

ALASKA LEGISLATURE COMMITTEE FILES 1983-1984 86/2

2749 HRES HB 298 - HB 320 (FILE 1)

2749

Gilliland agreed that the applicability of the North Slope Borough ordinances to activities taking place in NPR-A would be part of the planning process. This means that the BLM could decide to apply them but that they were not automatically incorporated into the plan. He also noted that there was no local hire provision in the bill, which produced substantial discussion about the need for such provision. Gilliland and Curt McVie agreed that this was a point that deserved additional examination and indicated a willingness to have the Department consider taking a position on such a provision in the letter of transmittal of the bill to Congress or in the testimony of the Administration on the bill, inasmuch as it was too late to make any change to the legislation at this point.

Follow-up activities.

1. We should draft for the Department of the Interior an analysis of the need for an affirmative action program mentioning the adverse economic as well as societal impacts of not utilizing local residents. We should also draft appropriate language for such provision.
2. We should write to the Department requesting that they include reference to such a provision in their testimony or in the letter of transmittal to Congress.
3. We should attempt to have included in the legislation a specific guarantee of a portion of the state's revenue being allocated to the North Slope Borough.
4. We should examine other National conservation areas, and BLM regulations regulating activities in those areas, to identify deficiencies in the management program that should be addressed in the legislation or in Report language.

cc: Conrad Bagne                      Oliver Leavitt  
Tom Smythe                              Larry Dinneen  
Jon Buchholdt                          Jim Wickwire

ATTENDANCE LIST

December 7, 1979 Meeting

Anchorage, Alaska

Mayor Eben Hopson, NSB

Eugene Brower, NSB

Tom Smythe, NSB

Conrad Bagne, NSB

Herb Bartel, NSB

Jon Buchholdt, NSB

Gerry White, NSB

Ralph Anderson, NSB

Bob Dupere, NSB

Lou Dishner, Lobbyist for NSB

Larry Dinneen, ASRC

Oliver Leavitt, ASRC

Eddie Hopson, ASRC

Jim Wickwire, Seattle

Bill Van Ness, Washington, D. C.

G. William Frick, Washington, D. C.

Ken Forsen, Arctic Technical

Services

Jack Bachman, North West Pipeline

# STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K--STATE CAPITOL  
JUNEAU, ALASKA 99811

April 26, 1982

Honorable Bettye Fahrenkamp  
Chairwoman, Senate Resources Committee  
Alaska State Senate  
Twelfth Legislature  
Pouch V  
Juneau, Alaska 99811

Re: SB 835 (National Petroleum Reserve-Alaska  
Trust Fund). Our File No. 366-619-82

Dear Senator Fahrenkamp:

SB 835, which would establish a trust fund account for revenues the state receives from the federal government from federal oil and gas leasing in the National Petroleum Reserve-Alaska, presents a number of serious legal questions in its current form.

The first question is raised under Article IX, Section 7 of the Alaska Constitution, which provides in pertinent part: "The proceeds of any state tax or license shall not be dedicated to any special purpose, except as provided in Section 15 of this article or when required by the federal government for state participation in federal programs." The Department of Law and the Legislative Counsel have disagreed over the reach of this prohibition. Our department has construed the prohibition broadly to apply to all "public revenues" (e.g., taxes, license fees, revenues from the sale or disposition of natural resources, etc.); the Legislative Counsel has interpreted it narrowly as reaching only tax and license revenues. On April 23, 1982, the Alaska Supreme Court adopted the Department of Law's broader interpretation in State v. Alex, \_\_\_ P.2d \_\_\_, Op. No. 2488 (Alaska, April 23, 1982). See Slip Op. at p. 20. As a result, we believe the revenues which the bill addresses -- i.e., those that the state would receive from the federal government as the result of federal oil and gas leasing in NPR-A -- are subject to the prohibition.

However, there is an exception to the dedicated fund prohibition "when required by the federal government for state participation in federal programs." The pertinent portion of

P.L. 96-514, 94 Stat. 2964, which directs payment of the money to the state, attaches certain conditions to the state's receipt of that money: The state may use it "for (a) planning, (b) construction, maintenance, and operation of essential public facilities, and (c) other necessary provisions of public service: Provided further, [That in the allocation of such funds, the State shall give priority to use by subdivisions of the State most directly or severely impacted by development of oil and gas leased under this Act."] In other words, the funds received from the federal government must be dedicated to planning, construction, maintenance, and operation of essential public facilities, and other necessary provisions of public service. In addition, impacted political subdivisions must be given priority in the allocation of the funds.

We believe the establishment of a trust fund into which all the federal revenues are placed immediately upon receipt from the federal government is both permissible under Article IX, Section 7 of the Alaska Constitution and desirable in that it will ease the administrative task of demonstrating to the federal government that the funds received have been expended for the purposes and in the manner required by the federal Act. However, it also is our opinion that the explicit provisions of the law establishing the trust fund cannot impose conditions on the use of the money which exceed those "required by the federal government for state participation" in the federal program -- i.e., those in the federal Act. Since it is only the federal conditions which except the funds from the general dedicated fund prohibition, we believe the only conditions which may be attached to the funds are those required by the federal Act.

As a result, we believe the directive in Section 2(c) of SB 835 to pay a minimum of 50 percent of amounts in the fund to the North Slope Borough violates the dedicated fund prohibition because the federal Act does not require it for state participation. In addition, the directive in Section 2(d) that remaining amounts in the fund may be spent only "in conjunction with the exploration of the National Petroleum Reserve in Alaska and a program of competitive leasing of oil and gas from that reserve" also violates the prohibition, again because the federal Act does not require it. The federal Act simply does not impose these restrictions on the use of the funds received by the state.

Another question raised by SB 835 stems from Article II, Section 19 of the Alaska Constitution, which provides in pertinent part: "The legislature shall pass no local or special act if a general act can be made applicable." The problem here is that SB 835 specifically names the North Slope Borough as a recipient of amounts from the fund established. However, nothing in the federal Act requires that the North Slope be named, and it is obvious that a general act can be made applicable and satisfy the terms of the federal Act simply by "giv[ing] priority to use by subdivisions of the State most directly or severely impacted by development of oil and gas leased under this Act." That is the language of the federal Act, so using that language would satisfy that condition of the federal Act. It is language of general applicability to all subdivisions which might be impacted by NPR-A development, and therefore would be a general (not local or special) act within the meaning of the Alaska Constitution. (We also would point out that the North Slope Borough may not be the only political subdivision impacted by oil and gas leasing in NPR-A. In the reserve, Barrow is a first class city and Wainwright and Nuiqsuit are second class cities. Moreover, development in NPR-A may have an impact on other political subdivisions along the pipeline corridor or, it is conceivable, any other route chosen to transport the oil and gas produced -- i.e., Nome, etc. This potential impact on other political subdivisions demonstrates the advisability of couching the bill in terms of a general act, not a local or special act directed only to the North Slope Borough.)

Another problem stems from Article II, Section 13 of the Alaska Constitution, which provides in pertinent part: "Bills for appropriations shall be confined to appropriations." The problem in SB 835 is the Section 2(c) directive to pay money to the affected subdivisions (in the bill's current form, only the North Slope Borough). Specifically, Section 2(d) describes that directive as an appropriation. If it is an appropriation, it is an appropriation in a general act and not in a bill confined to appropriations as required by the Constitution. This conclusion is reinforced by the provision in Section 2(d) that amounts remaining in the fund after the payment to the subdivisions cannot be expended without appropriation by the legislature. To avoid this problem, the bill could be amended simply to require appropriation by the legislature prior ~~any~~ expenditure of funds in the trust account, giving the legislature discretion to appropriate funds to impacted subdivisions or for other purposes permitted under the federal Act.

Following my testimony on SB 835 at the Senate Resources Committee meeting on April 23, 1982, I met with Tom Smythe and Robert DuPere, representing the North Slope Borough, and Resa King of the Committee staff. We seemed to reach general agreement that some minor modifications to the bill would satisfy the constitutional concerns while remaining true to the basic thrust of the proposed bill. My notes indicate that the following changes were contemplated:

1. Page 1, lines 12-15 should be amended to read (material to be deleted is capitalized and in brackets; new material is underlined): "(1) The United States Congress, by P.L. 96-514 (94 Stat. 2964, December 12, 1980), [APPROPRIATED \$107,001,000 FOR A PROGRAM OF] provided that the state shall receive 50 percent of receipts derived from competitive leasing of oil and gas in the National Petroleum Reserve in Alaska;" This change would eliminate any confusion regarding the \$107,001,000 federal appropriation which is for administration of the leasing program, not an appropriation to the state. The state will only receive money under the federal Act after the program begins generating lease revenues.

2. Page 1, lines 24-26 should be amended to read: "The fund shall consist of funds [APPROPRIATED TO IT BY THE LEGISLATURE EQUAL TO THE AMOUNT OF FUNDS] received by the state from the federal government under P.L. 96-514." This would establish the constitutionally-permissible dedicated fund.

3. Subsection (c) of Section 2, which begins on page 1, line 29, and continues to page 2, line 4, should be deleted in its entirety and replaced with the following:

(c) The commissioner of revenue shall pay to the subdivisions of the state most directly or severely impacted by development of oil and gas leased under the federal Act the amount appropriated by the legislature from the fund for that purpose. It is the intent of the legislature that the amount appropriated for payment to the subdivisions equal 50 percent of the amount received from the federal government under the federal Act, and that this percentage be reviewed every five years following passage of this Act.

This would indicate the legislative intent of sharing the revenues with impacted political subdivisions without violating the dedicated fund prohibition by imposing conditions beyond those required by the federal Act. It also avoids the local and special legislation problem, as well as the problem regarding an appropriation in a bill not confined to appropriations.

4. Page 2, lines 5-10 should be amended to read:  
"(d) Amounts received by the state under (a) of this section [WHICH ARE NOT APPROPRIATED IN ACCORDANCE WITH (c) OF THIS SECTION] shall be used by the state, subject to appropriation by law, for the following activities and services [IN CONJUNCTION WITH THE EXPLORATION OF THE NATIONAL PETROLEUM RESERVE IN ALASKA AND A PROGRAM OF COMPETITIVE LEASING OF OIL AND GAS FROM THAT RESERVE]:" This avoids any dedicated funds problem by eliminating those conditions which exceed those required by the federal Act.

5. Subsection (e) of Section 2, appearing on page 2, lines 5-20, should be deleted in its entirety.

6. Subsection (f), beginning on page 2, line 21, and ending on page 3, line 1, should be amended to read:

"(f) amounts paid to [THE NORTH SLOPE BOROUGH] subdivisions under (c) of this section shall be used by the [NORTH SLOPE BOROUGH] subdivisions only for the following activities and services in conjunction with [THE EXPLORATION] development on the National Petroleum Reserve in Alaska and a program of competitive leasing of oil and gas from that reserve:

"(1) planning;

"(2) construction, maintenance, and operation of essential public facilities by the [NORTH SLOPE BOROUGH] subdivisions; and

"(3) other necessary public services provided by the [NORTH SLOPE BOROUGH] subdivisions."

This change is necessary to avoid the local and special legislation problem.

Honorable Bettye Fahrenkamp  
Re: SB 835

April 26, 1982  
Page 6

In addition, it was suggested that a committee letter of intent be drafted to the effect that, at the present time, the North Slope Borough is the only political subdivision of the state which will be most directly or severely impacted by oil and gas leasing in NPR-A.

I believe these comments accurately reflect the consensus of our work group. However, the other individuals present may have some further suggestions for change.

Finally, I must indicate that these comments are not intended to represent the Administration's policy position on this bill. Rather, they are provided in the nature of a drafting service to overcome the constitutional and other legal problems which we believe are presented by the bill in its current form. If we can be of further assistance in this regard, please contact us at your earliest convenience.

Sincerely,

WILSON L. CONDON  
ATTORNEY GENERAL

By: *15/*  
G. Thomas Koester  
Assistant Attorney General

GTK:d1m

cc: Honorable Don Bennett  
Honorable M.E. Dankworth  
Co-Chairmen, Senate Finance Committee

Tom Smythe  
Robert DuPere ✓  
Keith Specking

REPORT LANGUAGE FOR HR 7724

Provisions Affecting Exploration of  
National Petroleum Reserve in Alaska

The bill provides \$194,251,000 to initiate and carry out the leasing of the National Petroleum Reserve in Alaska, a Federal land holding of 23 million acres which is entirely located on the North Slope of Alaska. In addition to providing funds, the House bill provides substantive requirements directing the Secretary how such leasing is to be carried out. The Committee has agreed to the House provisions, with certain changes. The Committee believes that private leasing of the NPRA is extremely important and that it should proceed as expeditiously as possible. It is important, however, that the Congress also provide guidance to the Secretary on how that leasing should take place.

The social, economic, and environmental conditions in the Arctic are extremely fragile. The sudden influx of workers and money into an area can be extremely disruptive to the local community and put a strain on governmental services. There is also great potential for harm to the environment from the equipment and other activities associated with the exploration and development. Therefore, it is extremely important that the Secretary develop and implement a leasing program that gives proper consideration to the effects on the local community and political jurisdiction whose lands involved will be most directly

affected by the economic and social impacts. Because of these concerns, the Committee has made several changes in the House bill.

First, the House bill exempted the lease program from Sections 202 and 603 of the Federal Lands Policy and Management Act of 1976. While the Committee agrees that those sections of FLPMA should not operate to delay the leasing program, the sections would also have provided authority for important interaction between the Secretary and the State and local governments. The Committee considers it very important that the Secretary consult with the State and local jurisdictions regarding the lease program and insure important State and local decisions regarding land use control, environmental protection and preservation of subsistence use by local residents are made part of any leasing program. The Committee amendment would require the Secretary to recognize and insure application of these local requirements, even though the FLPMA sections are otherwise not applicable. The Committee believes that this will not delay the lease program in any way.

Second, the Committee has added language that will lead to greater participation in the jobs and business contracts associated with the leasing program by disadvantaged Native groups. Natives have historically gained the least from the economic activity associated with oil and gas development. Efforts were made in connection with construction of the Trans-Alaska pipeline

and the proposed Alaska Natural Gas Transportation System to encourage hiring of Natives. The unemployment rate for Natives in the North Slope is perhaps the highest in the country and it is appropriate that they have a role in the development of the resources from the area in which they live. This amendment makes more explicit the Federal goal that Natives have a preference in the employment and contracts that will be generated by the leasing program of NPRA authorized by the bill.

Third, the Committee recognizes that the impacts of oil and gas development increases costs for local governmental units. In addition, the Committee considers it important that such local jurisdictions share in the financial rewards associated with the development of resources of land within their jurisdictions, even though fee ownership may still be with the Federal government. The House bill provides that 50% of the lease sale proceeds, the royalties, and other income from the NPRA be returned to the State of Alaska, with a directive that the State allocate the funds to benefit the jurisdictions most affected by the development of NPRA.

The Committee supports the concept of returning funds to local jurisdictions but is concerned that those funds be available to benefit the jurisdictions most directly affected by the development and the activities that produce the income. The State is subject, understandably, to pressures from jurisdictions throughout the state for distribution of its revenues; past

experience indicates that certain areas, particularly those less populated, may not receive distribution appropriate to their needs or to the impacts that they have suffered. Furthermore, the State has restricted the authority of local jurisdictions to raise revenues by taxing property associated with oil and gas development. This has had its most serious impact on those locations where the oil and gas exploration and development is taking place and substantial amounts of property are located. Consequently, the Committee has preserved the 50% allocation to the State and its local jurisdictions but has directed distribution within the state so that a reasonable portion goes to the North Slope Borough, the local jurisdiction most affected by development of NPRA; the NPRA is composed of lands located totally within the North Slope Borough boundaries. Given the priority set forth in the House bill that the funds go to the jurisdictions most impacted by development, the Committee considers it appropriate to make the allocation explicit in the bill.

Finally, the Committee has rejected the request by the Administration that the bill require transfer of the Barrow gas field, which at present is under the jurisdiction of the Secretary of the Interior. The gas from that field is essential to life in Barrow, our northernmost community. The gas is used for heat and electricity, and a reliable supply of gas is necessary during the severe Arctic winters. While the Committee agrees that the source and cost of long-term energy supplies for

Barrow, as well as other North Slope Borough Villages, should be examined by the Secretary and discussed with the local community, it is inappropriate for the Congress to direct that a transfer take place in advance of studies and other data that demonstrate how energy supplies can best be funded. The Committee wants to avoid hurriedly choosing an unrealistic operating situation which might endanger the continued supply of fuel for heat to the community.

The leasing of NPRA provides a good opportunity for the Secretary to study energy needs on the North Slope and determine how North Slope Villages, including Barrow, can gain access to indigenous energy supplies. While the Barrow gas field would obviously not be included in any leasing program, the Secretary should consider lease conditions on tracts which will be leased that will guarantee access to any discovered oil or gas by the villages. Following development of such information, the Congress will be better able to respond in an appropriate manner to the Administration's request for transfer of the Barrow gas fields.

PREPARED FOR

SENATOR FRANK R. FERGUSON

BY

MAYOR EUGENE BROWER

NORTH SLOPE BOROUGH

Regarding

SENATE BILL NO. 835

on

April 20, 1982

Despite the fact that commercial petroleum prospects for NPRA have been substantially downgraded by the United States Geological Service and Department of Natural Resources as a result of past Federally sponsored drilling programs the potential impacts, in fact, may be greater. Past drilling indicates the possibility of a reasonably large number of smaller fields rather than the giants or super giants forecast in the past. If this is the case, production would probably await the development of groups of smaller fields which would collectively represent a commercial undertaking. Collectors would link these small fields to a pipeline running to TAPS. The tracts receiving bids during the January 27, 1982, NPRA lease sale and their pattern substantiate this belief. This type of development scenario necessarily would disturb a larger area as well as being more difficult to service.

In contrast to Prudhoe Bay, the impacts of NPRA development will be at the doorstep of four of the eight permanent Borough communities (Barrow, Nuiqsut, Atkasook, and Wainwright). The indirect or secondary impacts of the Prudhoe Bay development, discounting primary impacts, created drastic cultural, social and economic disruptions for the permanent Inupiat population. Impacts forced change upon the resident population, not at their own making, and required them to organize a local governmental unit to represent their interests. With the development of NPRA the

pressures will be more direct and perhaps more devastating unless mitigation measures can be taken.

Senate Bill 835 will provide a portion of the funding required to address forthcoming impacts. With Prudhoe Bay and the Kuparuk experience, future Borough approaches to industrial impacts will involve direct yet cooperative State/industry/Borough planning and provision of basic consolidated services within the fields as well as within the communities. The result of Borough involvement promoting consolidation of facilities and services will result in more efficient, less disruptive development and therefore less detrimental impact.

The Federal law, Department of Interior and Related Agencies Appropriations Act of 1980, contains the following language:

Provided, that . . . (9) all recipients from sales, rentals, bonuses, and royalties on leases issued pursuant to this Act shall be paid into the Treasury of the United States: Provided, that 50 per centum shall be paid by the Secretary of the Treasury semiannually, as soon as practicable after March 30 and September 30 each year, to the State of Alaska for (a) planning, (b) construction, maintenance and operation of essential public facilities, and (c) other necessary provision of public service: Provided further, that in the allocation of such funds the State shall give priority to use by subdivisions of the State most directly or severely impacted by development of oil and gas leased under this Act.

was in part a result the cooperative effort of the State and

the North Slope Borough in working with the Administration and the Congress.

Since NPRA is Federal reserve lands, there was no requirement for Federal revenue sharing. In fact, there was local opposition from influential Administrative and Congressional officials to sharing with the State. The Administration considered draft language to include only the Borough since NPRA lies almost totally within the Borough. However, Governor Hammond's opposition to direct revenue sharing rather than a pass through and the Borough's belief that the Borough alone would be limited to the 25 percent precedent for local revenue sharing established in wildlife range and refuge law, prompted the Borough to jointly seek revenue sharing with the State. The joint State/Borough effort resulted in the State receiving 50 percent of the net Federal receipts with a proviso that the State would pass through funds to directly or severely impacted local governmental units.

Although the Administration introduced legislation in both the House and the Senate, Senator Stevens, in a sophisticated legislative maneuver, extracted the appropriate NPRA lease sale language from the Administration bill and included it as a part of Interior Appropriations. NPRA leasing was permitted and the revenue sharing preserved. However, the remainder of the Administration bill which dealt in large part with environmental constraints and enforcement provisions is dormant and

probably will not be resurrected. This places a great burden upon the State and the Borough to ensure efficient, environmentally sound development.

In summary, the North Slope Borough urges the prompt enactment of Senate Bill 835 to provide the Borough with the means of ameliorating impacts occasioned by the development of petroleum leases in NPRA. In providing this pass through of funds, the Borough will use these funds for the planning, construction, maintenance and operations of public facilities and other necessary provisions of services resulting from NPRA lease sales.

Folta  
3/16/84 ✓**DRAFT**

Original sponsor: Adams

1 IN THE HOUSE

BY THE RESOURCES COMMITTEE

2 CS FOR HOUSE BILL NO. 298 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act establishing a National Petroleum Reserve,  
7 Alaska, special revenue fund; and providing for an  
8 effective date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 \* Section 1. FINDINGS. The legislature finds that

11 (1) the United States Congress, by 43 U.S.C. 1337 (P.L. 96-514),  
12 provided that the state shall receive 50 percent of receipts derived from  
13 competitive leasing of oil and gas in the National Petroleum Reserve in  
14 Alaska;

15 (2) virtually all of the National Petroleum Reserve in Alaska  
16 lies within the corporate limits of the North Slope Borough, a home rule  
17 political subdivision of the state; and

18 (3) because of the continuing nature of the congressional appro-  
19 priation a special revenue fund should be established to comply with the  
20 directive of the federal Act.

21 \* Sec. 2. NATIONAL PETROLEUM RESERVE, ALASKA, SPECIAL REVENUE FUND.

22 (a) The National Petroleum Reserve, Alaska, special revenue fund is estab-  
23 lished. The fund shall consist of money received by the state from the  
24 federal government under 43 U.S.C. 1337 (P.L. 96-514).

25 (b) The commissioner of revenue shall manage the special revenue fund  
26 in accordance with AS 37.10.070.

27 (c) The commissioner of revenue shall pay to those subdivisions of  
28 the state that are most directly or severely impacted by development of oil  
29 and gas leased under 43 U.S.C. 1337 the amount appropriated by the

1 legislature from the fund for that purpose. It is the intent of the legis-  
2 lature that the amount appropriated for payment to the subdivisions equal  
3 25 percent of the amount received from the federal government unde. 43  
4 U.S.C. 1337 and that this percentage be reviewed by the legislature every  
5 five years following the effective date of this Act.

6 (d) Amounts received by the state under (a) of this section shall be  
7 used by the state, subject to appropriation by law, for the following  
8 activities and services:

9 (1) planning;

10 (2) construction, maintenance, and operation of essential public  
11 facilities; and

12 (3) other necessary public services.

13 (e) Amounts paid to subdivisions of the state under (c) of this  
14 section shall be used by the subdivisions only for the following activities  
15 and services in conjunction with development of the National Petroleum  
16 Reserve in Alaska and a program of competitive leasing of oil and gas from  
17 that serve:

18 (1) planning;

19 (2) construction, maintenance, and operation of essential public  
20 facilities by the subdivisions; and

21 (3) other necessary public services provided by the subdivi-  
22 sions.

23 \* Sec. 3. This Act takes effect immediately in accordance with AS 01.-  
24 10.070(c).  
25  
26  
27  
28  
29

*Dick Folta*

1 IN THE HOUSE

BY ADAMS

2

HOUSE BILL NO. 298

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act establishing a National Petroleum Reserve,  
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OK  
[2.500]

Tom Koester

NPA Special Reserve

Placed into fund

1 legislature from the fund for that purpose. It is the intent of the  
2 legislature that the amount appropriated for payment to the subdivisions  
3 equal 50 percent of the amount received from the federal government under  
4 the federal Act, and that this percentage be reviewed by the legislature  
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17 that reserve:

- 18 (1) planning;
- 19 (2) construction, maintenance, and operation of essential public
- 20 facilities by the subdivisions; and
- 21 (3) other necessary public services provided by the subdivi-
- 22 sions.

23 \* Sec. 3. This Act takes effect immediately in accordance with AS 01.-  
24 10.070(c).

What is a political subdivision

Need guide lines, criteria  
or how money is to be  
given to "political subdivisions".

How do you

get together w/ Al, Reaman  
- Marci

Marci Reinfeld

HB 663-666

contact Stevens' Wash  
office & ask about  
this program

John - Read this  
A.S.P. - letter  
of intent for

Adams NRA Bill

I don't think it  
says much

Brent

## EXPLORATION OF NATIONAL PETROLEUM RESERVE IN ALASKA

42 USC 6508.  
42 USC 6504.

43 USC 1712,  
1782.

42 USC 6502

43 USC 1337.

For necessary expenses of carrying out the provisions of section 104 of Public Law 94-258, and for conducting hereafter and with funds appropriated by this Act and by subsequent appropriation Acts, notwithstanding any other provision of law and pursuant to such rules and regulations as the Secretary may prescribe, an expeditious program of competitive leasing of oil and gas in the National Petroleum Reserve in Alaska, \$107,001,000, to remain available until expended: *Provided*, That (1) activities undertaken pursuant to this Act shall include or provide for such conditions, restrictions, and prohibitions as the Secretary deems necessary or appropriate to mitigate reasonably foreseeable and significantly adverse effects on the surface resources of the National Petroleum Reserve in Alaska (the Reserve); (2) the provisions of section 202 and section 603 of the Federal Lands Policy and Management Act of 1976 (90 Stat. 2743) shall not be applicable to the Reserve; (3) the first lease sale shall be conducted within twenty months of the date of enactment of this Act: *Provided*, That the first lease sale shall be conducted only after publication of a final environmental impact statement if such is deemed necessary under the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4332); (4) the withdrawals established by section 102 of Public Law 94-258 are rescinded for the purposes of the oil and gas leasing program authorized herein; (5) bidding systems used in lease sales shall be based on bidding systems included in section 205(a)(1) (A) through (H) of the Outer Continental Shelf Lands Act Amendments of 1978 (92 Stat. 629); (6) lease tracts may encompass identified geological structures; (7) the size of lease tracts may be up to sixty thousand acres, as determined by the Secretary; (8) each lease shall be issued for an initial period of up to ten years, and shall be extended for so long thereafter as oil or gas is produced from the lease in paying quantities, or as drilling or reworking operations, as approved by the Secretary, are conducted thereon; and (9) all receipts from sales, rentals, bonuses, and royalties on leases issued pursuant to this Act shall be paid into the Treasury of the United States: *Provided*, That 50 per centum thereof shall be paid by the Secretary of the Treasury semiannually, as soon as practicable after March 30 and September 30 each year, to the State of Alaska for (a) planning, (b) construction, maintenance, and operation of essential public facilities, and (c) other necessary provisions of public service: *Provided further*, That in the allocation of such funds, the State shall give priority to use by subdivisions of the State most directly or severely impacted by development of oil and gas leased under this Act.

Any agency of the United States and any person authorized by the Secretary may conduct geological and geophysical explorations in the National Petroleum Reserve in Alaska which do not interfere with operations under any contract maintained or granted previously. Any information acquired in such explorations shall be subject to the conditions of 43 U.S.C. 1352(a)(1)(A).

Any action seeking judicial review of the adequacy of any program or site-specific environmental impact statement under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) concerning oil and gas leasing in the National Petroleum Reserve-Alaska shall be barred unless brought in the appropriate District Court within 60 days after notice of the availability of such statement is published in the Federal Register. Any proceeding on such action

Judicial review.  
Publication in  
Federal  
Register.



# Alaska State Legislature

HOUSE OF REPRESENTATIVES  
COMMITTEE ON RESOURCES

JOHN RINGSTAD, CO-CHAIRMAN  
RICHARD SHULTZ, CO-CHAIRMAN  
POUCK V  
JUNEAU, ALASKA 99811  
(907) 465-3715

To: Committee Members

From: Committee Staff

Date: February 8, 1984

Re: HB 293, establishing a National Petroleum Reserve, Alaska, fund

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## I. Overview

This bill establishes a "National Petroleum Reserve, Alaska, Special Revenue Fund." It would be funded by receipts from the federal government for leasing of oil and gas tracts in the National Petroleum Reserve, Alaska (NPRA). The federal act (Public Law 96-514) requires that 50% of all sales, rentals, bonuses, and royalties on leases issued shall be paid to the State of Alaska.

## II. History

During the 12th Legislative Session, SB 835, a very similar piece of legislation to HB 298, passed both the House and Senate, but was vetoed by the Governor. The main reason for his veto was because the bill created some constitutional problems, namely, it created a dedicated fund. (see Art. IX, Sec. 7, of Alaska Constitution)

In 1980, Congress approved Public Law 96-514. This law required that 50% of all sales, rentals, bonuses and royalties received from federal oil and gas leases in the National Petroleum Reserve, Alaska, be paid to the State of Alaska

Part of this Public Law provided that the priority use of these funds be used by the subdivisions of the state that were most directly impacted by the development of oil and gas leases in the NPR-A. (see enclosed Public Law 96-514, highlighted section) The law states that:

"That in the allocation of such funds, the State shall give priority to use by subdivisions of the State most directly or severely impacted by development of oil and gas leased under this act."

Note that this clause does not address how much should go to the impacted subdivision, nor does it say how to determine what is an "impacted subdivision". Thus the questions arise as to who determines what areas are impacted the most and also what criteria will be used. Under HB 298, these decisions are to be made by the Commissioner of Revenue, with the aid of intent language in the bill.

Currently, from conversation with DNR, there has been two sales within the NPR-A, totalling \$66,887,505. Of this, the State received 50%, or \$33,443,752. Thus, under HB 298, the State as a whole would receive 50% of this, or \$17,997,687, and the impacted subdivisions would receive \$17,997,687.

IV. ANALYSIS (HB 298)

This bill establishes a "National Petroleum Reserve, Alaska, Special Revenue Fund." It would be funded by receipts from the federal government for leasing of oil and gas tracts in the National Petroleum Reserve, Alaska (NPRRA). The commissioner of revenue is to invest the fund. Monies of the fund are to be appropriated by the Legislature, half to the state and half to subdivisions in the state directly affected by oil and gas development in the NPRRA.

Costs will be incurred; however, due to the fact that amount and grade of oil in the NPRRA has not been determined, the size of the fund is unknown. Safekeeping, accounting, audit, and commission costs would be incurred each year the fund exists. This fund would be invested with the General Fund, but accounted for separately.



# United States Department of the Interior

OFFICE OF THE SECRETARY  
WASHINGTON, D.C. 20246

DEC 4 1979

Honorable Eben Hopson  
Mayor of North Slope Borough  
Box 69  
Barrow, Alaska 99723

Dear Eben:

The Naval Petroleum Reserves Production Act of 1976 instructed the Department of the Interior to submit to Congress by January 1, 1980, legislation suggesting the best procedures for petroleum development of the National Petroleum Reserve in Alaska (NPR-A). This legislation must consider the economic and environmental concerns which affect both management of the lands and the best procedures for pursuing the petroleum potential of this area.

With your assistance, and that of many others, the Department has completed a great deal of study on NPR-A, and has prepared legislation which will be sent to Congress within the statutory deadline. The Secretary has assigned me the lead role in representing the Administration on this legislation, and my first objective is to continue the excellent working relationships which have been formed during the various studies. To begin, I would like to sponsor, at your earliest opportunity, a briefing and discussion session, at which time we will outline the various provisions of the legislative approach proposed by the Department. While the bill itself is still in the internal clearance process of the Executive branch, I have attached a copy of the Secretary's letter to the President setting out the features of our proposal.

Based on work you have done during the study period, and other expressions of opinion, I believe you will be pleased with the direction and balance of the proposed legislation. The basic proposal is for ELM management of the area, which is to be designated as a National Conservation Area.

Prompt oil and gas exploration through a leasing program is emphasized, and is coupled with the creation of several special management areas to protect the unique surface resources of the Utukok Uplands, Teshekpuk Lake area, the Colville River Valley and Icy Cape/Kasegaluk lagoon. In addition, the legislation protects continued subsistence uses of the area for local rural residents and sets up broad, flexible leasing authority for the region. Most important, the legislation provides for extensive public participation in developing the land use plan and leasing program. Other provisions are

set out in the Secretary's letter, but these are the key concepts. We believe we have constructed a bill which is sensitive to the environmental and social needs of the NPR-A region while fostering the necessary petroleum exploration to meet the energy demands of the nation as a whole.

We are extremely interested in meeting with you informally as soon as possible to discuss the proposal which we will be presenting to Congress. I am anxious that these sessions begin soon and continue into next year, so that we work together toward a satisfactory program for this important area.

I intend to do as much as I can personally to lead these discussions, but I do not want to delay starting them if I cannot attend. To facilitate this, I have asked Curt McVee, the Alaska State Director for the Bureau of Land Management, Jerry Gilliland, the Secretary's representative in Alaska, and Diane Josephy of my staff, to set up early meetings with you since I have no plans to travel to Alaska before the first of the year. Of course, if you are in Washington, please let me know so that both BLM Director Frank Gregg and I can discuss this issue with you.

I look forward to meeting with you on the proposed legislation and on the plans for the future of this region.

With best regards, I am

Sincerely,

*Guy R. Martin*  
Guy R. Martin  
Assistant Secretary for  
Land and Water Resources

Enclosure

cc: ✓ Mr. Tom Smytho  
Mr. John Bucholdt

LETTER OF INTENT  
TO ACCOMPANY  
CSHB 298 (Resources)

It is the intent of the Legislature that the Department of Revenue rely on the following analysis of Committee Substitute for House Bill 298 (Resources) and P.L. 96-514, Title 1, Sec. 100 when administering this Act. In particular, it is the intent of the Legislature that the Department determine if a subdivision is "most directly or severely impacted" by oil and gas development in the National Petroleum Reserve - Alaska for purposes of Sec. 2(c) of this Act in a manner consistent with the analysis of such impacted communities provided in this letter of intent.

CSHB 298 (Res) implements the revenue-sharing provisions of P.L. 96-514, Title 1, Sec. 100 (1380) dealing with the Interior Department's oil and gas leasing program in the National Petroleum Reserve - Alaska. This leasing and revenue sharing program was part of the Interior Department Appropriations Act of 1981.

CSHB 298 (Res) establishes a state program which carries out the legislative intent of the federal act, which states as follows:

"That 50 per centum thereof (rentals, bonuses, royalties, etc.) shall be paid by the Secretary of the Treasury ... to the State of Alaska for (a) planning; (b) construction, maintenance, and operation of public facilities; and (c) other necessary provisions of public service.

PROVIDED FURTHER, that in the allocation of such funds, the State shall give priority to use by subdivisions of the state most directly or severely impacted by development of oil and gas leased under this section." 42 U.S.C. Sec. 6508

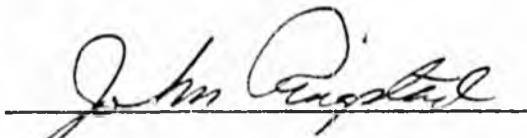
The purpose of this provision is to provide a source of funds for dealing with impacts related to the NPR-A oil and gas leasing program. The provision states that the funds are to be used for "planning," for "construction," and "operation of public facilities" and for "other necessary" public services. The purpose was also to allocate these funds to communities where the impacts are "most directly or severely" felt. The provision requires the state to give "priority" to subdivisions "most directly or severely impacted" by the NPR-A leasing program in "the allocation of such funds." This will rule out the possibility of a statewide revenue-sharing program or even one designed to ameliorate oil and gas development impacts in general. The purpose is restricted by federal law to communities suffering the effects of the NPR-A leasing program.

The federal provision does not expressly define further than this which communities could qualify for impact funds. Certainly the North Slope Borough would qualify since the program affects the Borough in the most "direct" way possible, being entirely inside of it. This is

consistent with the statutory predecessor to the federal revenue-sharing provision. P.L. 94-258 (1976), which transferred jurisdiction over the NPR-A from the Navy to the Interior Department, authorized the Secretary to assist impacted communities "located on or near the reserve as a direct result of the exploration and study activities, Sec. 107.

The language in the 1980 Act allows the State more leeway in allocating funds to local communities than the 1976 Act; nonetheless, the intention is to abide by the limitation that funds be allocated to communities "most severely or directly impacted." This bill should be implemented with the degree of flexibility necessary to cover such eventualities, but restrained by the purpose of the federal provision.

This approach would also be consistent with similar interpretations of the courts of federal law and federal programs. The U.S. Supreme court recently interpreted the Coastal Zone Management Act's "directly affecting" language in the SECRETARY OF THE INTERIOR v. CALIFORNIA. The court found that for an affect to be direct there had to be a significant, physical alteration of an area; in this case, California's coastal zone. When Congress adopted the Coastal Energy Impact Program (16 U.S.C. 1456 (a)) it limited loans and grants to coastal states and local governments actually in the coastal zone. Also, Senator Stevens' OCS revenue-sharing bill, S.800, would qualify only coastal local governments to receive OCS revenue-sharing funds. Thus, in other, similar situations, both Congress and the courts narrowly relate direct affects on a geographic basis, providing a sound, factual underpinning to federal revenue sharing for adverse affects of specific federal programs.



Representative John Ringstad,  
Co-chairman, House Resources Committee

305- Rings - Lavis - Goll - Vask - Uehl.  
Buss Crowder List

Burbank  
expl.

0010

0026 Larson - how much land 220 parcels - 160 acres ea

0031

Larson - effected by municip  
- legis would not apply to land where 3<sup>rd</sup> party interest  
created - Fed can't take land away fr. 3<sup>rd</sup> party  
Fed would have to sue State -

0043

liability  
What does state assume -

? int already underlying to return under fed suit

0068

Goll expl. CS.

0084

Uehling moved CS adoption

Uehling

0088

Moved CS w/indiv recs  
recess to 3:15

0108

Al Adams NPRA expl.

0140

Rings where's money going now?

2 sales - 33.4 million - 8.34 wd go to comm

1/2 goes to perm. fund.

0173

Cowdery - precedent in Lower 48 -

Adams - don't know -

0180

Goll - diff. between this & last year's

-- SENATE bill muddied - legality may be upto attorney

0200

Uehling - use of funds by political subdv

- Fed guidelines

- 0225 Ringstad - fund set by Commis Revenue?  
Adams - which comm. impacted by O & G develop
- 0249 Comm. Bob Heath - changes appear to have met standards  
set in earlier legal opinion  
Support
- 0265 Ringstad - Guideline criteria for dispersal of \$  
- Dept. wd administer by investing, wd have to be  
appropriated by legis.  
Dept. would have resp. of spreading \$ over state
- 0310 Uehling - appropriation procedure
- 0322 Goll - Relationship - Fed law, dedicated fund  
- refer to DO Law
- 0335 Bussell - Regulations along with Fed law - should  
give guidelines
- Tom Koester - Law
- 0360 Goll - Conflict? - None - Wording okay to preclude  
legal problems - good case - federal dedication is  
part of strings attached
- 0405 Koester - Fed regulations directed at leasing process, rather  
than "impacts" - no direction
- 0460 Liska - any funds receipt now?  
None - Heath
- 0470 Uehling - problem binding future legis.  
no - just indicates this legis intent.
- 0485 Rings - Any received yet  
Should have received 33 million

Ringstad - No mechanism to comply w/ congress -  
Chain of \$\$\$

0530 Heath - wd. go directly into fund from Fed -  
Rings - legis approp. back out

0555 Rings - any guidelines on impacts  
Adams going admin. wd. make ~~changes~~ <sup>recomm</sup> -

0572 Bussell - Unless language tightened, big fight on  
horizon - Matanuska Valley impacted by N. Slope workings

0592 Goll - 50% going into P.F.?  
5 yr. review - adjust 50%?  
Adams no intent to adjust PF contrib - just amounts going  
into impacted areas  
discuss.

Koester -  $\frac{1}{2}$  PF,  $\frac{1}{4}$  imp. areas,  $\frac{1}{4}$  fund -

0670 Goll - No 25% here, only 50% & 50%

0850 Bussell reiterated his problem w/ determination of impact area  
Rings suggested Heath come up w/ guidelines

0880 Bussell objects to Chair. encouraging Revenue to do  
by req. what should be done by statute.

0890 Rings - will get w/ admin, Adams, etc.

4:05 adjourn.

*of committee*

FISCAL NOTE

I. REQUEST

Bill/Resolution Number: CSSB 835(Fin) (5/10/82)  
 Title: Establishing a National Petroleum Reserve, Alaska, Special Revenue Fund  
 Requested by: Senate Finance Committee  
 Date: 5/13/82

II. FISCAL DETAIL

Agency Affected: Department of Revenue  
 Program Category Affected: Revenue Collection and Management  
 BRU, Program, or Subprogram(s) Affected: Treasury Management  
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)						
	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	-	15.7	17.3	-	-	-
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	48.0	48.0	-	-	-
400 COMMODITIES	-	2.0	2.0	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
600 LAND & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS, ETC	-	-	-	-	-	-
800 MISCELLANEOUS	-	-	-	-	-	-
TOTAL	-	65.7	67.3	----	INDETERMINATE	----

FUNDING (Thousands of Dollars)						
	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND	-	65.7	67.3	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER (Specify Source)	-	-	-	-	-	-

POSITIONS						
	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME	-	-	-	-	-	-
PART TIME	-	1/6mm	1/6mm	-	-	-
TEMPORARY	-	-	-	-	-	-

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

Establishes a National Petroleum Reserve, Alaska, Special Revenue Fund. Consists of amounts received by it from federal government for leasing of oil & gas tracts in National Petroleum Reserve, Alaska. Commissioner of Revenue to invest fund. Monies to be disbursed as grants and used directly by legislative appropriation from fund.

Personal Services for half-time Accounting Tech. II (14,G) for accounting/reporting/allocation/distribution. Contractual Services: Comm. \$5.0; Print & Adv. \$5.0; Safekeeping and related reporting/accounting \$32.0; Audit \$3.0; Misc. \$3.0.

Above analysis of costs valid for range of receipts/ave. fund balance of \$50-100 million, use of special revenue fund that is not a separately invested fund but with separate accountability. FY 85-87 listed as indeterminate because rate of drawdown unknown.

IV. DATE: May 13, 1982 PREPARED BY: Anselm C. Staack, Treasury Comptroller

AGENCY: Dept. of Revenue, Treasury Division  
 PHONE: 465-2350

Original: Legislative Finance  
 cc: Budget and Management  
Prime Sponsor (First Legislator Named)

STATE OF ALASKA  
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No: HB 298  
 Title: National Petroleum Reserve  
Alaska Special Revenue Fund  
 Sponsor: Adams  
 Requestor: Resources and Finance

II. FISCAL DETAIL

Agency Affected: REVENUE  
 Program Category Affected: Revenue  
Collection and Management  
 BRU, Program of Subprogram(s) Affected:  
Treasury Management

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
<u>OPERATING</u>						
100 PERSONAL SERVICES	-	-	-	-	-	-
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	-	-	-	-	-
400 COMMODITIES	-	-	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
600 LANDS & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS, ETC.	-	-	-	-	-	-
<u>TOTAL OPERATING</u>	-	INDETERMINATE-	-	-	-	-
<u>CAPITAL</u>	-	-	-	-	-	-
<u>REVENUE</u>	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER (Specify Source)	-	-	-	-	-	-
-	-	-	-	-	-	-

POSITIONS:

FULL-TIME	-	-	-	-	-	-
PART-TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-
-	-	-	-	-	-	-

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis.

Prepared By: Cathy Poe  
 Division: Treasury

Phone: 465-2350  
 Date: 4/28/83

Approved by Commissioner: Robert D. Heath  
 Department: Revenue

Date: \_\_\_\_\_

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

(5)

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ALAN L. MINTZ  
GARY D. BACHMAN  
ELLEN L. PARTRIDGE  
R. KEITH GUTHRIE  
PETER D. DICKSON

December 20, 1979

MEMORANDUM

TO: Mayor Eben Hopson  
North Slope Borough

Edward Hopson  
President  
Arctic Slope Regional Corporation

FROM: G. William Frick *SWF*

RE: Summary of NPR-A Meeting

This memorandum will summarize the meeting held with representatives of the Arctic Slope Regional Corporation, North Slope Borough and others in Anchorage on December 7, 1979. The persons who attended the meeting are on the attached list.

A. Arctic Gas Pipeline

The first item of discussion was a presentation by Jack Bachman (907-270-2900), the Alaska representative of Northwest Pipeline, who provided an update on the Salt Lake City meeting between Mayor Hopson and other Borough representatives, and John McMillian and Northwest Pipeline staff. Bachman indicated that Northwest Pipeline was pleased with the interest of the North Slope Borough to participate in some manner in the project and was interested in providing an opportunity for the local as well as state involvement if possible. He did note that state actions thus far had been disappointing. He indicated that Northwest Pipeline hoped to begin civil construction in 1981, begin laying pipe in 1982, and finish the line in the warm weather of 1985.

He pointed out that the Northwest Pipeline Company has no direct responsibility for the conditioning plant, although it is extremely interested in its construction as an essential part of the overall system. While the state has indicated it wants to do "something" on the conditioning plant, it has not yet formulated a position. Bachman did note that moving the conditioning plant to Fairbanks would prevent the pipeline from being built. Northwest Pipeline is looking at producers as "overrun insurance," who will be turned to if necessary for completion of the line; the Department of Justice has problems with producers owning the line. Larry Dinneen pointed out that ARCO has expressed interest in knowing what the North Slope Borough and ASRC plan to do regarding the conditioning plant.

Mayor Hopson expressed concern about the failure of the North Slope Borough to have been consulted on issues surrounding the conditioning plant and the pipeline that affect the North Slope Borough. He also emphasized that while NSB had proposed having some involvement, it was subject to further decisions and negotiations involving the NSB and ASRC.

Follow-up actions from the discussion with Bachman are:

1. This firm is to contact Howard Butner, Vice President for Finance of Northwest Alaska Pipeline in Washington. Butner apparently has a variety of studies and other documents regarding various financial schemes for financing the pipeline that may be of use to the NSB in reviewing its potential participation.
2. This firm is to develop a brief analysis summarizing what has transpired with the gas pipeline to date and to prepare recommendations to the Borough on what future actions to take on this issue.

B. NPRA Legislation

The next item discussed was the position of ASRC and NSB on the NPRA legislation now being drafted by the Department of the Interior. Under this legislation NPR-A would be designated a "National Conservation Area." Mayor Hopson emphasized that the North Slope Borough supported any effort, including private leasing, that would open up NPR-A for exploration and development as the North Slope Borough's contribution to the national goal of improving energy supplies. Mayor Hopson emphasized that the Borough has always supported onshore development.

There was general agreement with the basic statutory positions that DOI had indicated would be included in the legislation.

Conrad Bagne suggested that the bill include provisions allowing local access to non-commercial and commercial discoveries found near communities on the North Slope. Herb Bartel pointed out that the BLM had already developed several years of planning analysis and data on NPR-A and that this experience should not be lost in the transition to the NCA management scheme. In particular, with respect to the four areas that were to be given special attention, the governmental offices charged with responsibility for those special areas, assuming it is not BLM, should be required to utilize BLM analysis.

Jon Buchholdt noted that the four areas cited for special consideration are possibly the most promising for private leasing; the boundaries, terms, and access of those areas should be examined carefully to insure development is not precluded. Herb Bartel also observed that the protection for fishing sites should not be limited to designated sites but rather to "systems" that would allow movement within fishing areas as the fish populations, and other influences on fishing, change.

With respect to the leasing systems, it was pointed out that a "nominating" system should be used in order to give the Borough, as well as the federal government, advance notice of what areas should be studied to determine the need for environmental or other protection. There was general agreement that any leasing system should, to the maximum extent possible, utilize bids that would internalize non-economic factors such as environmental protection and local hire. In addition, local considerations and provisions encouraging participation by small companies should be included into a system. Senator Gravel apparently is looking into developing such a program independently of the Department of the Interior. It was also pointed out that the Teshekpuk Lake had already been identified as an area that should be protected for the Native community. This should be kept in mind as the provisions regulating the Teshekpuk Lake area are formulated.

Senator Stevens joined the meeting at this point and made the following comments:

1. He considers the letter of Acting Secretary Joseph, regarding the legislative program of NPR-A, to be balanced but is concerned about those areas that DOI proposes to "set aside." He also feels that any provisions relating to the Mineral Leasing Act may present problems.
2. He is concerned about the revenue sharing provisions and feels it may be hard to hold the 50% now proposed

to be allocated to the state because of the large royalty already received by the state from Prudhoe Bay. Provisions guaranteeing local share from the revenues to the state would help maintain this provision.

3. He supports the NCA being administered by the BLM but is concerned about BLM continuing to apply the approaches they have traditionally followed under the Mineral Leasing Act. Stevens indicated he was meeting with Guy Martin on the legislation on December 10.
4. He is quite committed to keeping this bill separate from D-2 and indicated that this was the view of Secretary Andrus. Senator Stevens cautioned about trying to put D-2 related Native amendments on the bill when it comes from the House.
5. Senator Stevens vigorously emphasized the need to slow the Beaufort Sea sale. He is very concerned about drilling in the Beaufort Sea and feels that the international situation will result in a compressing of the time for leasing of NPR-A.
6. He is very interested in getting small companies involved in the development of NPR-A.
7. He supports the efforts to find a new agency or agencies to fund and administer NARL. He mentioned also the possibility of turning over the gas field at Barrow to the North Slope Borough and providing authority for requiring federal facilities to pay for gas from the field.

In the afternoon we were joined by representatives of the Department of the Interior: Gerry Gilliland, Curt McVie, Irene Rowan, Jim Wicks, and Ed Eisenon.

Gerry Gilliland outlined the Department's views on the legislation. He emphasized that the legislation is to encourage oil and gas development while protecting the unique surface values and lifestyle of the native residents. BLM is to administer the area in a multiple use manner and the local residents are to assist BLM in land use planning and in its lease program. He noted also that the bill included language that would lead to transfer of the Barrow gas field to the North Slope Borough.

With respect to leasing, the Department hopes to have a minimum time schedule that would result in the first lease within twenty months of the legislation. The legislation would provide

broad leasing authority to the BLM to establish terms and conditions. He emphasized that the authority would allow stipulations to protect the environment and require access yet he noted that the proposal did not have any corridors specifically set aside. He said that the bill would provide the Secretary with discretionary authority to lease minerals but only local leasing of coal would be specifically allowed. The report from Gilliland basically coincided with the information provided in Undersecretary Joseph's letter.

Gilliland indicated that the legislation was being reviewed within the Administration but that there had been no major changes proposed. The only objections from other agencies involved issues unrelated to the direct administration of NPR-A, e.g., the Department of Justice was concerned about anti-trust language, some agency was concerned about the size of the tracts being too large and thereby inhibiting participation by local companies, and there was concern over the name of the NCA. Gilliland does not know the exact timetable for submission of the bill to Congress but expects it to happen before January. He felt it was too late for any additional input at this time from the local community although the Department remains interested in the local reaction.

With respect to the four special areas he emphasized that the bill would only have Congress stating that BLM is to give those areas special consideration; it would be left up to the BLM, after consultation with an Advisory Committee, to determine exactly what those special considerations should be. BLM proposes to use the Federal Land Policy Management Act (FLPMA) planning process to establish appropriate restrictions. He also pointed out that Section 603 of FLPMA would not apply nor would the 1876 Mineral Act. This would preclude hard rock mining and provide no protection of existing claims. It was pointed out by Charlie Edwarson that there might be some outstanding claims that existed before the formulation of NPR-A.

Gilliland agreed that the leasing approach authority in the bill would allow internalization of costs but such leasing would not be mandated by the legislation.

Mayor Hopson emphasized the importance of sharing information from prior exploration of NPR-A inasmuch as the data is a key factor affecting exploration on the Slope. Mayor Hopson expressed his desire that the legislation should turn over leasing totally to private companies so that the Federal government would not be involved in the actual exploration.

Gilliland agreed that the applicability of the North Slope Borough ordinances to activities taking place in NPR-A would be part of the planning process. This means that the ELM could decide to apply them but that they were not automatically incorporated into the plan. He also noted that there was no local hire provision in the bill, which produced substantial discussion about the need for such provision. Gilliland and Curt McVie agreed that this was a point that deserved additional examination and indicated a willingness to have the Department consider taking a position on such a provision in the letter of transmittal of the bill to Congress or in the testimony of the Administration on the bill, inasmuch as it was too late to make any change to the legislation at this point.

Follow-up activities.

1. We should draft for the Department of the Interior an analysis of the need for an affirmative action program mentioning the adverse economic as well as societal impacts of not utilizing local residents. We should also draft appropriate language for such provision.
2. We should write to the Department requesting that they include reference to such a provision in their testimony or in the letter of transmittal to Congress.
3. We should attempt to have included in the legislation a specific guarantee of a portion of the state's revenue being allocated to the North Slope Borough.
4. We should examine other National conservation areas, and BLM regulations regulating activities in those areas, to identify deficiencies in the management program that should be addressed in the legislation or in Report language.

cc: Conrad Bagne                      Oliver Leavitt  
Tom Smythe                              Larry Dinneen  
Jon Buchholdt                          Jim Wickwire

ATTENDANCE LIST

December 7, 1979 Meeting

Anchorage, Alaska

Mayor Eben Hopson, NSB

Eugene Brower, NSB

Tom Smythe, NSB

Conrad Bagne, NSB

Herb Bartel, NSB

Jon Buchholdt, NSB

Gerry White, NSB

Ralph Anderson, NSB

Bob Dupere, NSB

Lou Dishner, Lobbyist for NSB

Larry Dinneen, ASRC

Oliver Leavitt, ASRC

Eddie Hopson, ASRC

Jim Wickwire, Seattle

Bill Van Ness, Washington, D. C.

G. William Frick, Washington, D. C.

Ken Forsen, Arctic Technical

Services

Jack Bachman, North West Pipeline

PROPOSED HOUSE RESOURCES COMMITTEE  
LETTER OF INTENT TO ACCOMPANY  
HOUSE BILL 298

It is the intent of the legislature that the Department of Revenue rely on the following analysis of House Bill 298 and P.L. 96-514, Title 1, Sec. 100 when administering this Act. In particular, it is the intent of the legislature that the Department determine if a subdivision is "most directly or severely impacted" by oil and gas development in the National Petroleum Reserve-Alaska for purposes of Sec. 2(c) of this Act in a manner consistent with the analysis of such impacted communities provided in this letter of intent.

HB 298 implements the revenue sharing provisions of P.L. 96-514, Title 1, Sec. 100 (1380) dealing with the Interior Department's oil and gas leasing program in the National Petroleum Reserve-Alaska. This leasing and revenue sharing program was part of the Interior Department Appropriations Act of 1981.

HB 298 establishes a state program which carries out the legislative intent of the federal act, which states as follows:

"That 50 per centum thereof (rentals, bonuses, royalties, etc.) shall be paid by the Secretary of the Treasury...to the State of Alaska for (a) planning; (b) construction, maintenance, and operation of public facilities; and (c) other necessary provisions of public service. PROVIDED FURTHER, that in the allocation of such funds, the State shall give priority to use by subdivisions of the state most directly or severely impacted by development of oil and gas leased under this section." 42 U.S.C. Sec. 6508

The purpose of this provision is to provide a source of funds for dealing with impacts related to the NPR-A oil and gas leasing program. The provision states that the funds are to be used for "planning," for "construction," and "operation of public facilities" and for "other necessary" public services. The purpose was also to allocate these funds to communities where the impacts are "most directly or severely" felt. The provision requires the state to give "priority" to subdivisions "most directly or severely impacted" by the NPR-A leasing program in "the allocation of such funds." This will rule out the possibility of a statewide revenue sharing program or even one designed to ameliorate oil and gas development impacts in general. The purpose is restricted by federal law to communities suffering the effects of the NPR-A leasing program.

The federal provision does not expressly define further than this which communities could qualify for impact funds. Certainly the North Slope Borough would qualify since the program affects the Borough in the most "direct" way possible, being entirely inside of it. This is consistent with the statutory predecessor to the federal revenue sharing provision, P.L. 94-258 (1976) which transferred jurisdiction over the NPR-A from the Navy to the Interior Department authorized the Secretary to assist impacted communities "located on or near the reserve as a direct result of the exploration and study activities, Sec. 107.

The language in the 1980 act allows the state more leeway in allocating funds to local communities than the 1976 act, nonetheless, the intention is to abide by the limitation that funds be allocated to communities "most severely or directly impacted." While this would exclude slow, imperceptible or other non-severe or direct growth related impacts in areas outside of the Borough, it would not exclude impacts anticipated to be severe and direct such as those related to development, production and transportation of commercial quantities of oil and gas. Thus, for example, a firm making a major discovery of oil in NPR-A might need to significantly expand its base of operations in Anchorage, including office construction, placing an acute, possibly severe impact on that community. Major pipelines could also result in impacts crossing the Borough's boundaries. This bill should be implemented with the degree of flexibility necessary to cover such eventualities, but restrained by the purpose of the federal provision.

This approach would also be consistent with similar interpretations of the courts of federal law and federal programs. The U.S. Supreme Court recently interpreted the Coastal Zone Management Act's "directly affecting" language in the SECRETARY OF THE INTERIOR V. CALIFORNIA. The court found that for an affect to be direct there had to be a significant, physical alteration of an area, in this case, California's coastal zone. When Congress adopted the Coastal Energy Impact Program (16 U.S.C. 1456 (a)) it limited loans and grants to coastal states and local governments actually in the coastal zone. Also Senator Stevens' OCS revenue sharing bill S. 800 would qualify only coastal local governments to receive OCS revenue sharing funds. Thus, in other similar situations both Congress and the courts narrowly relate direct effects on a geographic basis, providing a sound factual underpinning to federal revenue sharing for adverse effects of specific federal programs.

STATE OF ALASKA  
FISCAL NOTE

Revision Date 12/30, 1983

I. REQUEST

Bill/Resolution No: HB 298  
Title: National Petroleum Reserve  
Alaska Special Revenue Fund  
Sponsor: Adams  
Requestor: H. Resources and Finance

II. FISCAL DETAIL

Agency Affected: Revenue  
Program Category Affected: Revenue  
Collection and Management  
BRU, Program of Subprogram(s) Affected:  
Treasury Management

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
<b>OPERATING</b>						
100 PERSONAL SERVICES	-	-	-	-	-	-
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	-	-	-	-	-
400 COMMODITIES	-	-	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
600 LANDS & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS, ETC.	-	-	-	-	-	-
<b>TOTAL OPERATING</b>	-	-	INDETERMINATE	-	-	-
<b>CAPITAL</b>	-	-	-	-	-	-
<b>REVENUE</b>	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER (Specify Source)	-	-	-	-	-	-

POSITIONS:

FULL-TIME	-	-	-	-	-	-
PART-TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis.

Prepared By: Cathy A. Poe *Cathy A. Poe*

Division: Treasury

Phone: 465-2350

Date: 12/01/83

Approved by Commissioner: *Kent D. Keith*

Department: Revenue

Date: 1/9/84

Distribution:

- Original to Legislative Finance
- Copy to Office of Management and Budget (for Legislature introduced bills)
- Copy to Department (for Governor introduced bills)
- Copy to Sponsor
- Copy to Requestor (if different from Sponsor)

IV. ANALYSIS (HB 298)

This bill establishes a "National Petroleum Reserve, Alaska, Special Revenue Fund." It would be funded by receipts from the federal government for leasing of oil and gas tracts in the National Petroleum Reserve, Alaska (NPRA). The commissioner of revenue is to invest the fund. Monies of the fund are to be appropriated by the Legislature, half to the state and half to subdivisions in the state directly affected by oil and gas development in the NPRA.

Costs will be incurred; however, due to the fact that amount and grade of oil in the NPRA has not been determined, the size of the fund is unknown. Safekeeping, accounting, audit, and commission costs would be incurred each year the fund exists. This fund would be invested with the General Fund, but accounted for separately.

HB

320

#1

# MEMORANDUM

# State of Alaska

TO: Esther Wunnicke  
Commissioner

DATE: May 5, 1983

Department of Natural Resources FILE NO:

TELEPHONE NO: 465-3600

FROM: Norman C. Gorsuch  
Attorney General

SUBJECT: Overview of royalty  
oil contract terms

By: Robert M. Maynard *RMM*  
Assistant Attorney General  
Oil and Gas-Juneau

The state's royalty oil contracts are unique. Normally, oil sales contracts are for cash or equal amounts of oil, are for a relatively short term (three months to one year), and are very short documents (usually no more than three or four pages). In fact, large sales of oil are often accomplished merely by exchanging telex's, with industry custom filling in all non-expressed terms of the agreement. The flexibility of each company to respond to changes and conditions and the concern solely with price and quality of the oil sold allows these contracts to be generally sufficient. In addition, even the longer term contracts (up to five years) have clauses that allow either party to get out the contract, usually after each quarter, if they cannot continue to agree on the price of the oil sold.

The state's contracts, on the other hand, are unique in that not only are they long term (11 to 25 years), but also they have extensive and detailed provisions. The reason for the general difference is that the state is not in the oil market with the same goals as private companies. Nor does the state have a private company's flexibility.

Also, the state is much more risk adverse than the normal oil company. About 40 percent of total state revenues derive from the money the state gets for its royalty oil. Whereas a private company is often willing to "gamble" on making greater profit, the state interest is often more conservative.

Without taking "in-kind", the state would receive what the producers receive when they market their own oil. These companies, primarily Exxon, Sohio, and Arco, have large and expert marketing staffs and are generally able to approach or exceed the values the state could receive over the long term by a

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similar marketing effort. Therefore, if the state decides to take its oil in kind it is making a decision that it can get greater consideration for its oil when it sells than the companies as a whole receive when they market their oil. Under certain circumstances this can occur, but it must occur either through unusual circumstances or through the offering of a benefit for the sale of royalty oil that the companies do not offer when they sell their oil in the normal commercial transaction.

In any event, the state is otherwise guaranteed a certain level of revenues from royalty oil when it leaves it with the producers. Taking the oil in kind not only puts an element of risk upon the state that the state should try to minimize, but also entails other problems that make the sale of the royalty oil a more complicated transaction. One of these considerations is that the state as a government has procedures for the sale of oil that bind its flexibility much more than that of a private oil company. For example, the constitution gives the legislature the power to set the terms and conditions of royalty oil sales. The legislature in the past has not given (and there are strong arguments why it should not give) complete discretion and flexibility to one state official in daily transactions for the sale of 40 percent of the state treasury. The delegation of that much control and authority in such a high risk area has been viewed by the legislature as too much of a gamble. Consequently, the statutes set forth a very detailed and, to a private company, cumbersome procedure before the state can commit any significant quantities of royalty oil.

Another practical problem is that it would be extremely difficult for the state to duplicate the marketing expertise of the individual oil companies. First, large staffs would have to be manned with experts in the area. It is doubtful that the state could be able to hire those expert traders on a state salary system. The only alternative would be to hire those experts by contract or to give them a percentage of the transaction.

Even so, the state also doesn't have the backup facilities or expertise in the other aspects of oil transportation and sale that the majors have acquired. The state does not have the ability to instantaneously take oil from or give oil back to the producers -- instead, the state must give six months notice before it can force the producers to either give the state oil or take oil back in case of a problem. Consequently, the state must be prepared to arrange for or invest

in tankers, storage facilities, or other backup systems that would be necessary to handle oil on any emergency basis.

Because of these and other considerations, the state has not attempted to enter the day to day oil marketing business in the same manner as the rest of the industry. Not only would it be difficult to consistently outperform the majors in that type of business transaction, but also there are practical and political barriers to the state attempting to run its royalty oil business in that manner.

Instead, the state has attempted to take advantage of unique conditions for the sale of oil or has attempted to offer a unique advantage to the purchaser of royalty oil that that purchaser could not receive in a normal commercial oil transaction. The occurrence of conditions for the short term sale of royalty oil for greater cash consideration are few and far between -- they usually depend upon holes in the market created by government regulation (e.g., government price controls and entitlements). And, those short term sales are only available for relatively small volumes (20 to 50 thousand barrels a day) of oil. Examples of the state taking advantage of unique conditions for a sale are the 1979 sale back to the producers of royalty oil for the ceiling price (which netted the state approximately three to four hundred million dollars) or the auction of state royalty oil in 1980, which ultimately netted the state approximately 60 to 70 million dollars (even with the various bankruptcies and some companies walking on the state contracts).

Otherwise, there is only one unique advantage the state can offer in the world oil market -- a long-term royalty oil contract. The state is the only place in the world where a purchaser can receive a long-term guaranteed supply of oil from a secure source of supply. That guarantee of a long-term supply has some, often unquantifiable, worth which the state can lever into additional consideration above the market value of the oil itself (since market value is determined by the relatively short-term sales of Prudhoe Bay oil).

In offering long-term contracts, however, the state entered into an area for which there was no real precedent. There were no form contracts or proven provisions for long-term oil contracts. As has been seen in the last decade in the oil markets, there are many unknown changes in world circumstances which will occur over the term of the contract. Thus the contract would have to anticipate possible problems and protect the state in the event that an unknown danger arose. Not knowing the exact nature of that unknown condition made the task much

more difficult. In addition, because of the relatively cumbersome procedures for disposing of royalty oil, the state has much less flexibility in amending a contract when problems arise in the future.

One example of this problem is the determination of a price for the oil over the long-term. The price of world oil has gyrated wildly just in the past six years. Negotiating a price term without the benefit of price reopeners over the long-term is a difficult task -- no outside referent (such as OPEC postings, product worth, etc.) has proved to be a reliable guide for the value of Prudhoe Bay oil from year to year. Thus in negotiating for the additional consideration for the long-term nature of the contract, the state must first identify the base consideration that it would otherwise have received for those years. In other words, whether or not the state wishes that additional consideration be in cash or in non-monetary benefits (e.g., in-state processing or in-state supply), a key term is the underlying base consideration representing the short-term value of royalty oil for any particular year. An additional, and extremely important consideration here is that the monetary income for the base price of the royalty oil is a large component of total state revenues. Thus the price term that must be picked should not carry with it the risk of the state receiving less for its oil than it would have if it never entered into a royalty contract at all.

The only price term which accomplishes these purposes is tying the base of the royalty oil to that which the state would have received from the producers if it had continued to take the oil in value rather than in kind. This term would rise and fall over time in proportion to the other sales of North Slope crude oil, and thus be in line with the short-term value of that royalty oil. At the same time it would leave the state in the exact same position as if it had never taken the oil in kind at all.

Therefore the base price for the royalty oil contracts is the "in-value" price term. If the state wishes to take the additional consideration for the long-term nature of the contract in cash, the state would ask for a premium above the in-value price (for example, the in-value price plus thirty cents). If the state wanted non-monetary consideration, it would simply ask for the in-value price and then provide for that non-monetary consideration in other parts of the contract (for example, requiring that the oil be processed in state).

As a general matter, the bulk of the royalty oil contract, and all of the terms of the contract which are unique to the state's sale of oil, revolve around the long-term nature of that contract. On the one hand are those terms which deal with the additional consideration be given to the state because of the long term nature of the contract.

On the other hand are those terms which protect the state from potential adverse consequences of entering into a long-term royalty oil contract. These derive not only from the unknowns which would arise from entering into a contact over a number of years, but also the problems that the state faces from its lack of flexibility if an emergency should arise.

These terms in effect shift the risk of unknown conditions or adverse consequences from the state to the purchaser. It must be emphasized that these terms also represent "consideration" to the state for entering into a long-term contract. As an example, if the benefit of a long-term contract to purchaser is equal to one dollar, terms protecting the state from adverse consequences over the long-term might be worth 40 cents of that dollar (like paying for insurance), leaving the additional consideration available for the cash portion of the price term to be only 60 cents. In other words, every time the state insists on being protected from adverse consequences, it reduces the state's ability to demand greater benefits for in-state benefits or cash from the purchaser.

And, as a matter of policy, the state has decided that if it is to make concessions in the negotiation process, it would make no concessions on those provisions which protect the state from adverse consequences. Consequently, the state, if necessary, would make some concessions in the area of guaranteeing the additional benefits, and make many more concessions on those relatively minor benefits that might be added to the contract. For example, the state would not budge from the stringent guarantees that would require the purchaser to pay the in-value price or guarantee its payment (e.g., a letter of credit for 60 days worth of oil which would require no documentation whatsoever to be submitted for instant payment except for the signature of the Attorney General and the Commissioner of Natural Resources). On the other hand, for in-state processing requirements the state was willing to give a little bit and make those provisions protections against abuse by the purchaser rather than absolute guarantees that certain goals would always be reached. In other words, the in-state processing and in-state supply provisions provide for minimum benchmarks that must be met, and rely upon market conditions in Alaska to

extract the greater benefits that may be realized. In the Tesoro ANS contract, for instance, the contract provides that all oil sold must be run through the plant, and at least 32% of that oil be converted to products marketed in Alaska. The proposed Tesoro plant, however, could produce a much higher percentage of product if Alaska demand required. The contract does not demand that higher percentage; rather, it relies on the market to realize that additional in-state use. It should be emphasized that these concessions were made in exchange for concessions by the purchaser to give the state protection against adverse consequences.

Specifically, there are four general types of provisions that the state has considered essential to protect its long-term interest. First, there are terms that insure that the state will be paid the amount that it would have received from the producers if it had not taken the royalty oil in kind, but instead had left the oil in value (the "in-value price"). These include provisions that insure that in-value is the price paid, and assure the payment of that amount in case adverse circumstances arise. Provisions of the standard contract which implement these principles include Article 2.3 (price of royalty oil); Article 2.8 (absolute obligations); Article 5 (payments and accounting); Article 8.2 (inability to receive oil); Article 14 (sovereign power of the state); Article 12 (disposal of oil upon default or termination); Article 15 (security); Article 19 (amendment); and Article 23 (interpretations of terms and conditions).

Second, there are a group of terms which are designed to assure that the state is never in physical custody of the oil, or is otherwise left without someone to pick up the oil at Pump Station Number 1. First, such a situation might result in the state having to sell the oil at distressed prices without the hopes of ultimate recovery from a credit worthy party. Second, the state is simply not equipped, both legally and practically, to make instantaneous dispositions of oil on the spot market. Third, because of the limited storage capacity for oil at Valdez, it would not take very long for unlifted oil to back up at Valdez and potentially shut down the pipeline. Such an event would have disastrous consequences on all state revenues. In addition, this category of terms also provides that the state is never in physical custody of the oil: that the transfer of oil from the producers to the state and the state to its purchaser is an instantaneous transaction and that all risk passes to the purchaser at the time and point the state receives delivery of the oil. Thus these provisions provide that the purchaser must instantaneously accept delivery, that the state can force the

purchaser to take delivery under all imaginable circumstances, or that in an emergency the state can take the oil from a purchaser and sell to a third party without interference from the original purchaser (this is to prevent the purchaser from tying the disposition of oil during a disagreement). Examples of these provisions are Article 7 (default), Article 8 (disposition of oil upon default or termination), and Article 11 (force majeure).

A third category of provisions are those provisions that protect the state from the purchaser using an excuse or other legal argument to attempt to get out of their obligation to pick up the royalty oil and pay for it. Thus the state insisted on stringent conditions concerning default, force majeure, and provisions which would provide that the state would not warrant anything except that it had title to the oil. Examples of these provisions are Article 2.1 (quantity); Article 2.2 (quality); Article 2.4 through 2.6 (point and time of delivery, risk,); Article 4.1 (measurement); Article 18 (disclaimer of warranties); Article 7 (default or termination); Article 8 (disposition of oil); Article 2.8 (absolute obligation); Article 5.7 (late payment); and Article 5.3 (payment).

These provisions provide as close to complete protection as the state could reasonably devise by a contract. In addition, to cover the situation where the purchaser may argue that the contract might be ambiguous or vague when it attempted to be applied to some presently unforeseen event, the state insisted in Article 23 that such disagreements would first be resolved by the commissioner, and that the commissioner would make the initial determination of what the word, term, or application of that word, term or condition would be. In addition, the purchaser contracts to agree to accept that interpretation along as there is substantial evidence supporting the commissioner's findings, which is a standard of review similar to the limited review a court gives a finding of fact by a state agency when it is in its regulatory capacity. In addition, the state inserted some terms and conditions which would allow the state to monitor the purchaser's actions to see if there is any indication that the purchaser might be considering abandoning its obligations under the contract. Such provisions include Article 2.7 (transportation arrangements); Article 3.2 -- 3.3 (financial condition); and Article 22 (records).

In these areas the state insisted on extremely stringent conditions, and for the most part refused to consider any alteration even though it was recognized that these conditions would put burdens on the purchaser not matched any

where in the world under other oil contracts. These provisions were born from the experiences the state has undergone over the past seven years, including the present price dispute with the Alaska Oil Company, a previous bankruptcy of one of the state's purchasers (Energy Cooperative, Inc.), and the abandonment of the royalty oil contract by Alaska Petroleum Company. These terms were reviewed by outside counsel, who also suggested a number of the terms inserted in these contracts.

Although it is impossible to totally protect the state under all conceivable circumstances simply by a contract, there is little question that overall the state has the tightest oil contract in the world. Although this is a little like saying a person has the best sight in a room full of blind people (given the loose and flexible nature of almost all other oil contracts), it does provide a quantum level of increased protection for the state over any other oil contract known.

Like money spent for insurance, however, some premium must be paid by the insistence of the state upon such stringent conditions. Again, since the state was not willing to grant any concessions on terms it considered vital to protect it against risk, the state was not in a position to require as stringent provisions in the other terms of the contract dealing with the additional consideration. Thus in the in-state processing and in-state supply portions of the contract (the non-monetary consideration) the state was not able to insist upon stringent performance guarantees or other provisions which would require the purchaser to produce products in Alaska at a loss or break even point. Nor was the state in a position to insist upon levels of production or in-state processing which were above those reasonably required by Alaska market demand.

Instead, the in-state processing and supply provisions provided "sideboards" or minimum provisions that would protect the state against abuses by the purchaser from the intent of the contract. In other words, the state insisted that the oil be processed in an in-state refinery, that that refinery actually produce significant amounts of products, and that the purchaser otherwise exercise its best efforts to produce and market in Alaska some minimum quantity of oil products. The state left to the local demand the other economic decisions of the local refiner to increase production above that minimum quantity to either meet demand or increase market share.

Therefore, there are provisions in the contract which are designed to assure that to the extent the market in Alaska would support the economic processing and marketing of oil

products within the state, the oil sold to the purchaser would be processed and marketed in the state. Examples of these articles are Article 2.9 (date of first delivery -- in the Tesoro ANS contract); Article 2.10 (performance guarantee and reservation fee); Article 2.11 (in-state processing); Article 2.12 (best efforts); Article 3.5 (option to purchase resid). As a subsidiary matter, there are also provisions which are designed to assure that the purchaser is not asking or taking more oil than their in-state needs would require (and thus be actually used for some out of state benefit). Article 2.1 (quantity) and Article 2.10 (performance guarantee) are examples of those types of articles which are designed to assist in that goal.

Finally, the state negotiated for some additional benefits, but did not insist upon many guarantees of those benefits. These additional minor benefits could someday be very valuable, but were not considered the primary consideration for the long-term contract. Examples of these provisions are Article 3.4 (expansion); Article 3.6 (petroleum coke); and Article 16 (local hire).

RMM:jf

PRESENTATION BEFORE THE JOINT MEETING OF THE  
HOUSE AND SENATE RESOURCES COMMITTEE IN JUNEAU, ALASKA  
ON APRIL 20, 1983

I AM ROBERT J. ALFREY, GENERAL MANAGER OF THE WESTERN REGION, SUPPLY & DISTRIBUTION DEPARTMENT FOR CHEVRON U.S.A. INC. IN SAN FRANCISCO.

FOR MANY YEARS, CHEVRON WAS A NET SELLER OF CRUDE ON A WORLD-WIDE BASIS. DURING THAT PERIOD, WE NEVER REQUESTED CONSIDERATION FOR PURCHASE OF ROYALTY OIL. HOWEVER, IN THE LAST FEW YEARS, THE WORLD SUPPLY OF OIL HAS CHANGED AND CHEVRON HAS BECOME A NET PURCHASER OF CRUDE TO MEET THE REQUIREMENTS OF OUR REFINERIES.

CURRENTLY, CHEVRON IS THE ONLY IN-STATE REFINER NOT PURCHASING ROYALTY OIL FROM THE STATE UNDER A LONG-TERM CONTRACT. LAST YEAR, WE SPENT CONSIDERABLE TIME NEGOTIATING A LONG-TERM CONTRACT WITH THE STATE BUT WERE NOT ABLE TO FINALIZE AN AGREEMENT BEFORE THE LEGISLATURE ADJOURNED.

SOME OF YOU ARE AWARE THAT WE HAVE BEEN REQUESTING 38,000 BPD OF ROYALTY OIL FROM THE STATE -- 18,000 BPD FOR OUR NIKISKI REFINERY AND 20,000 BPD FOR PROCESSING IN OUR CALIFORNIA REFINERIES -- TO MAKE THE MORE THAN 12,000 BPD OF PRODUCTS THAT WE BRING TO ALASKA FROM CALIFORNIA. BOTH WESTERN ALASKA AND SOUTHEAST ALASKA ARE SUPPLIED FROM OUR CALIFORNIA REFINERIES BECAUSE IT IS MORE ECONOMIC TO DO SO.

THE CALIFORNIA REFINERIES PRODUCE AVIATION GASOLINE AND ASPHALT CHARGE STOCK WHICH CANNOT BE PRODUCED BY ANY ALASKAN REFINERY. THE 18,000 BPD LONG-TERM CONTRACT, WHICH IS THE SUBJECT OF TODAY'S HEARING, ONLY PARTIALLY MEETS OUR OBJECTIVE FOR A TOTAL VOLUME OF 38,000 BPD.

WE PLAN TO CONTINUE DISCUSSIONS WITH THE DEPARTMENT OF NATURAL RESOURCES FOR THE ADDITIONAL 20,000 BPD OF ROYALTY CRUDE AND WOULD HOPE TO HAVE AN EXECUTED CONTRACT THROUGH THE ROYALTY ADVISORY BOARD AND WAITING FOR LEGISLATIVE APPROVAL AT THE START OF THE 1984 SESSION.

HOWEVER, IT IS ESSENTIAL TO CHEVRON THAT THIS 18,000 BPD LONG-TERM CONTRACT BE APPROVED BY THE LEGISLATURE THIS YEAR TO ENSURE OUR HAVING A CONTINUOUS SUPPLY OF CRUDE FOR NIKISKI. SUCH ACTION WOULD BE CONSISTENT WITH CONTRACTS THE STATE HAS ALREADY MADE WITH ALL OTHER IN-STATE REFINERS, EXCEPT CHEVRON.

WE ARE AWARE THAT SOME QUESTIONS ARE BEING RAISED AS TO THE BEST DISPOSITION OF ROYALTY OIL INCLUDING COMPETITIVE BIDDING AND EVEN EXPORT TO JAPAN. CHEVRON REPRESENTATIVES FIRST APPEARED BEFORE THE ALASKA ROYALTY OIL AND GAS ADVISORY BOARD OVER THREE YEARS AGO AND REQUESTED THAT THE STATE SELL CHEVRON NORTH SLOPE ROYALTY OIL. AT THAT TIME, WE SAID IT WAS NOT REASONABLE FOR THE STATE TO EXPECT TO SELL NORTH SLOPE ROYALTY OIL TO COMPANIES WHICH DO NOT OPERATE REFINERIES OR MARKET PRODUCTS IN ALASKA, AND THEN EXPECT EXISTING ALASKAN REFINER/MARKETERS TO CONTINUE TO BE ABLE TO MEET THE PRODUCT REQUIREMENTS IN ALASKA WHILE FACING RAPID DECLINES IN CRUDE AVAILABILITY. THIS STATEMENT IS STILL APPROPRIATE TODAY, AS CHEVRON'S WORLD-WIDE CRUDE SUPPLY HAS CONTINUED TO DECLINE SINCE THAT TIME.

CHEVRON WAS THE FIRST COMPANY TO MARKET PETROLEUM PRODUCTS IN ALASKA STARTING IN 1889 AND HAS SERVED ALASKA CONTINUOUSLY SINCE THAT TIME. WE ARE THE ONLY STATEWIDE MARKETER AND ARE THE SOLE SUPPLIER OF PETROLEUM PRODUCTS IN FOURTEEN COMMUNITIES. CHEVRON SUPPLIES ABOUT 27,000 BPD OR SOME 36 PERCENT OF THE LIGHT PRODUCTS USED IN THE STATE. IN ADDITION, CHEVRON OPERATES THE ONLY FINISHED PRODUCT TANKER BASED IN ALASKA -- THE "ALASKA STANDARD" -- WHICH IS DEDICATED TO SERVING ALASKANS IN REMOTE AREAS. IN ADDITION TO THIS TANKER, WE HAVE EXTENSIVE AND EXPENSIVE BARGING OPERATIONS IN THE BRISTOL BAY, BERING SEA AND SOUTHEAST ALASKA AREAS.

CHEVRON BUILT THE FIRST MODERN REFINERY IN ALASKA WHICH STARTED OPERATING IN 1963. IN ADDITION TO LIGHT PRODUCTS, WE HAVE HISTORICALLY MADE ABOUT 70 PERCENT OF THE STATE'S REQUIREMENT FOR ASPHALT AT NIKISKI AND WILL PROBABLY SUPPLY 100 PERCENT THIS YEAR, AS THE OTHER SUPPLIER HAS WITHDRAWN FROM SELLING ASPHALT IN ALASKA.

THE INDUSTRY HAS SEEN REDUCED DEMANDS RESULTING IN EXCESS REFINING CAPACITY NATIONWIDE, AND A SUBSTANTIAL NUMBER OF REFINERY CLOSINGS HAVE OCCURRED. CHEVRON, TOO, HAS REVIEWED CRITICALLY THE OPERATION OF ALL OUR REFINERIES. ABOUT THREE WEEKS AGO, WE ANNOUNCED PLANS TO SHUT DOWN ONE OF OUR LARGER REFINERIES ON THE EAST COAST WITH A CRUDE CAPACITY OF 168,000 BPD, AS IT WAS NO LONGER ECONOMIC TO PRODUCE LIGHT PRODUCTS IN TODAY'S ENVIRONMENT. NEEDLESS TO SAY, WE CONTINUE TO MONITOR VERY CLOSELY THE ECONOMIC CONTRIBUTION OF EACH OF OUR REFINERIES.

CHEVRON HAS APPROXIMATELY 190 EMPLOYEES IN ALASKA DIRECTLY ASSOCIATED WITH THE VARIOUS OPERATIONS WE ARE INVOLVED IN. IN ADDITION, WE DO BUSINESS WITH ABOUT 190 INDEPENDENT RETAIL DEALERS WHO EMPLOY 800 PEOPLE AND 69 JOBBERS AND AGENTS WHO EMPLOY OVER 300 PEOPLE. IN TOTAL, CHEVRON'S INVOLVEMENT IN THE PETROLEUM INDUSTRY IN ALASKA RESULTS IN THE DIRECT AND INDIRECT EMPLOYMENT OF ALMOST 1300 PEOPLE.

ALL OF YOU ARE QUITE AWARE OF THE ROYALTY INCOME GENERATED FOR THE STATE AS A RESULT OF THE PETROLEUM INDUSTRY IN ALASKA. FOR MORE THAN TWENTY-FIVE (25) YEARS, CHEVRON HAS BEEN THE OPERATOR OF ALASKA'S FIRST MAJOR PRODUCING OIL FIELD -- THE SWANSON RIVER FIELD.

IN ADDITION TO OUR LARGE VISIBLE INVESTMENTS IN ALASKA IN THE NIKISKI REFINERY AND SOME 260 SERVICE STATIONS AND BULK PLANTS THROUGHOUT THE STATE, WE HAVE MADE LARGE EXPENDITURES -- NOT QUITE SO VISIBLE -- IN EXPLORING FOR NEW OIL FIELDS, WHICH IF SUCCESSFUL, WOULD GENERATE ADDITIONAL ROYALTY INCOME FOR THE STATE. OVER THE PAST FIVE (5) YEARS ALONE, CHEVRON HAS SPENT A TOTAL OF \$598 MILLION IN CAPITAL EXPENDITURES AND OPERATING EXPENSES IN ALASKA IN OUR CRUDE OIL EXPLORATION AND PRODUCTION ACTIVITIES. IN ADDITION, OUR MARKETING DEPARTMENT CAPITAL EXPENDITURES AND OPERATING EXPENSES HAVE BEEN APPROXIMATELY \$100 MILLION DURING THIS FIVE (5) YEAR PERIOD FOR A COMBINED TOTAL BY CHEVRON OF JUST UNDER \$700 MILLION. THIS IS AN AVERAGE OF ABOUT \$140 MILLION PER YEAR WHICH WAS PUT INTO THE STATE'S ECONOMY IN ONE WAY OR ANOTHER.

THE STATE HAS ABOUT 197,000 BPD OF ROYALTY OIL FROM THE NORTH SLOPE, INCLUDING KUPARUK. OF THIS VOLUME, ABOUT 81,000 BPD IS COMMITTED TO IN-STATE REFINERS UNDER LONG-TERM CONTRACTS AND THE BALANCE OF ABOUT 110,000 BPD HAS BEEN LEFT WITH THE PRODUCERS, WHO ARE EXPORTING THE OIL TO THE LOWER 48 STATES. OVER HALF OF THE VOLUME BEING EXPORTED IS GOING THROUGH THE PANAMA CANAL TO THE GULF COAST AREA FOR SUPPLYING PRODUCTS IN THAT AREA, AND THE STATE, IS IN EFFECT PAYING THE TRANSPORTATION COST FROM ALASKA TO THE GULF COAST THROUGH LOWER REALIZATIONS FROM THE PRODUCERS. NONE OF THE THREE LARGEST PRODUCERS EXPORTING ROYALTY OIL RETURN PRODUCTS TO ALASKA FOR USE BY THE RESIDENTS IN ALASKA. IN CONTRAST, AS MENTIONED EARLIER, CHEVRON BRINGS OVER 12,000 BPD OF PRODUCTS TO ALASKA FROM OUR CALIFORNIA REFINERIES TO SUPPLEMENT THE PRODUCTS MADE AT OUR NIKISKI REFINERY. ONE OF THE PRODUCTS WE BRING TO ALASKA IS AVIATION GASOLINE, OF WHICH CHEVRON SUPPLIES ABOUT 80 PERCENT OF THE STATE'S TOTAL REQUIREMENT.

THE STATE HAS THE ALTERNATIVE OF (1) LEAVING 18,000 BPD OF ROYALTY OIL WITH THE PRODUCERS FOR EXPORTING TO THE LOWER 48 TO MAKE PRODUCTS IN THE GULF COAST AREA, OR (2) SELLING THIS VOLUME OF ROYALTY OIL TO CHEVRON UNDER A LONG-TERM CONTRACT AT A HIGHER PRICE THAN THE STATE WILL RECEIVE FROM THE PRODUCERS. OUR CONTRACT WILL PROVIDE THAT WE REFINER THE OIL IN-STATE AT OUR NIKISKI REFINERY AND CONTINUE TO SUPPLY THE PRODUCT NEEDS OF THE CONSUMERS IN ALASKA INCLUDING DIESEL, HEATING OILS, JET FUELS, AND ASPHALT. A SALE TO CHEVRON WILL RESULT IN ALL IN-STATE REFINERS HAVING LONG-TERM CONTRACTS FOR ROYALTY OIL AND

THEREBY RECEIVING THE BENEFITS OF USING LOWER PRICED ROYALTY OIL FOR IN-STATE PROCESSING. I DO NOT BELIEVE ANYONE CAN ARGUE THAT SUCH USE OF THE ROYALTY OIL IS NOT IN THE BEST INTEREST OF THE STATE AND ITS CITIZENS.

IN CLOSING, WE SINCERELY HOPE THAT THE LEGISLATURE WILL DETERMINE IT IS IN THE BEST INTEREST OF THE STATE AND ITS CITIZENS TO MAKE A LONG-TERM CONTRACT WITH CHEVRON, A COMPANY THAT HAS HISTORICALLY DONE BUSINESS IN ALASKA, HAS SIZABLE INVESTMENTS IN THE STATE AND WOULD LIKE TO CONTINUE OUR MAJOR INVOLVEMENT IN SERVING ALASKA.

I WILL BE HAPPY TO ANSWER ANY QUESTIONS THAT YOU MAY HAVE.

THANK YOU.

COMMENTS TO  
JOINT MEETING OF THE SENATE AND HOUSE  
RESOURCE COMMITTEES  
APRIL 20, 1983  
JUNEAU, ALASKA

On January 26, our Board of Directors gave tentative approval to proceeding with a major expansion and modification of our Kenai refinery. The project includes an increase in crude oil processing capacity from 48,500 B/D to 80,000 B/SD, an expansion of the existing atmospheric gasoil hydrocracker from 7,500 B/D to 9,000 B/D, and the construction of a 14 million-cubic-foot per day hydrogen plant and 14.2 tons per day sulphur plant. Additional process units to maintain air and water quality and other facilities to accommodate the increased refinery capacity would also be constructed. When completed, the Kenai refinery would be capable of processing 100 percent higher sulphur Alaskan North Slope-type crude. <sup>Currently, the refinery is limited to processing only about 10% ANS type S&W Crude and 90% Cook Inlet type Sweet Crude.</sup> Engineering is in progress and orders for major process units are ready to be placed.

The project is estimated to cost \$80 to \$90 million and could be completed in mid-1984. At capacity, the expanded refinery would be capable of supplying 100 percent of the expected demand in our market area for motor gasoline, aviation turbine fuel, diesel and heating oil in Alaska for the decade of the '80s.

As with any significant refinery project, the assurance of a long term supply of crude is of critical importance. We have tried many times as our

refinery has expanded over the years, to acquire a long term supply of crude direct from producers. We have never been successful in those efforts and have had discussions in this regard with all the major producers as recently as within the last month. The response is still the same: Crude can be made available, but only on a short term basis and, in some cases, with the obligation that we provide the supplier with crude oil in some other location on exchange for as much as 50 percent of the total volume. Obviously, it would be difficult to justify spending \$80 to \$90 million on a refinery expansion with no assurance that crude would be available for more than one year at a time.

*Until last year, Tesoro had tried unsuccessfully since 1975 to purchase our Royalty Crude. Royalty Board records will show that Tesoro protested strongly when in 1977 the Royalty Board denied Tesoro's request for Royalty Crude and chose instead to make an award to the informant Alpetco.*

In 1981, the Department of Natural Resources issued a broad solicitation for proposals for the utilization of ANS royalty crude. Tesoro Alaska was one of 27 respondents to that solicitation. Our proposal was that we be allowed to purchase approximately 70,000 barrels per day of ANS royalty crude, half of which was to be sold to us with certainty and the other half was to be sold to us if and only if we proceeded with the refinery expansion which was then under study. Because Tesoro could not at that time irrevocably commit to go forward with our project, the Department of Natural Resources, as published in its January 1, 1983 Review of Alaska Royalty Oil document, stated, "Since Tesoro could not make a firm commitment to an expansion at the time, the State declined to further consider expansion volume . . ."

I truly wish we could have made the expansion commitment in 1981, but preparation for projects of this magnitude simply take time. We are moving

forward now and I sincerely hope that you will follow through in support of this project which had its beginning over two years ago.

It is by no means our first project, as most of you well know. We have already invested over \$120 million in our Alaskan operations since rather humble beginnings in 1969 and will be approaching one-quarter of a billion dollars invested when the proposed expansion is completed. That means, incidentally, that we have reinvested in Alaska substantially more than the cumulative net after tax earnings of our Alaskan operations since we first opened our doors in 1969.

- We will have grown from 14 employees in 1969 to over 200 when complete with a payroll in excess of \$7 million annually. Two-hundred-fifty (250) to 300 workers will be employed during the construction phase.
- State income taxes have increased from \$4,000 in 1969 to over one-half million dollars annually today; ad valorem taxes tripled to one-half million per year and annual sales, use, and excise taxes have increased from \$8,000 in 1969 to over \$7.6 million today.
- The purchase of local goods, services and supplies, exclusive of capital projects and payrolls, has increased from \$1.6 million in 1969 to over \$13 million per year currently.

This represents a direct economic impact in Alaska of more than \$27.5 million every year, and growing.

Through aggressive marketing, over 100 dealers, jobbers and distributors are now affiliated with Tesoro, providing in excess of 1,200 additional jobs for residents of Alaska, not only in the major metropolitan areas of Anchorage, Fairbanks and Kenai, but in more remote areas such as Delta Junction and Tok as well.

In recent Royalty Board meetings, there were three general areas of discussion relative to the proposed sale of ANS royalty crude to Tesoro Alaska. I would like to provide you with information regarding each of those areas, which I feel will be helpful to you in reaching a decision. I also believe that when you evaluate the facts, good judgement and the best interest of your constituents will favor your support of the sale of royalty crude to our company.

First, let's review the implication of the Charter Security Life Insurance Companies' recent acquisition of common and preferred equity of Tesoro Petroleum Corporation. By contract, a copy of which has been furnished to the Royalty Board, the Attorney General and the Governor, Charter Security Life Insurance Companies have agreed to limit the percentage of voting securities they may own in Tesoro Petroleum Corporation to not more than 30 percent. On March 17, our General Counsel testified before the Royalty Board as to

the nature of that agreement, and outlined the numerous constraints placed upon the Charter insurance companies with respect to voting, proxy solicitation, first refusal rights of Tesoro to buy back the shares should Charter attempt to make any distribution of the equity during the term of the agreement and preemptive rights to buy back the stock upon the termination of the agreement. Tesoro has had the strength of these restrictions and the enforceability of the agreement reviewed by one of the top corporate law firms in the U.S.-- Dewey, Ballantine, Bushby, Palmer & Wood, whom you may recognize as the firm which successfully represented Martin-Marietta Corporation in their recent takeover defense. In addition, the agreement has been reviewed by the New York Stock Exchange and filed with the Securities and Exchange Commission. Of no insignificant consequence is the fact that there is another block of Tesoro equity in the hands of a group who absolutely have no interest in seeing Charter Security Life or any other company make an attempt to take over Tesoro. Directors, officers and employees of the Company are the actual and/or beneficial owners of approximately one million shares of Tesoro equity, which represents about eight percent of the current outstanding common stock of the Company. The cold, hard facts are quite simple: Expert legal opinion is that Charter Security Life Insurance Companies' security ownership in Tesoro does not in any way constitute control and that there is an enforceable contract which restricts their ability to gain control in the future.

If these restrictions were not sufficient protection in and of themselves, and by any definition of "reasonable restrictions" they should be, the State

has written into the proposed ANS royalty crude contract a clause which gives the State unilateral authority to summarily cancel the crude oil contract with Tesoro should Charter ever gain control. I truly do not understand why that single club alone in the hands of the State doesn't render the entire Charter subject moot. But on the other hand, perhaps I do understand. Sunny Carpenter of Interior Energy Corporation in Fairbanks stated it quite simply in her testimony to the Royalty Board two weeks ago: The Charter subject is a red herring, or better yet, a rotten red herring. It has been suggested to me that, as distasteful as it may seem, some people feel that because of Charter Security Life Insurance Companies' investment in Tesoro, the proposed royalty crude contract (or the withholding of its approval) can be used as leverage to pressure Tesoro into pressing Charter to settle its litigation with the State of Alaska. If that is true, it is a cruel trick that is being played on the many Alaskans who stand to benefit from our project and it is totally repugnant to me as a businessman. Charter does not control Tesoro and Tesoro certainly cannot influence or control Charter. *Consideration should be given to the*

~~\_\_\_\_\_~~

~~\_\_\_\_\_~~ people who would otherwise have new permanent jobs with our company and the 300 unemployed construction workers who might otherwise have good jobs next summer, and to the many local suppliers of goods and services who would have shared in the benefits of our growth, and to the local and regional governments who would receive increased tax revenues.

In the last Royalty Board meeting, the matter of contract term was discussed. I explained as best I could, the need for a supply of crude for a sufficient term to assure amortization of the investment and a reasonable return thereon. Any businessman will tell you that if someone suggests that he can predict earnings with accuracy over time, he is either a genius or a fool. In most businesses, you base capital investments on your best estimate of future income streams. In the current unstable refining environment, the probability of achieving a relatively short payout of five to seven years is not great. In fact, today, refinery margins are, on average, negative. Last year you heard Doyon testify that their bank group would not even consider financing their proposed refinery project without an assured crude supply of around 12 years. If there has been any change in the industry since last year, it's been for the worse, not better.

I would like to share two letters with you. One from Lazard Freres, a leading U.S. investment banking firm, and one from Manufacturers Hanover Trust Company, a top U.S. commercial bank. As you can see, these two financial institutions who are among the top in their field, feel quite strongly that, among other things, a long-term, secure source of crude for a term in the range of 10 to 12 years is one of several critical requirements from a financing perspective, in any major refinery project.

If you feel my own representations regarding the need for a long-term supply of 10 to 12 years are perhaps unduly biased, I urge you to give due

consideration to the expert opinions of these two highly respected financial institutions.

The third topic of discussion concerned the fundamental wisdom of using 26,000 B/D of the approximately 96,000 B/D of currently uncommitted ANS royalty crude to support the expansion of in-state refining. It was suggested that perhaps the best interest of the State might be served by delaying a decision, thinking that federal legislation to permit the exportation of ANS crude might be possible in the near future, resulting in an increase in the price of ANS crude and thereby increasing Alaska's royalty and tax revenues. You are probably aware that there are about four or five different acts which deal with the exportation of crude oil and that there is intense lobbying for both sides taking place in Washington right now. While I have serious doubts that the removal of all the obstacles to exportation will be accomplished in the next year or so, let's assume that the effort is successful. What would be the result with respect to our proposed contract?

First, the value of ANS crude should increase, but if it does, so does the average price at pump station one and, therefore, so does the price Tesoro Alaska pays for its royalty crude, since our price is based upon that average at pump station one . . . plus, please remember, we have also agreed to pay to the State of Alaska a premium on top of that average that will exceed \$33 million over the term of the contract. Thus, unless the State believes that it can out-perform the average in selling crude oil, the State

will always be ahead, in terms or price, by selling the crude to Tesoro Alaska. But under any circumstance, the State, by awarding this contract to Tesoro is by no means disposing of all its royalty crude. There will still be a very substantial volume uncommitted after satisfying our contract, with which the State may do any number of things, including playing the export game, if it chooses. In addition, under the terms of our contract, the State has call on all of our residual fuel production, which at full capacity, could amount to 30- to 35,000 B/D, which could be exported, sold to someone who wanted feedstock for a coker, used to make coal-oil mixtures, or whatever.

Second, if the State chooses to ignore the price consideration and exports the crude, they have effectively exported jobs and tax base which would otherwise accrue to Alaskans. Why should Alaska send a critical raw material to Japan or Korea to have value added by foreign labor when we have Alaskan refineries and labor ready, willing, and able to do the same right here at home?

Third, what happens if there is another major interruption of worldwide crude supplies as there was in 1974 and again in 1978? True, the shipments to Japan and Korea could probably be curtailed in three to six months, but what about the refining capacity to turn that crude into products in Alaska?

You certainly can't build refineries in just a couple of months, or even a couple of years. *If you lived in Alaska in 1973-74 or 1978-79, and watched the national news, etc.* In November 1980, the Royalty Board reviewed the criteria

for the disposition of royalty crude in the context of the royalty crude auction which was then being contemplated by the Department of Natural Resources.

I would like to quote the comment <sup>of Don Wald, Executive Director of the Royalty Board</sup> addressing criteria (2) which deals with the projected and present local and regional needs for refined products:

" . . . although existing economic conditions exist which allow imported products to economically compete with products refined locally, it seems illogical for this to continue in the long term. Further, it would seem to be in the State's interest, from a security of supply point of view, to have Alaska-consumed products refined in Alaska if economically possible . . . This problem could be particularly serious should a major world crisis occur, such as the shutdown of the Middle East, creating a serious worldwide shortage which may require lower 48 refiners to discontinue the less economic Alaska market."

I think ~~that~~ those words holds as true today as it did almost three years ago.

I was in Washington, D.C. last Wednesday and spoke with Senator Murkowski who, as you all know, has been carrying the banner for allowing the export of ANS crude. I expressed enthusiasm that the opportunity might exist for Alaska to increase its revenues; but at the same time, concern, that exportation might impact future product availability in Alaska by limiting royalty crude available for in-state refiners. The



Official Business

# Alaska State Legislature

Pouch V  
State Capitol  
Juneau, Alaska 99811

April 26, 1983

Rep. John Ringstad, Co-chairman  
and Members  
House Resources Committee

Dear Rep. Ringstad:

This letter is written in support of the Tesoro Alaska and Chevron USA Royalty Oil contracts which are pending before your committee.

AS 38.05.183(d) states in pertinent part, "Oil or gas taken in kind by the state as its royalty share may not be sold or otherwise disposed of for export from the state until the commissioner determines that the royalty-in-kind oil or gas is surplus to the present and projected intrastate domestic and industrial needs." Commissioner Wunnicke has found that there is a need for in-state refining. Based on those findings and based upon the benefits which can accrue to the state, we believe that the 13th Legislature should go forward in a positive manner with these contracts.

Both Chevron USA and Tesoro Alaska have been extremely good corporate citizens of our community. The Chevron refinery has been in operation 20 years and Tesoro 14 years. During this time they have provided a stable product supply for the state and a stable work force in our area. Both have been community leaders, especially in the establishment at the Kenai Peninsula Community College of the first oil technology program in the state of Alaska. Not only do they provide expertise, equipment, and direction, they hire many of the graduates.

Approximately three years ago, Tesoro expanded the present refinery. Over 90% of the labor force on that expansion came from the local community. All sub-contractors, except those used for some technical applications, were from local contracting firms. Since our unemployment this winter has been running in excess of 20%, the expansion of the Tesoro facility, which would employ 300 workers, is a real shot in the arm for our economy. The 25 or so ongoing jobs also add another

AGO 786440 +

Rep. John Ringstad  
and Members, House Resources  
April 26, 1983  
Page 2

dimension to the stabilization of the community. Needless to say, the 80-90 million dollar added tax base will more than pay its own way for any additional community services.

Last year Tesoro Alaska could probably have secured the 26,000 additional barrels of royalty oil had they been in the same position as they are now - that is to commit construction dollars. In fact much of the testimony in last year's hearing was based on the now proposed addition. There is no question that Tesoro Alaska was encouraged to proceed with plans for expansion.

This past October, Chevron was awarded 18,000 barrels for their Nikiski refinery. While that was for only one year, the findings by both Commissioner Katz and Commissioner Wunnicke were the same. The oil is needed to ensure a stable supply of products in the state.

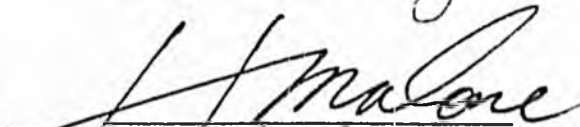
In summary, execution of these contracts by the state would help diversify Alaska's economic base, creating jobs and providing a secure supply of petroleum products. This is consistent with current state policy established by law. We believe the contracts should be approved.

We wish to thank you for your time and consideration of this matter.

Sincerely,

  
Rep. Milo Fritz

  
Senator Don Gilman

  
Rep. Hugh Malone

  
Senator Paul Fischer

\_\_\_\_\_  
Rep. Bette Cato

CONTENTS OF FILE  
ON  
ROYALTY OIL CONTRACTS

- A) COPY OF REMARKS BY TESORO REPRESENTATIVE
- B) COPY OF REMARKS BY CHEVRON REPRESENTATIVE
- C) MEMO OF EXPLANATION ON CONTRACTS
- D) COPY OF LETTER OF AGREEMENT FROM TESORO
- E) COPY OF HB 320 WITH FISCAL NOTE AND GOVERNOR'S TRANSMITTAL LETTER
- F) COPY OF HB 370 WITH FISCAL NOTE AND GOVERNOR'S TRANSMITTAL LETTER
- G) COPY OF HB 371 WITH FISCAL NOTE AND GOVERNOR'S TRANSMITTAL LETTER
- H) COPY OF STOCKHOLDERS AGREEMENT BETWEEN CHARTER AND TESORO
- I) COPY OF CONTRACTS, WITH COMMISSIONER WUNNICKE'S COVER LETTER
- J) RESOLUTIONS FROM ROYALTY OIL BOARD



# Resource Development Council

for Alaska, Inc.

444 West 7th Avenue, Anchorage, Alaska 99501

Box 100516, Anchorage, Alaska 99510 — 907/278-9615

May 2, 1983

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Joe Hayes, Speaker  
Alaska House of Representatives  
Pouch V  
Juneau, Alaska 99811

SUBJECT: Royalty  
Oil Legislation

MAY 3 1983

Dear Mr. Hayes:

As an organization devoted to fostering responsible economic development within Alaska, the Resource Development Council reviews measures introduced in the legislature and comments on those we feel may have significant influence on our state's economy. It was, therefore, with strong interest that we reviewed House Bills 370 and 371 and Senate Bills 268 and 269, which support the sale of state royalty oil to Tesoro and Chevron oil companies. The Council wishes to express its strong support for the proposed legislation.

On April 26, 1983, the statewide Board of Directors for the Council adopted the enclosed policy statements supporting Economic Development, Manufacturing, Energy - Resource Development and Natural Gas and Petrochemicals Development.

It is our understanding that the sale of royalty oil to Tesoro and Chevron would provide sufficient quantities of crude oil to enable them to expand their refineries in Alaska and be able to satisfy in-state needs for gasoline and jet fuel. Such value-added processing of Alaska's resources is particularly in line with our policy statement on natural gas and petrochemicals.

To the extent that these bills support the expansion of Alaska's economic base and embrace the concept of the policy statements we have adopted, we express our wholehearted support for the legislation.

Sincerely,

RESOURCE DEVELOPMENT COUNCIL  
for Alaska, Inc.

Charles R. Webber  
President

encl.



# Resource Development Council

for Alaska, Inc.

444 West 7th Avenue, Anchorage, Alaska 99501  
Box 100516, Anchorage, Alaska 99510 — 907/278-9615

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## POLICY STATEMENT NO. 1

### ECONOMIC DEVELOPMENT

Section 1 of the Alaska Constitution states "It is the policy of the state to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest."

Section 2 states "The legislature shall provide for the utilization, development and conservation of all natural resources belonging to the state, including land and waters, for maximum benefit of its people."

The Resource Development Council maintains that economic utilization of the state's resources is consistent with the Constitution of Alaska because all other considerations the government must take into account are predicated on a sound economy.

Extractable resources in the ground or otherwise in a natural state are potential wealth. However, they must be developed and used if they are to be of benefit to Alaska and the nation.

The Resource Development Council believes Alaska's public and private economies, for the foreseeable future, will be built by utilization of the state's natural resources.

Therefore:

#### I

The Resource Development Council recommends that the state make a definite and demonstrated commitment to increase the public and private economies of Alaska through purposeful development of Alaska's abundant natural resources.

#### II

The Resource Development Council further recommends that state administrative and legislative leaders recognize that a strong and diversified private economy (free enterprise) is the mainstay of our state, and that state policies be directed to utilizing our resources for the benefit of this private economy, and not for the sole benefit of a larger, more expensive government structure.

-continued-

## III

The Resource Development Council maintains that a state policy providing a climate for private development of Alaska's public resources consistent with sound conservation principles is in line with the intent of the Constitution of the State of Alaska.

To further the goals of a sound economy, stable employment and a desirable quality of life, the Resource Development Council specifically recommends that the State of Alaska encourage economic development that:

(1) offers long-term benefits and increased employment to Alaskans by strengthening and diversifying its present economic base and encouraging new activities that are economically feasible;

(2) is environmentally sound and mitigates adverse impact on the state's wildlife and scenic resources;

(3) provides opportunities for increased personal income and reduces living costs by creating activity in economic sectors not presently in existence or not fully developed;

(4) has a positive effect on the revenue needs and fiscal conditions of the state and local communities and does not impose burdensome costs in excess of its positive effect;

(5) is undertaken after close coordination and full consideration of the views of citizens most impacted by the development;

FURTHER, that the State of Alaska, to take advantage of investment opportunities afforded by Alaska's abundant resources, shall undertake activities that serve as a catalyst to responsible economic development in the state for the benefit of its citizens. The State shall:

(1) assist present and potential domestic and foreign investors in acquiring and developing information necessary to evaluating project feasibility;

(2) with cooperation from investors, seek to identify constraints to economic development imposed by all levels of government and work with government agencies to solve problems created by those constraints;

(3) with cooperation from investors, seek to identify constraints to economic development such as lack of transportation and energy systems necessary to support the extraction, production and transport of resources to markets, and implement capital improvement or other programs to resolve such deficiencies when proved to be in the state's overall best interests;



# Resource Development Council for Alaska, Inc.

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**POLICY STATEMENT NO. 6**

**MANUFACTURING**

Basic manufacturing in the United States accounts for nearly 25% of all employment. In Alaska, jobs in manufacturing constitute less than 6% of total employment. During the past decade, the increase in manufacturing jobs was 16% less than the growth rate of jobs in all other sectors of the Alaska economy.

In a 1982 estimate by the Alaska Department of Labor, out of a total labor force of 194,400, only 11,100 people made their living in jobs related to the transformation of materials and substances into new products. Many of those jobs were held by non-Alaskans working briefly in seasonal industries.

Manufacturing is said to be the link between the state's natural resources and the consuming elements of national and international economies. Processing and packaging of Alaska seafood, forest and food products; manufacturing of petroleum, chemicals, concrete and fabricated metal products, and miscellaneous items while now only a relatively small percentage of total state production, show great potential for expansion.

Alaska's circumstances have resulted in creation of products for which greater markets may emerge. These range from high-quality craft items to agricultural products to manufactured items designed to serve specific climatic and geographical factors.

Value-added processing of natural resources is a legitimate state goal for strengthening the economy; so as is the encouragement of transforming other materials and substances into new products. Alaska-based manufacturing offers freedom of dependence on imported goods and a wider variety of employment opportunities for the existing and future labor markets. As the state's population grows, more manufacturing ventures become economic. Greater use of export trading companies as vehicles for entering foreign markets will encourage Alaska manufacturing as well.

-continued-

In addition to the recommendations contained in the Economic Development Policy Statement No. 1, and industry-specific statements, the Resource Development Council recommends:

### I

That the State of Alaska and federal agencies, to the greatest extent possible, procure products and services from Alaskan firms. In the bid review process, government agencies should consider the multiplier effects of dollars placed in the Alaska economy as opposed to hard-dollar bid figures.

### II

That local and state government agencies enact incentives routinely used by other states to encourage location of manufacturing firms--extension of roads and utilities, discovery royalties state-of-the-art market research assistance, time limits on permitting, tax holidays, land availability, innovative financing programs, tax exemptions on inventories, investment tax credits, vocational training programs etc., and develop current information on the cost of doing business in specific communities.

Adopted April 26, 1983, as amended.



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## POLICY STATEMENT NO. 15

### ENERGY RESOURCE DEVELOPMENT

Alaska is singularly blessed with energy resources--oil, natural gas, coal, timber, geothermal, tidal, peat, wind, falling water and sunshine.

Alaska is also a net exporter of energy. This condition is not likely to change in the foreseeable future, and the volume of energy resources in Alaska will far outstrip any projected instate demands.

Alaska will continue to grow and as it does, energy demands will increase. The opportunity to satisfy such needs by renewable means further allows the state to market other energy resources for more diverse purposes.

The Resource Development Council thus recommends:

#### I

That Alaska increase its commitment to maintain and enhance a position of world-scale net exporter of energy resources, particularly oil, natural gas and coal, while reserving for in-state use that amount of raw material required for manufacturing and energy.

#### II

That Alaska consider and only commit funding to those renewable resource energy sources that are practical on the scale desired. The test, however, must be on cost effectiveness over the project's life.

Adopted April 26, 1983



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## POLICY STATEMENT NO. 16

### NATURAL GAS AND PETROCHEMICALS DEVELOPMENT

Petrochemical development represents a significant opportunity for increasing permanent employment by establishing an industry that adds value to petroleum resources produced from Alaska's lands.

The Alaska Legislature and administration can greatly influence whether a petrochemical industry is developed in the state. The following are examples of actions the state should consider taking and that RDC believes are reasonable and in the best interests of the people of Alaska:

#### I

That the State of Alaska identify and remove all barriers that detract from and retard the establishment of a petrochemical industry in Alaska.

#### II

That the legislature, in cooperation with the administration, develop a clear economic policy which will encourage development of manufacturing industries in the state and which, specifically, will facilitate the use and processing of natural gas and gas liquids within the state.

#### III

That the State of Alaska develop a regulatory policy which would facilitate construction of natural gas and gas liquids pipelines and petrochemical facilities.

#### IV

That Alaska's Congressional delegation work to remove federal statutory and regulatory prohibitions on the export of liquefied natural gas and surplus gas liquids.

That the State of Alaska work to promote the sale of petroleum products from the North Slope and other areas of the state to foreign markets.

-continued-

## V

That the State of Alaska expand and develop infrastructure which would facilitate and make less costly the development of natural gas and gas liquids and their transportation.

## VI

That the state review and amend its pipeline regulatory and tax laws to ensure fair returns to private investors. Pipeline transportation of petroleum products from distant oil and gas fields to processing and export facilities should be expedited and encouraged.

## VII

That the State of Alaska continue to support programs to train Alaskans for jobs available in the operation of natural gas, gas liquids and liquefied natural gas pipelines and facilities.

Adopted April 26, 1983, as amended

Please review!  
John Cowdery.

MEMORANDUM REGARDING PRICE DISPUTE  
BETWEEN THE STATE OF ALASKA AND  
ALASKA OIL COMPANY

April 19, 1983

AGO 786451 +

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