participation of the President and Congress in the final decision. Ordinarily, the Federal Power Commission has the final authority to approve proposed natural gas transmission systems.

As mandated by the act, the FPC reported its recommendations to the President on May 2, 1977, and other Federal departments and agencies submitted their comments and responses to the FPC report on July 1, 1977. The President is directed by the act to issue a decision as to whether or not a transportation system for the delivery of Alaska natural gas should be approved and, if so, to designate such a system.

Pursuant to the act, the President's decision designating an approved transportation system for the delivery of Alaska natural gas shall take effect upon the enactment of a joint resolution of Congress. Beginning on the date after the receipt of such decision, the Congress has 60 calendar days of continuous session to enact a joint resolution. If not approved within 60 days, the act allows the President an additional 30 days to propose a new decision.

In order to provide members of the committee, the Congress, and the public with access to the various reports and comments submitted by the FPC and other Federal departments and agencies, I have asked that the President's decision transmitted to the Congress on September 22, 1977, and selected summaries of relevant documents be assembled in a committee print and made available.

HENRY M. JACKSON, *Chairman.*

CONTENTS

	Page
Memorandum of the Chairman.....	iii
Decision of the President.....	1
FPC letter to the President dated May 2, 1977.....	85
FPC news release No. 23118 dated May 2, 1977.....	80
FPC news release No. 23112 dated May 2, 1977.....	93
Attorney General's report to the President (July 1977).....	101
Attorney General's report to Congress (July 1977).....	105
Interagency Task Force on Environmental Issues Report (July 1, 1977).....	111
Report on construction delay and cost overruns.....	117
Report on safety and design (summary).....	121
Report on national economic benefits (summary).....	127
Report on supply demand and energy policy (summary).....	129
Report on socioeconomic impacts (July 1, 1977).....	133
Report of Task Force on International Relations.....	147
Report on national security implications.....	155
Report on financing an Alaska natural gas transportation system (July 1, 1977).....	159
National Energy Board (Canada) news release dated July 4, 1977.....	165
CEQ report to the President on environmental impacts.....	173
Memo and press release on the report of Justice Thomas R. Berger on the Mackenzie Valley Pipeline Inquiry (May 9, 1977).....	179
Alaska Natural Gas Transportation Act of 1976 (Public Law 94-586).....	185

DECISION OF THE PRESIDENT

DECISION ON AN ALASKA

NATURAL GAS TRANSPORTATION

SYSTEM

**PREFACE - STATUTORY REQUIREMENTS FOR A DECISION ON AN ALASKA
NATURAL GAS TRANSPORTATION SYSTEM**

Section 7(a)(4) of the Alaska Natural Gas
Transportation Act of 1976 (ANGTA) states:

If the President determines to designate for approval a transportation system for delivery of Alaska natural gas to the contiguous States, he shall in such decision-

(A) describe the nature and route of the system designated for approval;

(B) designate a person to construct and operate such a system, which person shall be the applicant, if any, which filed for a certificate of public convenience and necessity to construct and operate such system;

(C) identify those facilities, the construction of which, and those operations, the conduct of which, shall be encompassed within the term "construction and initial operation" for purposes of defining the scope of the directions contained in Section 9 of this Act, taking into consideration any recommendation of the Commission with respect thereto; and

(D) identify those provisions of law, relating to any determination of a Federal officer or agency as to whether a certificate, permit, right-of-way, lease, or other authorization shall be issued or be granted, which provisions he finds (i) involve determinations which are subsumed in his decision and (ii) require waiver pursuant to Section 8(g) in order to permit the expeditious construction and initial operation of the transportation system.

As part of these determinations, an Agreement on Principles concluded with the Government of Canada prescribes various terms and conditions applicable to the construction and operation of the pipeline. The Agreement on Principles is attached hereto as Section 7 of this Decision and made an integral part of the Decision by this reference.

With the incorporation of the aforesaid Agreement, and the finding that it is in the national interest to expeditiously undertake to construct an Alaska Natural Gas Transportation System, the system designation and related statutory determinations are as follows:

SECTION 1 - DESIGNATION OF PERSON TO CONSTRUCT AND OPERATE
THE SYSTEM

The Alcan Pipeline Company, now a wholly owned subsidiary of Northwest Pipeline Corporation^{1/}, or its successor, is hereby designated to construct and operate the portion of the system within the State of Alaska.

The Northern Border Pipeline Company, a partnership consisting of subsidiaries or affiliates of Columbia Gas Transmission Corporation, Michigan-Wisconsin Pipeline Company, Natural Gas Pipeline Company of America, Northern Natural Gas Company, Panhandle Eastern Pipe Line Company, and Texas Eastern Transmission Corporation, or its successor, is hereby designated to construct and operate the portion of the system from the United States-Canada border near Monchy, Saskatchewan, to a point near Dwight, Illinois.

The Alcan Pipeline Company, or its successor, and the Northern Border Pipeline, or its successor, shall be publicly held corporations or general or limited partnerships, open to ownership participation by all persons

^{1/} Northwest Pipeline owns and operates a 4,300-mile pipeline system for transporting gas in the states of Colorado, Idaho, Nevada, Oregon, Utah, Washington, and Wyoming. Northwest Pipeline is a wholly-owned subsidiary of Northwest Energy Company, a holding company whose principal asset is all the outstanding common stock of Northwest Pipeline.

without discrimination, except producers of Alaskan natural gas.

The Pacific Gas Transmission Company is hereby designated to construct and operate the portion of the system from the United States/Canada border near Kingsgate, British Columbia, to the border between the States of California and Oregon.

The Pacific Gas and Electric Company is hereby designated to construct and operate the portion of the system from the border between the States of California and Oregon through the State of California.

SECTION 2 - DESCRIPTION OF THE NATURE AND ROUTE OF THE
APPROVED SYSTEM

The Alcan system is an overland pipeline system to transport natural gas from the Prudhoe Bay area of Northern Alaska through Alaska and Canada into the Midwest and Western sections of the contiguous United States. See Exhibit 1.

The expected volume of gas to be available initially from the Prudhoe Bay field is 2.0 to 2.5 billion cubic feet per day (bcfd). The system described herein is designed to handle this throughput volume. The capacity of the system could be increased in the future to accommodate additional volume throughput by construction of additional facilities.

Alcan Pipeline Route in Alaska

The proposed Alcan pipeline will commence at the discharge side of the gas plant facilities in the Prudhoe Bay field. The pipeline will parallel the Alyeska oil pipeline southward from the North Slope of Alaska, cross the Brooks Range through the Atigun Pass, and continue on to Delta Junction.

At Delta Junction, the Alcan Pipeline will diverge from the Alyeska oil pipeline and follow the Alaska Highway and the Haines oil products pipeline right-of-way, passing near the towns of Tanacross, Tok, and Northway Junction



in Alaska. The right-of-way of the Haines oil products pipeline is at present approximately fifty feet wide and is closely parallel to the Alaska Highway. The Alcan pipeline will then connect with the proposed new facilities of Foothills Pipe Lines (South Yukon) Ltd. at the Alaska/Yukon Territory border.

From Prudhoe Bay to Delta Junction, Alcan expects to construct its line approximately eighty feet from the Alyeska oil pipeline. As proposed by Alcan, construction will be carried out by extending the existing Alyeska work pads. However, Alyeska advised Alcan that its "preliminary general guidelines" indicate that the Alyeska and Alcan lines must be separated by 100 to 200 feet where blasting to build the pipeline trench would occur (approximately 350 miles of pipeline length). Additional studies will determine the minimum distance between the Alyeska oil pipeline and the Alcan line that is necessary to permit safe construction and operation.

Alcan Pipeline Route Through Canada

The Canadian portion of the Alcan Project will commence at the Alaska/Yukon border in the vicinity of the towns of Border City, Alaska and Boundary, Yukon.

From the Alaska/Yukon border, the Foothills Pipe Lines (South Yukon) Ltd. pipeline will proceed south until it

reaches the White River (milepost 44), where it will take a more eastward course across the Yukon Territory. The pipeline will cross the Territory generally parallel to the Alaska Highway. Along most of the pipeline route through the Yukon, the separation between the pipeline route and highway route will be approximately one mile. There will be several points, however, where the pipeline route will divert substantially from the route of the Alaska Highway. These departures from the Alaska Highway route will permit the pipeline to continue on a more direct course than if it were to follow the Alaska Highway.

At approximately milepost 246, the pipeline will be routed north of Whitehorse and cross the Yukon River near the intersection of the Alaska and Klondike Highways. Near this intersection, approximately 9 miles northwest of Whitehorse, the pipeline will be constructed to permit a later connection with the proposed Dempster Line from the Mackenzie Delta, if and when the Dempster Line is constructed.

After it crosses the Yukon River north of Whitehorse, the pipeline will turn southeast and again travel parallel to the Alaska Highway, entering British Columbia at approximately milepost 397 and reentering the Yukon Territory at approximately milepost 435. The pipeline will continue

to follow the Alaska Highway eastward through the Yukon Territory and again cross the border into British Columbia, approximately twelve miles southwest of Watson Lake, Yukon. At this point, the Foothills Pipe Lines (South Yukon) Ltd. pipeline will terminate, and the Foothills Pipe Line (North B.C.) Ltd. interconnecting pipeline will commence.

After it passes the British Columbia border, the pipeline will proceed generally southeast across the northeastern part of the Province to the British Columbia/Alberta border, crossing the existing Westcoast Transmission Company Ltd. main line some 35 miles south of Fort Nelson. At Boundary Lake on the British Columbia-Alberta border, the pipeline would connect with the Foothills Pipe Lines (Alta.) Ltd. pipeline. In Alberta, the Foothills Pipe Lines (Alta.) Ltd. pipeline will proceed generally southeast from Boundary Lake to Gold Creek Junction. After Gold Creek Junction, the pipeline will follow the existing Alberta Gas Trunkline Co., Ltd. (AGTL) pipeline right-of-way to James River Station.

From James River Station, the western leg of the pipeline will proceed separately to the south, approximately following the existing AGTL right-of-way to the Alberta/British Columbia border near Coleman, Alberta. It will then connect with the Foothills Pipelines (South B.C.)

Ltd. pipeline, continue to the southwest across British Columbia, and finally connect with the Pacific Gas Transmission (PGT) pipeline at the United States/Canada border near Kingsgate, British Columbia. The pipeline route through southern British Columbia will generally parallel the existing pipeline route of Alberta Natural Gas Company Ltd.

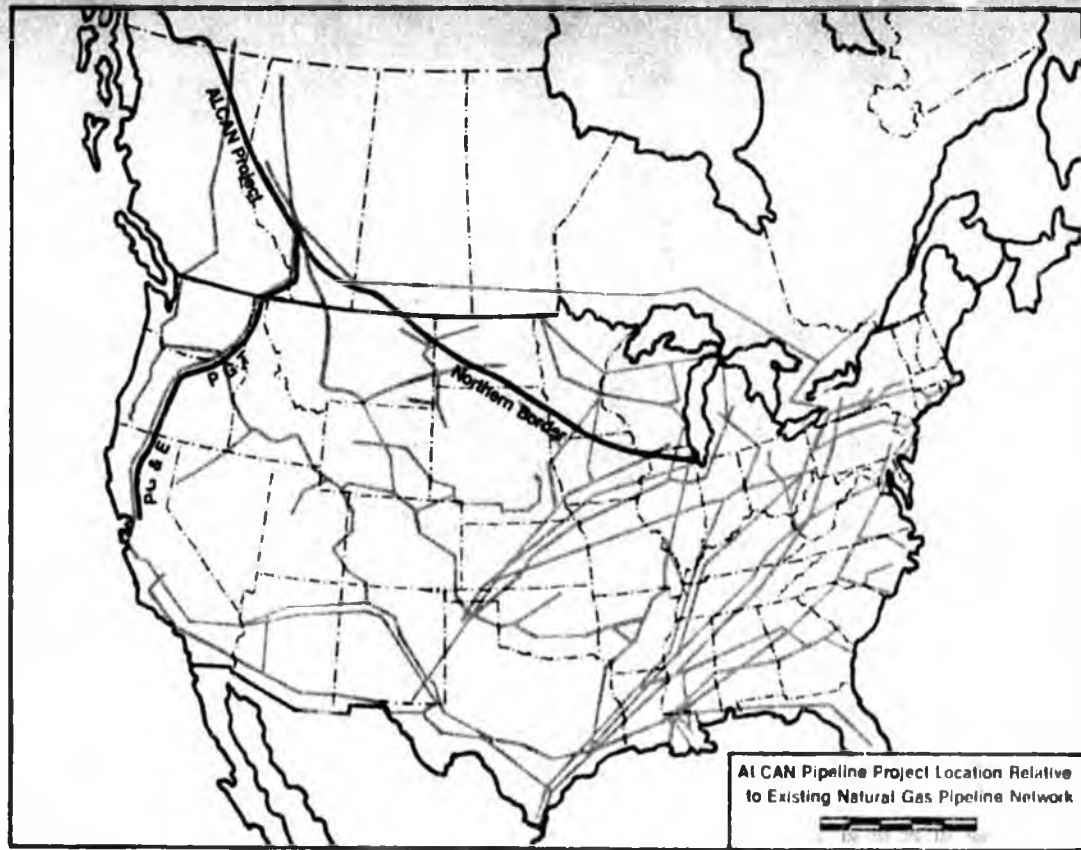
For the eastern leg from the James River Station, the pipeline will proceed generally to the southeast until it reaches the Alberta/Saskatchewan border near Empress, Alberta. The eastern leg will then connect with the Foothills Pipe Lines (Sask.) Ltd. pipeline. The pipeline will then continue to the southeast across Saskatchewan and join with the Northern Border Pipeline system at the United States/Canada border near Monchy, Saskatchewan.

Alcan Pipeline Route in the Contiguous United States

On the western leg, the Alaska gas will be transferred at the United States-Canada border near Kingsgate, British Columbia, to the PGT system. The PGT system will transport the gas through northern Idaho, southeast Washington, and central Oregon. At the Oregon/California border, the gas will be transferred to enter the Pacific Gas and Electric Company (PG&E) system and will then be transported throughout California.

On the eastern leg the Alaska gas will be transferred at the Saskatchewan/Montana border from the Canadian-owned portion of the Alcan system to the Northern Border Pipeline system. The Northern Border Pipeline system will then transport the gas across the northeast corner of Montana, the southwest section of North Dakota, the northeast section of South Dakota, the southwest corner of Minnesota, and the northeast section of Iowa, and finally bring the gas just south of Chicago to Dwight, Illinois.

Exhibit 2 on the following page illustrates the respective routes of the eastern and western legs of the Alcan system and their relationship to the existing gas pipeline network in the United States.



SECTION 3 - IDENTIFICATION OF FACILITIES INCLUDED WITHIN
"CONSTRUCTION AND INITIAL OPERATION"

General Project Description

This section identifies the facilities for the Alcan project which will be entitled to the expedited authorization process prescribed in Section 9 of ANGTA. The facilities which are to be covered are those in the U.S. which are adequate for a throughput of up to 2.4 bcfd and are included in the revised Alcan filing submitted to the Federal Power Commission (FPC) in March 8, 1977. If any modifications to those facilities are required by the Agreement on Principles between the U.S. and Canada, those modified facilities will also be entitled to the expedited authorization process in Section 9.

Uncertainties remain as to the future level of gas exports from Canada's historical gas supply sources. The actual division of Alaska gas among the various regions of the contiguous United States awaits conclusion of gas sales contracts. Routing and design work should be sufficiently complete to allow final certification in late 1978 or early 1979. The final design and location of the facilities, however, will be within the general description set forth.

The gas transportation system will utilize a 48-inch diameter pipeline from Prudhoe Bay to James River, Alberta.

From James River, gas destined for the midwestern and eastern states will be transported through a 42-inch diameter pipeline to Monchy, Saskatchewan, and gas destined for the western states will be transported through a 36-inch pipeline to Kingsgate, British Columbia. PGT and PG&E will complete looping^{2/} as necessary of their existing pipeline systems from the Idaho-British Columbia border to Antioch, California (near San Francisco) with a 36-inch diameter pipeline.

All of the pipeline in Alaska and the first forty-one miles of pipeline in the Yukon lie in the continuous and discontinuous permafrost region.^{3/} This section will be operated in a chilled state (i.e., below 32°F.) to prevent degradation of the permafrost regime. Gas chilling

^{2/} "Looping" is construction of a pipeline parallel to and interconnected with an existing pipeline. Looping may extend to part or all of an existing line.

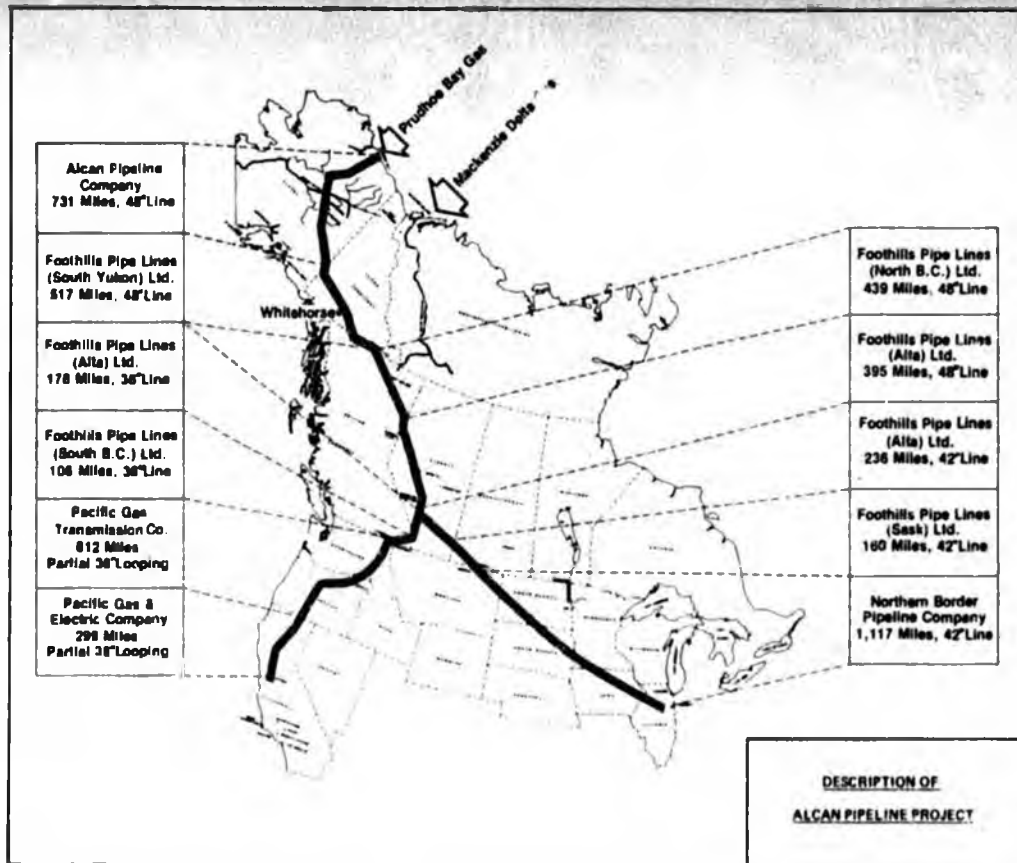
^{3/} By definition, permafrost consists of soil, rock, or other earth material, the temperature of which remains at or below 32°F. (0°C) continuously for two or more years. Its distribution is not uniform. Factors controlling the distribution of permafrost include the glacial and climatic history of the area, thermal properties of the earth material, ambient temperature, insulation properties of overburden, and amount of exposure to sun (e.g., shading caused by orientation of topographic features). The permafrost would be continuous along approximately the first 240 miles of the pipeline (to near the South Fork of the Koyukuk River). Along the remaining pipeline route to the Yukon border, the permafrost would be discontinuous.

will be accomplished by propane refrigeration systems at all compressor stations in Alaska.

The length of the various pipeline segments will be as follows:

<u>Company</u>	<u>Location</u>	<u>Length (Miles)</u>
Alcan Pipeline Company	Alaska	731
Foothills Pipe Lines (South Yukon) Ltd.	Yukon	517
Foothills Pipe Lines (Sask.) Ltd.	Saskatchewan	160
Foothills Pipe Lines (North B.C.) Ltd.	Yukon/B.C. Border to B.C./Alberta Border	439
Foothills Pipe Lines (South B.C.) Ltd.	Coleman to Kingsgate	106
Foothills Pipe Lines (Alta.) Ltd.	B.C./Alberta to James River	395
	James River to Coleman	176
	James River to Empress	<u>235</u>
	Total Alaska and Canada	<u>2,759</u>
Pacific Gas Transmission Co.	Kingsgate to Malin	612
Pacific Gas & Electric Co.	Malin to Antioch	299
Northern Border Pipeline Co.	Monchy to Dwight	<u>1,117</u>
	Total Contiguous States	<u>2,028</u>
	Total System Length	<u>4,787</u>

Exhibit 3 on the next page identifies and locates the various pipeline segments.



Peak-day capacity utilizing nine compressor stations (see item 4 below) will be 2.6 bcfd, with an average daily volume of 2.4 bcfd. By installation of intermediate compressor stations, the system could be increased to 3.4 bcfd peak capacity, with an average day capacity of 3.2 bcfd. The system capacity could be further increased by addition to the compressor horsepower at each station.

Alcan Compressor Stations and Refrigeration
Facilities in Alaska

Centrifugal compressors, powered by natural gas-fueled turbine engines, will be used on the Alcan system. In order to minimize thawing of the permafrost soil, the discharge gas at each compressor station in Alaska will be chilled by a propane refrigeration plant. The following describes the required compression and refrigeration facilities. All of these facilities are required for construction and initial operation.

Station	Milepost	Number of Gas Compressors	Total Installed Horsepower (ISO)	
			Gas Compression	Gas Refrigeration
AL-1	75.0	1	26,500	7,660
AL-2	133.0	1	26,500	7,660
AL-3	242.3	1	26,500	13,830
AL-4	331.8	1	26,500	13,830
AL-5	418.8	1	26,500	13,830
AL-6	504.7	1	26,500	13,830
AL-7	589.9	1	26,500	13,830
AL-8	673.4	1	26,500	13,830
TOTAL		8	212,000	98,300

Other Alcan Pipeline Facilities in Alaska

Metering facilities for the measurement of gas flow and gas quality will be required in Alaska at the Prudhoe Bay receipt point, at the Fairbanks sales point, and at the transfer point on the Alaska-Yukon border.

A central operating center, located in Fairbanks, will monitor and control all compressor station operations.^{4/}

Alcan will utilize staging areas established for the Alyeska oil pipeline at Prudhoe Bay, Fairbanks, and Valdez. Material storage sites will be located at Anchorage, Seward, and Whittier, and at selected locations along the pipeline route.

Existing transportation and communication facilities will be utilized to the fullest extent practicable. Short lateral roads will be constructed to pipeline facilities as required.

Permanent bases for operating and maintaining the system will be selected and located after defining areas in which common problems may occur due to similarities of terrain and

^{4/} The compressor stations will be automated for remote control of all normal functions, including discharge gas temperature.

climate. The bases will be located at or near compressor stations to avoid duplication of permanent above-ground facilities. Materials and various spare parts will be located at the bases to facilitate maintenance and repair operations.

All of these facilities will be required for construction and initial operation.

Lower 48 Facilities

For purposes of this part of the Decision, the facilities described generally below are deemed necessary for construction and initial operation, and will be entitled to expedited issuance of authorizations pursuant to Section 9 of ANCTA, provided that the final certification of such facilities shall be determined by reference to the size necessary to provide the transportation capacity certified to the FPC^{5/} by the Secretary of Energy, as set forth in the terms and conditions section.

^{5/} The final certification function currently resides with the Federal Power Commission under the Natural Gas Act. On October 1, 1977, the Department of Energy will be activated pursuant to the Department of Energy Organization Act, Public Law 95-91, and the functions of the FPC under the Natural Gas Act will be transferred in part to the Federal Energy Regulatory Commission (FERC). Therefore, where reference is made herein to future actions of the FPC, they will be carried out by either the Secretary or the FERC, as the case may be, as of October 1, 1977.

In order to deliver gas contemporaneously to points both east and west of the Rocky Mountains in the lower continental United States, the Alcan system will bifurcate at James River, Alberta and form a Western Leg and an Eastern Leg. First, the Western Leg is described below, and then the Eastern Leg.

Western Leg

Alaskan gas will be transferred at the Canada/United States border near Kingsgate, British Columbia, to Pacific Gas Transmission Company (PGT). PGT will transport the gas through Idaho, Washington, and Oregon. At the Oregon/California border, the gas will enter the intrastate facilities of Pacific Gas and Electric Company (PG&E). The gas will be transported throughout much of California through existing and expanded intrastate gas pipelines.

The additional Western Leg facilities which are part of the Alcan project are those covered by the "1580 Design." The major component of this expansion will add approximately 873 miles of looping and result in complete looping of the 917-mile PGT/PG&E system from the Canada/United States border to Antioch, California (near San Francisco). The two parallel lines will be operated as a single system. Various modifications to the existing compression facilities will be required. However, the increase in system

capacity of 659 mmcf/d could be achieved without installation of additional compression horsepower or increase of compression fuel usage. A minor addition of facilities south of Antioch may be made at a later date, depending on conditions prevailing at that time. All Western Leg facilities which are part of the Alcan project are subject to Section 9 of ANGTA.

The Eastern Leg

The Alcan system will transport Alaskan gas for delivery to Midwestern and Eastern markets in the lower continental United States through an Eastern Leg. The Eastern Leg will commence at the bifurcation point of the main express line at James River, Alberta and terminate at Dwight, Illinois (near Chicago). Total length of the Eastern Leg will be 1,352 miles, including 235 miles in Canada and 1,117 miles in the United States. All pipeline for the Eastern Leg will be 42 inches in diameter.

Alaskan gas will be transferred at the Saskatchewan/Montana border from the Canadian-owned portion of the Alcan system to the Northern Border Pipeline system (Northern Border). The Northern Border system will travel diagonally across Montana, North Dakota, South Dakota, Minnesota, and Iowa, and terminate near Chicago, Illinois. Along this

route, direct deliveries of gas will be made by Northern Border into the systems which cross the pipeline: Natural Gas Pipeline Company of America, Northern Natural Gas Company, and Michigan-Wisconsin Pipeline Company. Other purchasers will receive Alaska gas by displacement.^{6/}

The specific facilities that will be required to interconnect the various pipelines to receive gas from the Northern Border system, either by direct delivery or by displacement, will be determined when gas sales contracts have been executed. Final design of the required facilities will depend upon the division of Alaskan gas among the various pipeline companies and various regions of the contiguous States. Final design will be complete at the time of final system certification in late 1978 or early 1979. All facilities which are part of the Northern Border system are necessary for construction and initial operation, and all facilities which are part of the Northern Border system as finally certified by the FPC are subject to Section 9 of ANGTA.

^{6/} "Displacement" of gas is a method by which gas may be supplied to a purchaser from close by in exchange for gas sold to the purchaser elsewhere. Displacement, which is a commonly used method in the gas industry, eliminates the cost of physically transferring gas between markets.

SECTION 4 - DELINEATION OF PROVISIONS OF LAW THAT ARE
SUBSUMED IN THIS DECISION AND REQUIRE WAIVER

Under Section 7(a)(4)(D) of ANGTA, the President shall identify those provisions of law, relating to any determination of a Federal officer or agency as to whether a certificate, permit, right-of-way, lease, or other authorization shall be issued or be granted, which provisions the President finds (i) involve determinations which are subsumed in his decision and (ii) require waiver pursuant to section 8(g) in order to permit the expeditious construction and initial operation of the transportation system.

At this time, however, there are only two statutory provisions that involve determinations subsumed in this decision and require waiver pursuant to section 8(g) of ANGTA.^{7/}

Under Section 3 of the Natural Gas Act (15 U.S.C. 717b), the Federal Power Commission must issue an order to authorize any export of natural gas; such an order shall

^{7/} Section 8(g)(1) of ANGTA states that the President will have the opportunity at a later date to identify and seek waiver of additional provisions of law. This subsection states:

At any time after a decision designating a transportation system is submitted to the Congress pursuant to this section, if the President finds that any provision of law applicable to actions to be taken under subsection (a) or (c) of section 9 require waiver in order to permit expeditious construction and initial operation of the approved transportation system, the President may submit such proposed waiver to both Houses of Congress.

issue unless the Commission finds that the export is not consistent with the public interest.

In addition, under Section 103 of the Energy Policy and Conservation Act, the President is required to promulgate a general rule prohibiting exports of natural gas from the U.S., except that he may permit those exports which he determines to be consistent with the national interest and with the purposes of the Act (Section 103(b)(1)). To make such a determination, Section 103(d)(1) directs the President to take into account the need to leave uninterrupted or unimpaired "exchanges in similar quantity for convenience or increased efficiency of transportation with persons or the government of a foreign state."

As a result of the recent Agreement on Principles between the United States and Canada, Alcan will be required to make available limited quantities of Alaskan gas to communities in the Yukon Territory and the western provinces, subject to provision of replacement gas downstream in Canada. This transaction will be an export requiring separate authorizations under the above mentioned two statutes.

The requirements arising under Section 3 of the Natural Gas Act and under Section 103 of the Energy Policy and Conservation Act could be met without waiver of these provisions, but additional, and unnecessary, FPC and Presidential action would be required. Accordingly, both of these statutory subsections shall be waived for the exchange of gas mentioned herein.

SECTION 5 - TERMS AND CONDITIONS AND ENFORCEMENT

To ensure the proper management and timely completion of the construction of the designated transportation system, the following general terms and conditions shall be appropriately incorporated into any certificate, right-of-way, lease, permit or authorization directed to be made by any Federal officer or agency.

As described more fully below, these terms and conditions will be followed by a set of stipulations establishing general standards of environmental and construction performance, and the procedures for the submission and approval of construction plans and environmental safeguards, and then by site specific terms and conditions issued prior to actual construction of any pipeline segment. The terms and conditions described here are not meant to limit or foreclose the adoption of such stipulations and terms and conditions but are intended to begin the process by which a set of effective and workable safeguards are evolved. There is contemplated cooperative action by the Federal and Alaska State Governments in the development and enforcement of stipulations and site specific terms and conditions. Similar cooperative action is contemplated with the governments of all affected states.

Under the proposal made at the end of this section for the organizational involvement of the Federal Government with the successful applicant, the Federal Inspector for construction of the transportation system shall have supervision authority over the enforcement of these terms and conditions subject to the ultimate authority of the Executive Policy Board described below.

Terms and Conditions

The terms and conditions proposed for inclusion into this Congressional authorization are set forth, by category, as follows:

I. Construction Costs and Schedule
Management and Organization

1. Prior to the issuance of the certificate, the successful applicant shall provide a detailed overall management plan, to be approved by the Federal Inspector, for the preconstruction and the construction phases of the transportation system project. The successful applicant shall define its relationship with the execution contractors, and shall give consideration to various management approaches -- such as Fast Track, Stage Design, and other management

approaches -- that will facilitate the cost-effective, environmentally sound, and timely construction of the project.

2. The successful applicant may not use cost-plus type contracts with execution contractors, except where the Federal Inspector determines that special conditions warrant this type of contract. Otherwise, the applicant shall use fixed-price contracts, including the firm fixed-price, the fixed-price with escalation, and fixed-price incentive type of contract.

3. The successful applicant shall specify for approval of the Federal Inspector the insurance, bonding, and any other prequalification requirements for all consultants and execution contractors.

Construction Cost and Schedule Control Techniques

4. Prior to the initiation of construction, the successful applicant shall provide a detailed analysis and description of its proposed cost and schedule control techniques. The applicant shall give particular consideration to cost and manpower control and manpower estimating techniques.

5. Prior to the initiation of construction, the successful applicant shall develop and submit to the Federal Inspector a final design, design-cost estimate, and construction schedule. This design cost estimate and schedule must represent a construction design of at least 70 percent (or greater) of the total system, and the remainder may not represent any one contiguous or specific type of construction or geologic situation (e.g., river crossings, discontinuous permafrost, or elevated pipeline). The Federal Inspector may relax the above specified minimum percentage requirement, with the consent of the Executive Policy Board, if he finds there are extenuating circumstances that warrant such an action.

General Operating Strategies

6. The successful applicant shall develop and submit to the Federal Inspector cost-effective and feasible methods for supplying general and specialized equipment, as well as repair facilities and spare-part inventories, to the execution contractors. The applicant

shall give consideration to various techniques of equipment provision, including use of equipment pools, equipment leasing or buy-backs.

7. Prior to the initiation of construction, the successful applicant shall supply detailed information to the Federal Inspector on its labor relations procedures, and indicate the proposed means to address and resolve disputes arising under collective bargaining agreements.

8. In entering into contracts with execution contractors, the successful applicant shall seek to incorporate techniques for resolving disputes arising under such contracts without recourse to litigation.

Quality Assurance and Control Procedures

9. The successful applicant shall provide to the Federal Inspector a detailed description of quality assurance and control procedures that will be implemented prior to the start of construction. Such a description must at least include provisions for quality assurance and control procedures for environmental protection, corrosion, pipeline and compressor-station

welds, pipeline placement, equipment and other appropriate matters.

Procedures for Enforcement of Terms and Conditions

10. The successful applicant may not initiate activity on any aspect of the pipeline until authorization to proceed with construction, including site-specific terms and conditions for that aspect of the pipeline, has been issued and procedures for enforcement of terms and conditions have been established by the appropriate Federal officers.

Minority Business Enterprise Participation.

11. The successful applicant shall develop and submit to the Federal Inspector for approval a plan for taking affirmative action to ensure that no person shall on the grounds of race, creed, color, national origin or sex be excluded from receiving or participating in contracts for management, engineering design or construction activity. The successful applicant shall require each of his contractors and subcontractors having contracts valued at \$150,000 or more to develop similar plans providing the assurances specified in the preceding sentence.

II. Safety and Design

1. The successful applicant shall construct, operate, maintain and terminate the pipeline in accordance with Federal gas pipeline safety regulations. The applicant shall ensure that construction and operating specifications are in accordance with good engineering practice, both to maintain the safety and the integrity of the pipeline and to protect the health and safety of project personnel and the general public.

2. The successful applicant may not begin construction of any pipeline segment until the Federal Inspector has approved the design of that segment, including technical construction specifications, having had sufficient time to review the design.

3. The successful applicant shall establish a procedure for briefing the Federal Inspector, or his designated representative, on a regular basis concerning the status of the project during the design, construction, testing and start-up phases.

4. The successful applicant shall establish a procedure to ensure access to all project facilities by the Federal Inspector, or his designated representative, in the performance of official duties.

5. The successful applicant shall submit a plan or procedure for conducting its own inspections of project facilities during construction, to be approved by the Federal Inspector.

6. The successful applicant shall provide a seismic monitoring system, to be approved by the Federal Inspector, and shall ensure that there are adequate procedures for the safe shut-down of the project under severe seismic conditions.

III. Environment

1. The successful applicant shall construct, operate, maintain and terminate the pipeline with maximum concern for the protection of environmental values. A set of stipulations containing the general standards of environmental and construction performance, and the procedure for the

submission and approval of construction plans and environmental safeguards will be developed by the concerned government agencies and must be accepted by the applicant as a condition of his right to proceed over public lands. Additional "site-specific" terms and conditions will be incorporated in authorizations to proceed with construction issued by the appropriate Federal agency, into particular certificates, rights-of-way, permits and other authorizations to protect and enhance environmental values during the design, construction and operation of the pipeline. These additional "site specific" terms and conditions will be issued as appropriate to minimize disturbance from construction and operation of the pipeline to rivers and other water bodies and adjacent land and vegetation; to protect wildlife and endangered species and maintain forest, agricultural and other resource productivity; to control the risks of pipeline ruptures, leaks and hazards; to maintain air and water quality values; to make provision for control and disposal of sewage, garbage, wastes

and toxic substances; and take other measures necessary for protection of the environment during the design, construction and operation of the pipeline.

2. The successful applicant shall prepare a plan of operations which integrates environmental protection with the proposed schedule of construction and operations, the proposed supervisory and technical staffing, the proposed quality control programs, and the proposed quality assurance programs. In preparation and implementation of this plan, the successful applicant shall provide for timely integration of environmental mitigation and restoration practices with the activity which creates the need for the restoration or mitigation.

3. The successful applicant shall develop and submit to the Federal Inspector an effective plan for implementation of specific environmental safeguards through an educational program for field personnel prior to and during construction, operation, maintenance and termination of the pipeline.

4. The successful applicant shall establish an effective pipeline-performance monitoring system of inspection and instrumentation to insure performance in keeping with environmental concerns.

IV. Finance

1. The successful applicant shall provide for private financing of the project, and shall make the final arrangement for all debt and equity financing prior to the initiation of construction.

2. 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, adjusted to reflect design changes to increase capacity that result from the Agreement on Principle between the United States and Canada, materially and unreasonably exceed the comparable capital cost estimates filed by Alcan with the Federal Power Commission on March 8, 1977, Section 6, page 2, the FPC may not issue a certificate for the project. If these final capital cost estimates are not excessive under the above standard, the FPC may use these final estimates for the U.S.

segments as the basis for fixing a variable rate of return on equity that will reward the applicant for project completion under budgeted cost and penalize the applicant for project completion above budgeted cost. The variable return shall be set to provide substantial incentives to construct the project without incurring overruns. These final capital cost estimates need not be the design-cost estimates based on the system design which must subsequently be submitted to the Federal Inspector. The applicant shall, however, submit to the FPC for approval on a timely basis all components of construction work in progress.

3. Neither the successful applicant nor any purchaser of Alaska gas for transportation through the system of the successful applicant shall be allowed to make use of any tariff by which or any other agreement by which the purchaser or ultimate consumer of Prudhoe Bay natural gas is compelled to pay a fee, surcharge, or other payment in relation to the Alaska

natural gas transportation system at any time prior to completion and commissioning of operation of the system.

4. The Alcan Pipeline Company, or its successor, and the Northern Border Pipeline, or its successor, shall be publicly held corporations or general or limited partnerships, open to ownership participation by all persons without discrimination, except producers of Alaskan natural gas.

V. Antitrust

1. The successful applicant shall exclude and prohibit producers of significant amounts of Alaska gas, or their subsidiaries and affiliates, from participating in the ownership of the Alaska natural gas transportation system, except that such producers may provide guarantees for project debt. 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 operations 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 abuse, including power to veto pro-competitive policies.

2. All agreements for the sale of Alaska gas made between the aforesaid producers and purchasers who are shippers through the Alaska natural gas transportation system shall be fully disclosed to the Federal Power Commission, and all collateral agreements made between the same parties with respect to the sale of Alaska gas shall also be fully disclosed. All contracts for sale of Alaska gas, for all collateral agreements to these contracts, shall be submitted for approval by the Federal Power Commission.

VI. Certification of Facilities

1. Prior to the issuance of a certificate of public convenience and necessity to Northern Border Pipeline or to Pacific Gas Transmission Company, the Secretary of Energy shall certify to the Federal Power Commission whether there

has been any material change in the facts regarding future potential gas supplies for the East or West since the date of this Decision that would warrant certification of such facilities at a different rated capacity than authorized herein. If the Secretary certifies that there has been a material change in the facts, he shall instead certify to the Commission the capacity at which he has determined a certificate of public convenience and necessity should be issued and the reasons therefor, which capacity shall be determined in a manner that is as consistent as possible with the reasons for the initial authorization, as set forth in the Report submitted to the Congress pursuant to Section 7(b) of the Alaska Natural Gas Transportation Act, Public Law 94-586. The certificate issued by the PPC shall be consistent with the Secretary's determination.

Enforcement

To enforce the terms and conditions proposed above, and to carry out the duties of the office assigned and set forth by section 7(a)(5)(A)-(E) of ANGTA, an appropriate and qualified individual shall be appointed by the President

to serve as the Federal Inspector, with the advice and consent of the Senate. Upon approval of the Presidential designation of an Alaska natural gas transportation system, the Federal Inspector shall:

(A) establish a joint surveillance and monitoring agreement, approved by the President, with the State of Alaska similar to that in effect during construction of the trans-Alaska oil pipeline to monitor the construction of the approved transportation system within the State of Alaska;

(B) monitor compliance with applicable laws and the terms and conditions of any applicable certificate, rights-of-way, permit, lease, or other authorization issued or granted;

(C) monitor actions taken to assure timely completion of construction, schedules and the achievement of quality of construction, cost control, safety, and environmental protection objectives and the results obtained therefrom;

(D) have the power to compel, by subpoena if necessary, submission of such information as he deems necessary to carry out his responsibilities; and

(E) keep the President and the Congress currently informed on any significant departures from compliance and issue quarterly reports to the President and the Congress concerning existing or potential failures to meet construction schedules or other factors which may delay the construction and initial operation of the system and the extent to which quality of construction, cost control, safety and environmental protection objectives have been achieved.

In addition to these duties and responsibilities, the President will submit to Congress, upon approval of the Presidential decision, a limited executive reorganization plan to transfer to the Federal Inspector field-level

supervisory authority over enforcement of terms and conditions from those Federal agencies having statutory responsibilities over various aspects of an Alaska natural gas transportation system. The respective Federal agencies would retain their existing statutory authority pursuant to section 9(a) of ANGTA, to issue on an expedited basis the necessary certificates, permits, rights-of-way and other authorizations, and to prescribe any appropriate terms and conditions that are permissible under present law. The Agency Authorized Officers would directly represent the statutory authority of the respective Federal agencies in the field on all matters pertaining to construction of the pipeline. However, the Federal Inspector would have the necessary field-level supervisory authority to overrule the enforcement action of an Agency Authorized Officer, whenever the Federal Inspector determined that such a decision was warranted.

The President's supervision of the Federal Inspector will be carried out by an Executive Policy Board. The Board would be made up of the Secretaries of the Interior, Energy, Transportation, the Administrator of the Environmental Protection Agency, and the Chief of the Army Corps of Engineers, or their Deputies (or senior officers who have

been delegated authority over gas pipeline matters), as well as the Federal Inspector, who is the non-voting Chairman of the Board. The Board will provide policy guidance to the Federal Inspector, and act as an appellate body to resolve differences among the agencies and the Federal Inspector, including differences that may arise when the Federal Inspector overrules an enforcement action of an Agency Authorized Officer. The Board shall expeditiously resolve any such appeal with a limited period of time that shall be prescribed. The President will authorize by Executive Order the creation of the Executive Policy Board pursuant to his power under Section 301 of Title 3, and will delegate the necessary authority to the Board to carry out its functions. The Board shall be paramount for policy-making purposes on all matters pertaining to construction of an Alaskan natural gas transportation system; the Federal Inspector shall be the agent or conduit of the Board in such matters, and shall also have the necessary supervisory power over field level decisions.

SECTION 6 - PRICING OF ALASKA GAS

Final financing for an Alaska natural gas transportation project cannot be arranged until the producer-owners of the Prudhoe Bay gas execute sales contracts. Without such contracts, no gas can be transported, and financing consequently would be unobtainable. Producers cannot be expected to negotiate sales contracts until a price has been established with a reasonable degree of certainty. If this project is to proceed expeditiously, the field price of the gas should be established as soon as possible.

Because no contracts for gas sales in interstate commerce have been concluded and submitted to the FPC for approval, the FPC has not, to date, attempted to determine the costs of providing the gas in order to establish what might be a just and reasonable (cost-based) wellhead price. The FPC, in fact, has excluded the Alaska gas from its national rate proceedings; Alaska costs and related reserve data have been excluded from all statistics underlying FPC rate determinations.

Alaska gas is produced in association with oil; therefore, it is impossible to determine precisely the costs of finding, developing and producing only the gas. Cost allocation and, therefore, cost-based pricing is

somewhat arbitrary. Because of the difficult and arbitrary nature of the allocation problem, the FPC in recent years has priced gas on the basis of the cost of only non-associated gas in each producing area, and then allowed the same price to be paid for associated gas produced in that area as well. Were the FPC to initiate a price proceeding under the Natural Gas Act, it is expected that its procedures and subsequent litigation over cost allocation and other matters would likely exceed a period of 18 months.

The Administration's proposed National Energy Act is before the Congress. That Act provides a basis for moving from cost-based pricing to commodity-value pricing. That transition is essential to restoring the balance between natural gas supply and demand. Under the gas pricing provisions in the National Energy Plan, Alaska gas would be classified as "old gas under a new contract" subject to a \$1.45 per mcf ceiling price.

If, on the other hand, proposals to deregulate natural gas prevail, serious uncertainties and delays concerning the development of any Alaskan natural gas transportation