

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672

4860 HRES ANWR GENERAL

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The effect of 14(g) is considerable and should have been carefully considered by the state prior to agreeing to convey CIRI parts of existing leaseholds, or allowing the U.S. to convey such land to CIRI, even if the area obtained by CIRI located was outside unit boundaries.

This subject was also recently addressed by Tom Meacham (former Assistant Attorney General) in a November 6, 1985 letter to Martin Richard of the Department of Revenue. Meacham asserts the position that the state's 90 percent royalty share from federal leases should be maintained under 14(g) as a third party interest, regardless of the land conveyance. Under the Meacham approach, the state would retain its 90 percent royalty interest until such time as the lease expires. On the other hand, my reading of the Mineral Leasing Act (the basis for the state's 90 percent royalty share) leads me to believe that the state only benefits if the royalty accrues from public land, not land transferred to an ANCSA corporation.

### Summary

In my review I found no evidence to verify any allegation of impropriety by state officials. However, Chappell's research has identified a series of actions which collectively suggest that during implementation of the Terms and Conditions in 1978-1980, state officials either were unaware that the legislature did not intend for CIRI to receive oil and gas resources and revenue at the expense of the state and/or did not comprehend the effect that Section 14(g) of ANCSA would have upon the state's royalty income.

It is also evident that state officials were not sufficiently coordinated during their review of several proposed state and federal land conveyances to CIRI, particularly with respect to mineral valuation responsibilities and input. It is essential that all available resource information (particularly with regard to the subsurface) be available to land negotiators prior to making an informed final decision on a land conveyance. It is equally important that land negotiators comprehend all pertinent laws, statutes and other authorities which may have a bearing on their actions.

Finally, it is unfortunate that state files pertaining to the Terms and Conditions contain no comprehensive implementation guide for use by state officials. This circumstance undoubtedly helped set the stage for subsequent state failures to prohibit certain land conveyances to CIRI or to object to other federal conveyances.

Although the institutional memory problem (above) is not easily overcome, I believe the department is today much better prepared to deal with the situation. For instance, procedures are now in place to guide the state review and comment of CIRI pool nominations. These procedures require that state title reports be immediately prepared and used as a basis for decision making. The title reports, prepared by the Division of Technical Services (DTS), describe in detail the current ownership status of the subject land and clearly identify all affected third-party interests (such

as oil and gas leases). The procedures also include agency notice and a 45 day agency review followed by written comments. In addition, the rules by which the state must operate in response to the CIRC pool nomination are precisely outlined in the procedures.

Accordingly, the state's decision to concur or object to a particular CIRC pool nomination is thus now based upon full knowledge of all applicable rules, third-party interests and resource values.

### Recommendations

I believe there are several steps which the department should timely employ to both clarify the legal aspects of the situation and to insure that the remaining implementation aspects of the Terms and Conditions are properly administered and coordinated.

First, with regard to previous state implementation actions, I recommend that the Attorney General's Office informally examine the following subjects to ascertain whether there may be grounds for future legal action.

1. Delegation of Authority - Chapter 19, SLA 1976 specifically authorized the governor to undertake the Cook Inlet Land Exchange. However, there is no evidence that the governor ever delegated this authority to the commissioner. In addition, various past state subsurface title transfers to CIRC and the U.S. may have lacked proper delegation authority within the department. Although this subject was previously examined by Tom Meacham in a November 26, 1980 Attorney General's Opinion (A66-180-81) in which he concluded there were no delegation problems, the authority for these state conveyances should be reexamined.
2. Legislative Intent - During the 1976 legislative review of the Terms and Conditions, state and CIRC officials specifically assured the legislature that no state royalty revenue interests would be lost as a result of the trade. If the legislature then subsequently approved the trade on this basis and royalty revenues were then lost (whether or not intentional), what effect could such action have upon implementation of the Terms and Conditions?
3. Erroneous Federal Conveyances - Under Section 6(h) of the Alaska Statehood Act, where all of the land subject to a mineral lease, permit, license or contract is selected and patented to the state, the patented interest is granted to the state subject to the interest and the state assumes administration. However, if only a portion of the land within a mineral lease (etc.) is selected and patented, then the minerals subject to such lease must be reserved to the U.S. for the duration of the lease.

In 1982 the state received patent from the U.S. to 5,623 acres near

Kenai, including land the state was bound by the May 7, 1979 MOU to reconvey to CIRI. However, the U.S. failed to reserve the mineral interests to these patented lands even though the conveyance contained numerous partial lease tracts. Therefore, on March 21, 1985, the BLM recognized its mistake and requested that the state reconvey the mineral interests in these erroneously conveyed lands. The federal reconveyance request encompasses approximately 165 acres the state is obligated to convey to CIRI as outlined in Appendix E of the May 7, 1979 MOU. The 165 acres incorporate parts of two active federal oil and gas leases (A-028103, AA-19230) within the Kenai and Cannery Loop Unit agreements.

Given this situation, I believe the state should legally examine the BLM reconveyance request against our remaining conveyance obligation to CIRI. In order to protect any existing or potential federal lease royalty payments accrued or due the state, it seems preferable to return the mineral interests to the U.S. prior to any conveyance to CIRI. This might be accomplished either through title correction or via a reconveyance of the mineral estate.

Second, I also recommend that the department immediately request a formal Attorney General's Opinion to determine the effect of Section 14(g) of ANCSA on the state's 90 percent royalty interest from federal oil and gas leases where the land containing such leases is conveyed to an ANCSA corporation.

With regard to the remaining in-region nominations to the CIRI selection pool, I further advocate the following:

1. Adoption of department order - The department's existing procedures for the review and comment of BLM nominations to CIRI's in-region selection pool (as previously explained) should be adopted as a department order. This order would incorporate our existing review procedures, including title reports (of land and mineral estates), interagency notice, review and comment (including the Division of Oil and Gas) and clear explanations of the state's ability to object to pool nominations. Also included in the department order should be explanations of legislative intent of the Terms and Conditions as well as Section 14(g) of ANCSA.
2. Audit of Terms and Conditions Compliance - Although the state has systematically proceeded to implement relevant aspects of the Terms and Conditions, I know of no comprehensive audit of state compliance. The Division of Technical Services should be asked to compile a summary report of specific state conveyances to date as well as outstanding state land conveyance responsibilities. This is particularly important as the state's obligations near completion.

Distribution

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Recommendations: It is evident that the cost of power from a hydroplant constructed with local labor is less than the current cost of diesel generation. It is further evident that the system will be easy to build, operate and maintain. From these basic facts flow the following recommendations.

One of the hydro plants should be built. The most cost effective plant is the 335 Kw capacity with 15" PVC and 12 " filament wound plastic pipe in the higher pressure sections. The second and largest practical sized plant is the 420 Kw capacity with 18" PVC pipe in the low pressure section and 16" steel pipe in the higher pressure section. If the money is available, it is recommended that the larger plant be constructed. The reason is that it makes the fullest use of the resources, and if a future requirement for more capacity occurs, it would be very costly and difficult to add to the smaller installation.

There is a question on the land status of the project. It is understood the Federal Government may be negotiating a land trade with the Koniag Corporation for the land on which the project would be sited. If an agreement is reached, use of this site may be gone forever, or may have difficult restrictions which will create increased costs, thereby, making the system uneconomical. It should be remembered, as the project is currently visualized, the people of Larsen Bay will pay for any increased costs. Therefore, it is recommended that the land status be clarified and that action be taken to reserve the needed project land free from Federal interference.

It is evident that construction with local labor and wages, on a force account basis, is about one half the price of contract work. It is also a known fact that high wages create the incentive to import labor which takes the local residents out of the market. Further, the money that the plant costs will be paid back by the community; therefore, the community should receive any benefits that may accrue from local employment. For these reasons it is recommended that this project proceed on a force account basis.

The lower the interest rate and the longer the payoff period the less expensive the annual cost of power will be. Therefore, it is recommended that the state continue to explore the possibility of getting low interest money with tax free bonds.

Questions for Interior:

### Secrecy

The biggest issue is secrecy. Why won't Interior take this out in the open? And what are the political repercussions of dealing away 1002 lands (targeted by Congress for Wilderness study) behind closed doors?

The secrecy requires us to have blind faith in Interior's objectivity. It is also offensive as a preemption of public and Congressional prerogative.

The history of secret land trades is not great. The ASRC and CIRI trades affected big chunks of actual and potential state revenue.

How about this? The State, ANCSA corporations, and feds go to Congress to approve the opening of ANWR and to allow an open, competitive exchange process for ANWR lands that also protects at least 50% of the state's expected entitlement under existing law.

### Lands

How much, which part of coastal plain is being considered for exchange?

What is the oil and gas potential of the land that will/might be offered? What information is available to the different participants and the public about the geology of affected lands? Which structures may be included? Will this amount to high-grading of the best lands in ANWR?

Can Interior characterize the possible revenue impacts to the state and federal governments of the proposed exchanges under existing law?

Are lands claimed by the State (navigability) being traded away?

### Process

What is the schedule for the exchange process?

Why is it secret? Wouldn't the Department of Interior reassure the public and gain more value by conducting the process in open competition?

Does Interior believe that all parties now at the table are willing participants who support the exchange concept?

When will participants and the public learn about trade terms (contracts, stipulations, tract selection procedures)? Will the participants have to sign off on these terms before knowing which tracts they will receive?

#### National Park lands

Why aren't National Park lands included? The State has been harassed by NPS for years to trade out inholdings in Denali and Wrangells-St. Elias.

Are there poor relations between NPS and the Assistant Secretary (for instance, recent national press on Horn's reorganization plan for NPS)?

Shouldn't Interior's focus be on national interests in conservation, rather than on Refuge System interests?

#### Contract terms

What has Interior done in response to the State concerns as described in December and January? (nature of the subsurface interest, acknowledgment of state oil and gas and land exchange laws, usurpation of state jurisdiction and authority, regional director authority to approve units, water rights and groundwater, subsistence easements)

What provisions for disputed acreage (navigability)?

Is Interior still redrafting the contract? Are comments still coming in? Could the Legislature have copies of the current and new drafts as they are prepared?

Will the contracts require local hire? (This is constitutionally "more" permissible for lease sale-type situations than it would be in the legislation opening ANWR.)

Reverter clauses? Why? At what cost? Does rescission affect appraised value? Doesn't rescission undermine the touted possibility of environmental support for some trades?

Is Interior considering planning to include overriding revenue retention for the State? Include royalties,

rents, and bonuses? How much? Out of the appraised value of the federal lands or the trade lands (i.e., who pays the State?)

Are the contracts subject to NEPA? Endangered Species Act? Will the Congressional approval have to waive these usual public protections?

How will the contracts treat 7(i)? Do the affected Regional corporations believe that surface for subsurface circumvents 7(i)? Does Interior concur?

How will drainage among landowners be treated?

Will these contracts be executed under ANILCA Sec. 1301, which allows administrative land exchanges?

Are the stipulations available yet? Do they affect values? Are the state's concerns considered?

#### Tract selection

When will tracts be identified? Is tract selection still scheduled for March 24?

Are the stipulations different on each tract?

What access rights will exist across the tracts for other tractholders and the public?

What is the conflict resolution process, and does it still allow broad measures of Secretarial discretion in choosing final recipients? Will this process be written down? Is it arbitrary?

When will the tract selection map be available to participants, and the public?

#### Appraisals

How does USFWS determine public interest values? Are these values public? Will they be?

When will the Assistant Secretary make his decisions on approving the appraisals? Will there be an appeal process for disaffected participants?

How is subsurface resource potential determined?

Is there an inherent bias toward the valuation of ANCSA lands? How can the public and state be assured that all the lands are appraised objectively and equally?

State of Alaska involvement

What does Interior think is the State's position on the proposed exchanges and exchange process? Has the State endorsed the trades in any way? Is the State an interested participant that Interior believes wishes/hopes to participate?

Are state concerns about the draft agreement, tract selection, and stipulations being adequately addressed?

Why is the State keeping everything confidential? Does the State have a formal legal agreement to keep things secret?

Questions for the State:

What is the State's policy on trades?

Now that CIRI and Koniag have each provided more info on the trades, can the State express a position as the Governor indicated would happen (at his press conference)?

Are state interests protected in the contract, the tract selection process, and the stipulations?

Is the state considered by Interior to be a participant in these trades, endorsing the process?

Has a state geologist sat down and figured out what structures and high-potential lands could be lost in the trade? Do we have good oil and gas attorneys reviewing these contracts, etc., for protection of our basic interests? Has the process been too fast to allow these basic steps?

Have revenue scenarios been figured out so that we can characterize the general impacts of these trades?

Does the State support reverter clauses? think that the exchange needs public review before being completed and going to Congress? want 7(i) revenue-sharing on ANCSA trade lands? accept the idea of any trades that do not preserve at least a 50% share of what the state would receive under existing law? want local hire provisions in the exchange contracts? feel safe about access across traded tracts, for state-owned submerged lands and otherwise?

What state lands are on the table?

What is the risk of losing our current 90% entitlement on some lands and getting nothing back on highly prospective lands?

What problems still exist from the state's perspective in the contract etc.?

ANWR, a WIN-WIN or a NO-GO

The current frenzy of activity in Alaskan political and industrial circles concerning the development of ANWR is driven by the fact that the issue will soon be before Congress. Government and industry have turned to the Arctic National Wildlife Refuge as the best hope of boosting Alaska's present economy and replacing Prudhoe Bay revenues as that field declines in the future. We continually hear that the subsurface beneath the coastal plain of ANWR holds the promise of "another Prudhoe Bay". In the minds of many, ANWR has already become the savior of the State. We are exhorted to clear all obstacles to development. Before we give our all for the cause, however, we may want to give some hard thought to just what deal we want to move. What are the State's interests in ANWR? In designing our State's position it might help to reflect that this will not be the first time the U.S. Congress has wrestled with the fate of the Arctic National Wildlife Refuge. Though certainly not with finality, Congress has spoken rather directly about ANWR in the past. As part of the Alaska National Interest Lands Conservation Act, Congress proclaimed several outstanding values of the area. Congress recognized ANWR (including the coastal plain) as one of the wildlife and natural wonders of America and the world. Congress also recognized the potential for enormous energy reserves of significance to the Nation. Seeing the conflict in these diverse superlatives, Congress chose a course of further study and future consideration. Now Congress will decide whether ANWR's outstanding wildlife values and energy potential can be accommodated on the same piece of ground. Is there a "best of both worlds" ? Or must one win and the other lose? Ultimately, there may be a compromise. However, it will not be a compromise in the traditional sense. If ANWR is ever opened, guarantees of environmentally responsible development will not be sufficient. Stringent protective measures will certainly be required, but "mitigation" is often a code word for "something important has already been

lost, we just don't know how much". The balance sheet for any consideration of ANWR development must not only include environmental savings, it must include environmental gains. The price will be high, because the currency is rare. The Arctic National Wildlife Refuge is a natural resource which is not duplicated on this planet. The undisturbed wholeness of its Arctic fish and wildlife habitats is truly unique. The coastal plain is part of that whole. The Porcupine caribou are not the central Arctic caribou. The narrow coastal plain is very different from the vast central North Slope. The whole of ANWR is greater than the sum of the parts. Any impact to the coastal plain will be a division, not merely a subtraction from that whole. So to achieve balance, there must be gain, not merely a minimizing of loss. Fish and wildlife habitat which cannot be duplicated on the planet is stiff currency to trade in. It is not easy to find, but it does exist - and some of it exists in Alaska. Some of the finest riparian habitats (wetlands, lakes, river corridors) in the world are found in Alaska. Some of the best of these are owned by Native corporations. From the Yukon Flats to the Yukon-Kuskokwim Delta, and from Bristol Bay to Kodiak, salmon spawn and waterfowl nest on private property. In the long run these lands will neither be fully protected nor available for public use. Over the past year, several Native corporations which own or control some of these lands have been negotiating with the U.S. Department of Interior for subsurface rights in ANWR. Some of the "draft" agreements are all but finalized. Some have promise, while others contain provisions where the public takes the risks and the corporations take the gains. Land exchanges may not be the answer. Certainly, they are not the whole answer. However, they could provide one of the basis for balanced Congressional decision. They have tremendous implications for all Alaskans, and they need to be scrutinized openly - in Alaska as well as Washington. D.C. One thing is certain, if the subsurface of ANWR leaves federal ownership (through exchange) the amount of money Alaska can expect to make from any development of ANWR will be cut in half.

The State of Alaska receives about 25% of the gross value of production of the Prudhoe Bay field, including both royalties and severance taxes. Assuming a standard royalty and no change in the State's present severance tax structure, Alaska would receive approximately 22% of the value of oil and gas production within ANWR. This is based on existing law under which the State receives 90% of the bonuses and royalties generated by oil and gas development on federally owned uplands. If the subsurface of ANWR became privately owned, the state would receive none of the bonuses and royalties. The State would still receive severance taxes. Under this scenario, the State's share of overall value would drop from 22% to 10.7%. The value of Prudhoe Bay to the State of Alaska in fiscal year 1986 was \$3.2 billion. If ANWR is another Prudhoe Bay, a loss of half that amount would be a loss of 1.6 billion per year. That is more money than the State is projected to make this year from all oil and gas revenues combined. There might even be further reductions in the State's share if Congress decides that a portion of the remaining public revenues should be used to establish a trust fund for the acquisition of fish and wildlife habitat in Alaska or throughout the United States. Since <sup>50%</sup> 25% of Alaska's oil and gas revenues are deposited into the Permanent Fund, the economic implications directly affect each of us. The reality is that even if ANWR turns out to be another Prudhoe Bay for the oil industry, it's not going to be another Prudhoe Bay for all Alaskans. However, Governor Cowper recently stated that if Alaska approaches the ANWR debate solely from the perspective of our economic interests we are going to get nowhere fast. He pointed out that we must think in terms of the National perspective. He is absolutely right. That is not to say that State interests and National interests will always be at odds. The State may not be very interested in giving up billions of dollars in prospective revenues, but the State should be very interested in insuring that Alaskans have the chance to enjoy some of Alaska's finest outdoor opportunities. Public acquisition of certain rivers and wetlands can accomplish this. Thus far, the oil industry has taken the lead on ANWR development. As one might expect,

industry has focused on the value of the oil. Oil companies haven't talked about environmental gain, only about minimal impact. If Congress opts for development, the decision will presumably be made more for reasons on national security and energy independence than for oil company profits. The Nation might be just as secure leaving the ANWR oil in the ground for now. The Nation hasn't run out of oil. Alaska has run out of low cost, high gain oil. It is estimated that only 40% of the Prudhoe Bay field will be recovered through primary and secondary (primarily waterflood) techniques. A lot more oil could be brought out, but it will be high cost, low profit. However, strictly in terms of National security, the oil is there. What will be the National cost if the coastal plain of ANWR is developed? Congress has already defined the Arctic National Wildlife Refuge in dual superlatives. <sup>Development</sup> Proposals which are based on the theory that "it won't hurt much" are out of balance and doomed to fail. If there is to be a net gain for petroleum resources, there must be a net gain for fish and wildlife resources. If the State of Alaska is serious about ANWR this should be the foundation of its position. It's a tough assignment. Win-win strategies are not easily found. There may simply not be a "best of both worlds", but if there is we are going to find it on the coastal plain of the Arctic National Wildlife Refuge. Because without a win-win, ANWR is a no-go.

2/13 ANWR Imp. -

Sam intro - no comments in spec, just int'd in DOI stat  
Bob Gilmore:

complicated subj.

beh. of DOI

pot'l exchanges of orig int's

ANCSA / ANILCA -

amt of land - 13-15 m. acres to be est'd in Ak  
Refuges under ANCSA

if Cong. dec. to open - ANCSA corps + state hr  
prop'd to exchange for spec'ly described tracts in  
ANWR

DOI / state / ANCSA disc'n for 18 mos.

USFWS has id'd ~5 m. ac. of historic holdings  
1-2 m. acres may be avail in 12 of 16 Refuges

to date no det'n of tracts avail in ANWR  
resp'y to make it happen is w/ USFWS Rgt Dir.

pub'g list - endangered species etc., at the end  
see prot'n fr. degrad'n - (Organic Act?)

don't want subsfc. gen'ly

have a diff. time in any Refuge det'g subsfc  
values

avoided 14(h)(1) sides

participants: NLG, Doym, Ak, State, Konig, OH

want to protect in perpetuity.

prot'n cont'd subs'c uses

early dev't

direct + indirect revs to state/corp'ns

make opening palatable to some

exchange amts: still being n'gd, final poss by  
mid-March, poss'ly bef. Then.

cons. w/ 1002(h), value-for-value.

only orig int's for a spec. period -

Title XI waiver

"Cons't w/ the lsg prop currently carried out by

adv'ys of  
trades

The fed'l gov't"

enig subs'c easements - cd embody / retain subs'c rights in perpetuity

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rescission/termin clauses "which are far too compl'd for me to explain at this point"

antic. a fairly large lsg prog. after exchange, DOI wd get any downhole info. coll'd by exchange partic's.

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wd stop - no, subs'c appl by BLM not yet final - "needs to go through sev'l appvl lvs at Dept of the Int. in Washington - until then not avail for public rvw

timeframe - antic. "some fairly active mount" in late Mar. on tract slkn - "The Natives wd tell us what tracts they'd like to have under the Arc Ref ~~and~~ and we in turn wd begin to ml at that point"

Davidson - want copy of Dir's remx

Shultz - how BLM det'g value of land - Gilmore seismic svys, 2k ac. tracts,

Shultz - subs'c - Gilmore - don't antic. any curtailment exc. on ANWR dev't lands -

Shultz - other hunt'g & fish'g - Gilmore - Natives wd like to hve. subs'c easement, if subs'c act is repealed - Shultz - exc'g these

agmt wd feds

Sam - timeline / hrs Gilmore - I think we hv an opp'g + a window btw Mar + June - two-step proc - tract slkn at same time agmts might not be signed until June or July - we hv indic'd that we'd like some kind of public rvw before June or July - want to explain - Sam - all these draft agmts - Gilmore yes, and if the State has them you ought to Sam don't

have them + want them, can we get them from gov? Gilmore Yes you can, I'd really rather you get them from the State but I'll be glad to give them to you -

Sam - det'n of value on 1002, who has info - does BLM have KIC well data - Gilmore - no. Sam - so some other people hv better info than fids - Gilmore - info might or might not assist. -

Davidson - "heightened sense of urgency, indeed a stampede seems imminent but we do not hv contract' l lang. for this comon to exam as far as land exch's are conc'd, we do not hv. values on subsfc rights, what explains this sense of urgency, this sense to hurry along this issue?" Gilmore - "we're moving at the pace req'd by the Native corp'ns"

Sund: where at w/ State? Gilmore: state is in same place as other parks Sund: are Park int'dings under disc'n? Gilmore - "I can't answer that q'n. When the subj. came up it wd be terribly inappropriate for the Fish + Wildlife Service to begin to take on land exchanges w/in nat'l parks." When the State bought those, I sugg'd state call NPS Reg Dir + ~~contact~~ I called him + told him if he was int'd to call "the same Asst Secy that I do, Bill Horn" + see if he's int'd"

Sund: is it poss., is this a 3-pa - reg'n - can exch. Park fr Ref? Gilmore - yes, The NPS "if they had chosen to get involved a year or so ago wd be at the table w/ all the rest of us"

Sund: is it too late? Gilmore: no but it's a long way down the road, we've given new prop's in the last month or two, but "I don't think it's too late"

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Key: "does fed'l law req. comp'v bidding for disposal of oty rights on Ref. land?" Gilmore: "you're a little out of my bailiwick in regards to oty resp's, but gen'lly anything that the gov't takes avail goes out to comp'v bidding" - Key: does the exchange prop'l fit? Gilmore: "well in this part, case the prop's don't fit, because it's an exchange of value - for - value - There is no bidding involved"

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Key: effect is to dispose of valuable properties, pub. int. in comp'v bid - Gilmore: two answers 1) "I don't think we're disposing of it" - we are only some dollars under this - 2) 15-20% of surface acreage will be in the exchange - rem'r into lease sale - Key: - most promig parts of strux will be avail? Gilmore: "an awful ~~lot~~ lot of people who hope they can do that" but dep's on cap'y of the people to do it [KAW/AG]

0/0

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Springer: imp'x of human degrad'n - Gilmore: 1002 + exch. diff't, 1002 ser OK to develop -

Springer: - baseline; Gilmore: - \$m/\$y for base data, feel fairly confident; Springer: -

Sami: Murli - OKR - state's interest - now State e.dilement is 90% - "fairness to the gen'l pop'n of Ak" - Gilmore: - "I've got to go back and study up what an overriding royalty is" ~~the~~ "the agents that we've worked out w'd hv. to be comp'v redone" "in the event that some dollar amt w'd be taken away fr. the (ARCSA) proceeds or the future or fr. fm. land value... something that don't

the ability to make what they want to make the  
 I suspect that we'd have to renege." Sam - proceed  
 at pace sugg'd by ANCSA groups, need > consider -  
 don't mind transfer as long as pub int. + Ak  
 int. are prot'd - Gilmore - congress has to dec.  
 to open; 90/10 at issue, cong'l disc'n is pertinent  
 on NPRA - Sam - the Ct. will have more  
 disc'n in fut. on 90/10, legal issues of  
 statehood compact, hope to maintain ex'g  
 relationship. Sund: priv ex'g right, state's rev/royalty  
 share - legal pos'n by DOI - state is stripped of  
 its 90% priv ex'g right - Gilmore - don't know  
 if can answer - cong. will decide - no Sol. Rvw  
 yet - Sund: for est'g value it's a basic consid'n  
 - how much will ANCSA corp'ns get - Gilmore -  
 in exchange the recipient gets 100% of orig value -  
Sund - if Congr. A's formula we might have to  
 renege land trades - Sund: what ~~lands~~ lands  
 in other refuges - Gilmore sel'd/prioritized <sup>for acq'n</sup>  
 criteria

→ | 539

Sam: how id'd ANWR lands? Gilmore: No, no, no  
 sir. Ev'g in the 1002 area is avail. for all  
 ex'c KIC/ASRC lands - ANCSA corp'ns will  
 decide Sund: do ANCSA corp'ns have ~~the~~ BLM's  
 subs'f data - Gilmore: raw data avail to all.  
 interpret data is not avail.

Key: KIC well have a great effect, how can tell  
 w/o the data - Gilmore: not avail? - ~~not avail~~

Key: how value-for-value then? Gilmore: don't  
 have access to it, the ANCSA corp'ns all have same  
 data/info - K - that may or may not be true

Key: reverter Gilmore "I don't ind'it'd it well enough  
 to get into the details of it and if I did I  
 would surely make a mess of it" will come back  
 + explain when the document is finished up.

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Kay - are you involved in the regio - who cd explain reverter clause? ~~Yes~~ Gilmore - yes, John Doebel cd explain it "but i'm not going to let him explain it until we fin ~~the~~ regio ~~complete~~ the agmt."

Kay: dry acreage cd revert back -

Gilmore: rescission - a fairly large, complex sxa in the agmt, very tech'l, I don't understand it, being done by a group of lawyers -

Kay: does this affect your value - Gilmore: yes. protan of Amer. peoples int.

Shultz: state prop'g to take some land? Gilmore = for Refuge ~ 700-800k - "the state would like to be involved in the exchange, you are an active participant"

Sam: has state endorsed? Gilmore: I don't know the answer to that, "my impression fr. the sincy of the regio + the people involved in the regio is that the state is <sup>prodding</sup> an active, ~~involved~~ part'd partner in the exchange". TAP6 BREAK -

Shultz - what does state want Gilmore: same as other parties.

Navarre - is the state under any constraint not to r/s info to the Leg'r? Gilmore - don't know, none that I know of, "but I don't perceive to know what goes on in the DOJ even tho I'm the report here"

Sam: appreciate

Navarre: want Ark Leg'r involved Gilmore: glad to come back down - no intention to keep anyone short-sheeted but it's on such a diff. task -

Sund: how est. inholdings' value - Gilmore std gov't app'l process - not app'ing Refuge but inholdings.

Sund: want to have a look at it - Gilmore - std appol does not take into consid in the midlife -

"highest + best use" - when trad'g into f+w in - ANILCA - public int + - economists are 100% in total govt

Sund: wh. value are you using? Gilmore he was idd

very confused

std appl value - "any value over + above that will be det'd by neg'n betw. the Dept + The Native corp'n"

Shultz - is state asking for subsic? Gilmore - no - Shultz - if incid, an area traded it be shut down to allow only subsic. cd lead to shutdown genly restricted access Gilmore: not necly - goes both ways - hope won't hv to close anywhere anyway - are not going to close down + prev. access

Davidson: habitat eval'n - present value but talking about future value acc'g to possible hist/best we have compute heightened value on ANWR lands?

Gilmore - know precisely what ea. parcel is worth - yes, parcel's fut. value is consid'd - present-value for ANWR lands acc'g to BLM geologists &c. Davidson: Kodiac land values \$150-600/ac. - Gilmore: \$8m. stmnt on public's case - \$600/ac. - can't find comparables - hv done Can/US. correl'ns -

Herrmann - pace reg'd by ANCSA corp'ns - conc'd re planning process = strong int. in inholders etc. everybody's int'd in a certain pace - hist + best use - yr. 7(i) opinion - Gilmore - Mvg at ANCSA corp'ns' pace bec. don't want land dev'd, we're quite comfy w/ the pace - not causing us a great deal of discomfort - 7(i) - Native corp'n saying "and I'm not getting in it" Sam BLM will make a dec'n on ASRC/KIC - BLM makes dec'n Gilmore don't know, & BLM decides -

Shultz - map showing W. SE.

subsistence

present value

clarity

7(i)

→

2/13 Magie Sagerson

NLG - consortium of Native corporations  
written testimony

CIRI - only req; 12 vlg - 13 altogether

all Yukon Delta NWR or Kenai NWR

will facilitate dev't → revenue stream

the prop's do meet best int's of the state

Sen. Murk - Native exchanges do prov. special consid'ns

for cong'l debate; env'l comm'g will see benefits

fr. opening ANWR; new const'y in lobbying effort

that state/ind'y can't bring - Dem congress is

resp'v to Native Americans

other benefits - local corp'ns - I will stay in Ak - win

Ak partiz's - few econic opp's for these rural Akns -

Gov. Lowper is int'd in rural opp's -

abil'y to hv strong local hire - shareholder hire -

joint ventures, contracting prof'cs -

sevl yrs. head start -

90/10 is uncertain - (Murk) - Murk said impact

on ANWR will be minimal, 15% - Gilmore said

value-for-value - strong lsg prog will occur

ANCSA corp'ns will pay sevc, inc. taxes - over half

NS rev. comes fr. ~~state~~ taxes.

can assist in opening ANWR

W'nese design'n affects adj. lands,

"it's a harsh pol'l climate out there" + ANCSA

corp'ns can help

state can partiz. + min'z rev. imp'x - state a viable

partic't + a good competitor

state is being treated eq'ly -

reit. What Murk. said - benefits fr. trades, harsh

pol. realities

Sam: don't oppose all trades, just those not in state's

int't - HJR 9 -

Sam: mind if we get ce of agents? Magie: if you get

them remind they're very preliminary - no objection to state's seeing the agents -

Sam: Mark's also decided OK w/ing - Margie: not sure it's \$ in the best int't of the state - you'd turn over your participation to ANCSA corp's - wd lose yr. influence + dep. on ANCSA; for competent dev't

Sam: tract size - NLG might know better - wd ind'g partners help select - who are ind'g partners -

Margie - Exxon + Conoco - yes wd help select  
Shultz: backscatter radar - Texlin - 7(c) - any condition of trading to plc backscatter sites - Margie: don't know.

Sund - 1.5 m ac., x 15% - 20% (Mark) - ∴ 300,000 acres cd be avail - cd select an area larger than Prudhoe Bay - Margie: 15% of value or coastal plain ac'g? isn't clear - also state cd get some of ANWR - Sund: how much NLG ac'g - Margie: 260k acres, exp. to get much less ANWR ac'g - poss'y cd get 1:20 in exchange Sund: lower social spending - Red Dog OK, local bars - but how about Yukon Delta/Kenai area? Margie: few opp's for cash in rural Ale - some people desply need svcs etc., expect medical etc. svcs to result, CIRI - great strides in est'g Fdn, non-profits etc to infuse capital back to shareholders - ~~CIRI has~~  
Sund: CIRI has invested outside, those who invest inside hv. gone bankrupt

Kay Brown: e/ dev't agent of ind'g partners? TAP6  
BREAK Margie: feel very compl' w/ hug strong lse terms. Kay: 7(c) rev. sharing Margie: BLM does not det. rev. sharing - 2 doz's control 7(c) - 1) ANCSA 2) reg corp's agent on how to interpret 7(c) - Very specific - ~~the prop.~~ the prop. does not inc. lands that wd be aff'd by 7(c).

Sam - clarity, Mazie: DOI only wants sfc - b/c that 7(i) helps build consty and that it wd be good, but DOI doesn't want them - will appeal to Horn to inc. subsfc. -

Spitzer: how did NLG form - Mazie: some people corpis, formed an group at req. of DOI wh wanted someone to reach w/ Ak, aware of CIR's ability to work w/ vigo + DOI, knew that world-class habitats wd be avail. Spitzer - not too late for other to join, allotments - are there allotment lands in the refuge? Mazie: most of the lands are conveyed, aren't inc's allotments, most NLG lands are relly clear of allotments anyway - no indiv'l allotment holders hv joined in -

2/13 Art Kennedy - Koniag leg'l/gov'tal affs consultant  
he has been involved in exch. since 1982 - will submit  
full report for the record.

Koniag understands that State has sev'l concerns.  
1) open ANWR 2) don't dim 90/10 3) fed'ly  
est'd Ref - shdn't be parceled out 4) state shd  
be a ~~part~~ part +

Koniag wants to open - he adv'd DOI + State that  
90/10 is state/fed issue - value of ac'g shd be  
adj'd to reflect any retained revenues -  
sfc. stay in fed'l ownership -  
it will be terminated eventually -  
dev't will be subj. to future reg's etc.

adv'g: Congress can acq. l.m. ac. of critical  
habitats - prt ownership threatens viability  
of Kodiak Ref in partic. - mkn to strengthen  
other Refuges -

data avail'g → cd incr. lease sale ~~etc~~ <sup>revenues</sup>  
explor'n/produc'n on trade lands good for Ak ec.

Sam: any obj'n to State security agmts? Art  
surp'd you don't have them, the Jan'y comment  
shd hv. ~~it~~ gotten around to you - the orig'l  
draft was prelim'g - now agmt prot'x state's  
int'ts.

Gilmore - I have unfairly put my state colleague  
on the spot. That agmt is still not avail.  
will follow thru on my promise to get it for you  
as soon as it's avail. ~~When?~~ Sam  
When? ~~Gilmore~~ - before it's signed? ~~Sam~~

Gilmore: I honestly don't know - it cd be if  
it's signed Sam: who's objecting to Leg'l  
security it - Gilmore: it is a contract betw.  
reg'd betw. prt parties + the gov't, + for  
that reason the gov't has the resp'y to be  
part of the regio conf'l - Sam: apply the

# **CORRECTION**

**THIS DOCUMENT  
HAS BEEN REPHOTOGRAPHED  
TO ASSURE LEGIBILITY**

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be a ~~part~~ part't

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neg'd betw. prt parties + the gov't, + for  
that reason the gov't has the resp'y to keep  
part of the neg'n conf'l - Sam: apply the

priv. parties don't mind ~~at~~ Kennedy: wd like  
to compare yr. req. to next time give in a deal  
to sell your car or yr. house I'd like to come  
+ rvw the document + comment on it before  
you sign it Sam: who? betw. 2 priv parties.

Kennedy: betw 2 prt parties shd be kept  
conf'l Sam: but there's one prt party here  
and one not-so-private party Kennedy - it  
may be viewed that way but until there's  
an agmt shd retain its conf'l nature Sam:  
prob. is it's shrouded in "secrecy" + if we  
don't get to see it until it's signed sealed +  
delivered we hv very little chance...

Kennedy: won't take effect until Congress  
ratifies, can be Δ'd by Congress -

Sam: who are the ind'g partners - Kennedy:  
can't tell ya bec. of conf'l agmt, wd hv  
to ask permission.

Sam: being asked to appv or disappv w/o knowing  
hope that you will take best int' at heart?

~~but~~ Sam: being asked to support - Kennedy:  
don't need to rush to appv or disappv - Legi,  
State etc. don't need to mk. a dec'n until  
they see the agmt - ~~but~~ to make a  
judgment at this time shows a lack of  
understanding of what the whole process is  
about - Sam: trying to find out process  
now to est. state's pos'n Kennedy:

State's best pos'n is just to open ANWR

Hermann: isn't state particip'g? Kennedy: yes -  
full exch. member, hv an @ ex. gray area -  
state has all the info that anyone does. -  
if you want to mk a req. of them for this  
exchange document it's up to them whether to  
give it to you or not (state reg'is) - but



The model agmt will be tied to eff. ea. group's needs.

Navarre: no ack → eff'v approval of land exchanges  
Kennedy: shd hold approval/disapproval until you've seen them, Navarre: i.e. approval Kennedy: not until Congress ratifies them

Davidson: what % of mtgs ~~was~~ was State at?

Kennedy: many mtgs: of Koning alone, then other ~~mtgs~~ mtgs. ANCSA: got into it - DOI did not accept all land - last May a large group did get tog. - 3 or 4 of present ones - Koning in May agd to ~~do~~ do all the groundwork, drafted agmt, ~~then~~ worked on it through the summer, then in fall a mtg to review the drafts + steps - have had ~ a mtg a month - state has bn at all since Oct' - Davidson %?

Kennedy: 2/3 of group mtgs - hv. been telling Katz all the way along - 10% - 15% back to '82

Shultz: when did State get involved? Kennedy - I can only speak from our mtgs and think they wr. there in Sept. but I know they held convsno w/ Int as long as 1 1/2 yrs ago -

Navarre: access to KIC data? Kennedy: can't answer bec. not sure who the ind; partner is, did not partic. in the neg'ns - Navarre: pls ask

→ Koning if you can tell us - Kennedy - wll ask Koning to get to go

Kennedy = re rescission - Sam - no time

Pod Savage - John Katz

Rod - commend on well informed pointed q's  
maj. of disc's are in D.C. now - so  
Katz + Hawk shd address dir ly  
state does not hv. a pos'n on the  
exchanges - ~~same kind of concis as state~~ <sup>comptroller</sup> -  
ANCSA's hv added for time to present the  
pos'n - we remain open to persuasion

Sam: has state endorsed? Rod: not in any  
way - prefer to say we hv no pos'n, same kind of  
concis as the state reg's int's of the  
citizens of the state.

Katz: 1) state policy - Sweep - Gov "ind'd some  
predispo'n against land trades" - suspended  
judgment until he sees the ANCSA info -  
in D.C. hv told int. that state has no  
pos'n - "unless + until a reg'v pos'n is  
taken" plan to partic. in good faith - a  
partic. + a sov'n.

chronology of state involvement - first  
hd rumors 2 yrs ago - <sup>DOI</sup> appraisers showed  
up in DNR files 18 or 19 mos ago - Aug  
85 mtg b/w Sheffield + Horn - also told  
Katz same time that trade disc's were  
happening, then intermittent disc's but no  
substance;

Nov '85 Gilmore wrote Gov inquiring  
state's partic'n - Dec 85 Sheffield des'd  
TSH - Jan 86 Gilmore ackn " letter,  
accepted state inv't - Feb 86 DNR wrote  
to propose 12 m. acres - Mar 86 Gilmore  
wrote + set fed'l pros, said Tetlin wd  
be only acreage they'd really want -  
until Oct 86 int + disc's "not reg'ns"  
but contacts about the trade wr. mostly  
verbal. State was trying to elaborate fields

to same level as ANCSA parties during that whole time. "We know that for Native corp's we're dealing at key policy levels here in Wash D.C. + as quickly as poss. we wanted to make the transition b/w the disc's wh. we were having in Ak and ~~the~~ wh. we felt were a back channel to the real disc's wh. were occurring back here." In Oct 86 ~~the~~ Horn ~~of~~ "acquiesced" to the full involvement of the State as sov'n + landowner.

Dec 86 - State present for FT time w/ reg table of access to all docs - Jan 87 another week of outgo - Feb 87 a series of disc's - Feb 23 next round is scheduled -

"irrespective of the history, + frankly of the difficulty of the state's insinuating itself as a full-fledged partner in the disc's until Oct '86, we have lost no options in the process and ~~not~~ every option that is available to a Native corp'n, or to the fed'l gov't is still available to the State at this time"

Mar 2 - Mar 24 tract slken

Mar 2 agents in princ. among parties w/ DSI

notwithstanding this timeframe Horn sees no rec'n until Sec'y makes ~~an~~ an independent 1002 rec'n (!)

timelines "are very, very constrained" - legal basis of the trades:

Int. Dept sees it has admin authy but "as a matter of policy + com'dy of Congress" will submit to Congress

State has no ch' it must submit to

Legis for approval:

1) under AS 38.50

very strctd series of steps -

~~#~~ we'd prefer this approach

2) present'n of land trades to legis at the time they've crystallized - if DOI timelines don't allow for 38.50 process "more structured and elongated"

"It was made very clear to us, I would say almost as a precondition of our partic'n but only as an ext'ly imp't component of our partic'n, that we were not to distrib or make avail. successive drafts of the land exch docs. We felt ~~that~~ a bit uncomfortable with that and wondered in our own minds whether that priori is even in compliance w/ fed'l prot'g + reg'n. But it was not for us at that point to make that det'n. However in terms of our own state FOIA, we dist'd state mat'ls + hv made those docs avail on request - extrapolation is then possible -

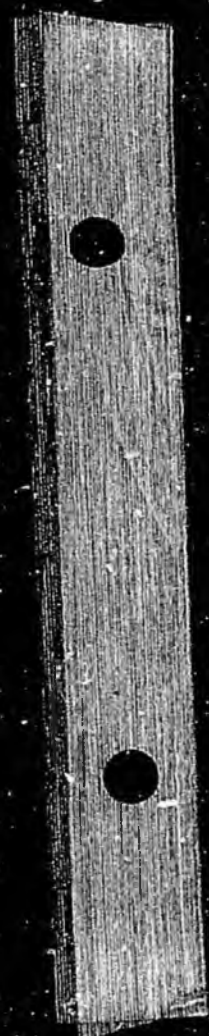
~~It is~~ to "Public consid'n + debate wd be benefited" by open process

state inholdings in Parks? the proj'l "was rebuffed by DOI" on the grounds that this was a USFWS process - NPS in a possible later round - made is unconf'l cause we don't know how tract st'ch w'll work or what land will be avail

O/R proj' - hv req'd on numerous occasions

THIS incl in - aren't impairing ANCSA 5, if  
they aren't penalized or dinged - the  
pos'n that we hv advocated has been  
adequately and consistently refuted by the  
Int. Dept. We continue to advocate it and  
are hopeful that int will allow.

0 3 9 6 2 6



2/16/85:

Judy has been very opp'd to land trades  
called out Eason & Hawkins to come up w/ a pos'n

Gov's rep - Tom - Judy too -

has Sam outlined agenda? yes

-7(i) - has to come out - CIRI + Koniag don't  
intend to share - spec est. only for subs. -  
this issue must be understood


- subs'c easement on ANCSA lands - now in  
Appix I - pres'vs only Native use - Value  
State AG thinks it violates state  
rights

- rescission - shdn't ask for it on State  
lands? now defined to inc. O/R and  
35% - poor public policy - major  
issue in Congress - only suppd by  
Koniag now - CIRI opposes.

- haven't adeqly resp'd to state ~~cont~~  
comments on contract & strips -  
as recently as today

- revised contract did no good -

- the maneuvering has affected state  
interests - fr. 260 / 800,000



Cinder R. <sup>550k.</sup> Innoko.  
Tetlin. Ugasvik.  
Ak Pen. Herendeen Bay  
YK Delta | Tugudak off S.  
Togiak | Kodiak ~25k

2/12 605

-2-

- impl'n of BBAP, ANILCA record -

- won't let in NPS

- Koniag argument re 5% of acreage  
poss'y only 5-10k acres might go, but  
cd be very valuable -

Chevron / SOHIO

don't hv KIC well but will pick  
whatever they <sup>Chevron</sup> want

what is usefulness of KIC well?

→ - 26 straks id'd -

1002 - see middle part on straks -

Alt'v D. -

- planning not to trade core calving  
area.

- 15/20 trax per partiz.?

- intend to lease ~~available / eq~~ footrop.

7 rivers  
on coastal plain  
will off. them.

submgd lands  
hv not bn  
meandered  
on ~~ANILCA~~  
trade lands.  
3-5%

- drainage - DOI prop's drainage off any  
tract - want a royty. ~~but~~ don't want, it  
subj. to Min'l Lsg Act.

2/11 John Doherty:

- bulk of land wd be leased - % uncl. now -
- USFWS doesn't know some of subsfc info. -
- identification of tracts not poss. yet.
- appl' → value for exchange hasn't bn decided yet -  
being done at Dept'l levels
- timeline - wd hv. to be cons. w/ 1002  
no agmt's till the report goes to Congress  
earliest this summer -  
not rearing find.
- terms of agmt - O/R royalty; rec'den/permissions;  
7(i);
- might hv. agmt on some terms but they're always  
subj. to disc'n + Δ.
- legal analysis - hv. auth'y?  
not for dev't  
do hv. auth'y to pursue exchanges under ANILCA  
- 1302(h)
- state's interests? - how serve USFWS interests?
- ASRC?

Assure ANWR is available for 15g, + state's  
int's are provided in the process

Tract sales after 1002, after Cong'l opp'l?

Why?

may jeopardize Cong'l opp'l?

may threaten state int's?

trades during study period?

DOI - poss'y of US Cong. being pissed  
esp. in secret.

tract sales must await

knowledge of where <sup>ANWR</sup> lands are available

what spec. steps etc. on ea. tract

what access rights on ANWR lands?

app'd value?

conflict resol'n

nature of subsfc rights

SECRECY

How value tracts w/ variety of access etc.?

Why accel'd dec'n why by DOI?

? there are defined structures in  
ANWR. Where are they? ASRC?  
Trade lands?

can't reliably forecast rev. impx of  
trades - don't know where they are

→ local here

CIRI arguments -

1) ANCSA corp's with only benefit of ANWR open by  
(true? legal? 22(g), 1431)

2) Secrecy

- objectivity is quite

- offensive, presumption of public/corp's  
privilege

ASRC/CIRI bkgd. - 2 bad trades.

benefit one part of Ak to detriment of  
others?

small acreage = worthless argument

ho-grabbing by some corp's

bias in meshera proc's.

reflex of ANCSA land values

Old Harbor + Texaco - 35,000 acres  
Birch Horton

DOI - eventually the exchange will be perceived to  
be in public interest

→ all parties are involved bec. they expect/wish  
to participate - DOI? State?

while state has exp'd reserves, still a public  
state exp'd to keep things conf'!!?

tract skn 3/24

tract skn agmt to be signed by all parties  
- constitutes endorsement?

HELL YES!

Sam / Tom / get Rod S. there ~

-3-

Horn will appv value on Mar 6.

ANWR tract nom's map to partic's on Feb 23.

Partic's mark map, nominate by Mar 20,

DOI sends back w/ all nom's on Mar 23  
"constraints pol'y" by DOI -

→ DOI will offer lands the state claims  
under navy / eq. footy.

State will id'y these bef. the tract  
skn.

ea partic  $\leq$  15 tracts - poss 20

final tract skn map the day bef.

The skns -

can show conflict and of time? poss'y of  
Anti-trust Viol's -

"conflict resol'n remains arb'y"

- Horn may choose

USFWS acq'n prio.

comp'r bidding

lottery

might get written skn / conflict criteria

ITZUS!

cd DOI collect value for pass appl'n to  
future lease sales?

gen'l'y will follow Kearsag contract  
format

Very few State comments to be incorporated.  
Contract still doesn't deal w/ state / fed' /  
jurisdictional issues.

rescission - tract-by-tract (prev. is in-grading)  
1.5% fed'ly royty  
65% of land back  
10 yrs to rescind  
subs'c agreement

NLG - tract sken not well defined  
sken prior unduly locked in  
rescission is objectional

JH - term'n clause timing

Akh - rescission

Doym - conflict resol'n -  
partial tract excl'n unnec  
drainage  
ADGCC/DOI overlap  
termination fee  
royty calc's unclear

Konrag drainage  
unitization  
conveye proc's - warrants?

State - tract sken vs 1002  
insuff subs'c int  
guidance  
state title claims  
arb'y conflict resol'n

any rem'g conc'ns -> DOI by Feb 19  
-> rev'd draft contract Feb 23

state pol'y calls

do we want rescission

pub. use easements on trade lands

subs'c

drainage -

state submgd lands

Horn - late Apr. >> likely than Mar 24  
for tract sale

Horn - acknowledges that state o/r pol'y  
wd come out of fed' ~~the~~ lands -

Refuges wd suffer -

Horn will det. values by

1. FMV app'l
2. USFWS acq'n pric
3. transactn benefits -
4. cong'l comparables.

Feb 2 8-

Ted Stephenson	BLM	D.C.
Jim Wilkes	AKI	
Jim Mey	Doyon	
Arthur Lazaws	"	
Bill Tanne	Kontag	
Mark Kinder	NLG	
Eric Laschever		
Walt Ebell	Old Hbr	
Paul Keaton	DDI/Solicitor	
Sharon Alexander	"	
Wm W. Garner	Old Hbr / Birch Hbr	
Paul Powell	AKI	
Ralph Huska	"	
Martha Fox		
Gary Gustafson	DNR	
Joe Chomsk(?)	Old Harbor / Birch Hbr	
Art Kennedy	Kontag	
Uwe Gross	Kontag	
Bob Wright	Doyon	
Alan Mintz	ASRC	202 331 9400
Erich Kaarlela	BLM	
John Dabel	FWS	

21. Koning

reverter clause  
o/r royalty.  
"stiff arm"

126,000 acres avail

early 80s exchanges for OCS charts -  
passed Congress twice.

Koning merger litigation - new admin -

ANWR seen as only Refuge prop's that Koning wd be int'd in  
reluctant to go public - will want shareholders' approval - OSD 1

is a moving target on terms etc.

now need to get info out

Nov. 84 began disc'g w/ Horn -

1<sup>st</sup> state mtg - Oct '86 - tog'r -

lv bn mtg w/ Katz whenever in D.C.

FWS saw most state lands as not worth owning.

State fought to keep lands out of Refuge System in ANILCA and

now is trying to put them in

22(g) - significant adverse impacts -

Kouluok River/Lk, Surgeon R.?

no rights of access.

shareholder int. in subdiv'n.

there's an argument that 22(g) cd be regarded as a taking +  
did not allow claims attmt.

MAI-type appral - then disc'd for 22(g)

agmts -

had disc'd w/ DoI for sev'l mos.

then had a draft, redid strips - FWS people don't

know how to write o/b strips -

mostly agree w/ state's comments wh. wr. being implemented  
anyway

same controls as any other fed'l lessee

NPR-4 fed'l leases wr. subj. to state jurisd'n

reverter clause -

state being neg'd - DoI's pos'n was that it wanted a share

IF there was a major find

Koning puts up land, 35% of ~~land~~ <sup>Koning</sup> land is given ~~to Koning~~ <sup>to fed'l gov't</sup>

up in some time the Corp'n returns some acreage if it's dry.

reverts terminated if a prudent explorer

1.5% fed'l O/R

no state consid'n -

if DOI wants to impose a state O/R it shdn't come out of  
the ~~state~~ <sup>federal</sup> share - shdn't come out of the ~~state~~ <sup>Carpino</sup> share

state acreage involved - now 800k

timeline - tract skn Mar 24

→ Congress by June 1 (after CZMA)

not int'd in admin' exchange - ~~state~~ want Cong'l approval.

3 or 4 year adv'g fr. exchanges -

if ~~state~~ Cong. approves it also approves the stip'n -

→ Uwe tax Parks land will hv. to be included eventually

2/5 S O/G - Katz

history of state's particip'n - involvement -

five or six pieces of ANWR policy

reg'n / trades / carbon agmt

4 committees - H's Inv, H's MM+F, S ENR, S ENV PN

no amn expt till after submittal of 1002 rpt

state not much involved yet - waiting for a policy  
need indep. advocacy org.

1002 - reg'n delayed the report

twice the deadline

reg'n of land trades - DOI / ANCSA corp'ns

1. boundary exch agmt

2. tract skn perc's

3. draft strips

does Stevens  
agree? →

must be submitted to Congress for approval

state's pos'n: hv not yet taken a pos'n on the trades  
themselves. no def'n concl'n yet. one participating  
to be constr'v -

carbon treaty gen'l mandates on habitat protection -

Cookhill: AS 38.50, 90/10

Betty: if we're being involved we shdn't attack land trades

Katz: if the State doesn't supp. ANCSA land trades it can't  
put forward its own or stay at the reg'g table

[also has said the state didn't take a pos'n on  
trades yet]

Betty: need a resolution? how soon?

Katz: d-2 - consensus points - need a resolution early  
in the process - after submit of 1002 study (late March  
or early April) -

Cookhill: is there an MOU on data exchange (serms) - const'l  
duty to protect the people of Ak, rel. to 90/10 -

Katz: yes, an MOU exists reg'g serms data &c. -

2/3 5 0/6

Arless: What role do state role be in land trades? if we don't pasture?

Katz: litig'n later in process?

Betty: DOI sez it doesn't b/c the trades need Cong'l approval

Katz: DOI has permit that it wt. do trades adminly even if it has such auth'g -

Betty: politics -

seem of the year !!!

Katz: coalition of groups supp'g opening - 30 members - conscious parallelism

- 1 one school that believes trades are very imp't to opening ANMIR ANCSA corp'ns are resp'd, able in Congress
- 2 trades complicate an aldy diff. issue - ∴ trades are premature

2/4/87

Sam:

Re ANWR land exchanges

This issue is shaping up to be the key one in the Legislature's consideration of HJR 9. Addressing it openly and completely is one way to win on it.

The public has a lot of questions, as do legislators. For instance, where are the exchanges, how does Interior come up with subsurface appraisals, what do the agreements say (on 7(i) and reverter clauses, for instance)?

The Legislature/Resources Committee should be seen as having all the information and allowing all the affected parties to speak up before passing out language. This will certainly be a different approach from Stevens' pig-poke hardsell.

So in about two weeks, perhaps around February 18, I'd recommend having a Committee meeting on the topic of exchanges:

1. USDOJ should come and explain what they're doing. What's in the agreements? Which lands are involved? Are the State's lands being seriously considered? Is it all legal?

2. The State should come and explain clearly what they want out of land exchanges. Cowper's "retreat into obscurity" at his press conference cannot last for long; he has to say whether or not he can live with the agreements under consideration by DOI. And we deserve to know how much he really knows about them.

3. The ANESA corporations should bring their arguments into public. Can Huhndorf really convince people of the points in his telegram? Will he be as threatening in public? Are there good reasons for the state to endorse some of the trades?

4. The environmentalists and the State might share some common ground: we all want to retain public ownership, and preserve revenue streams (some of which might be dedicated to conservation purposes, according to Audubon's Anchorage people).

5. According to Drue the repubs might be willing to accept some kind of compromise language on land exchanges. This might help take some wind out of Stevens' sails.

6. This is the kind of oversight/review that Congress will conduct, but maybe too late. Elsewise no one else is going to be watching Interior closely enough.

I think you can address these issues without getting into a dogfight, and without addressing them you will not be able to develop a true consensus position. We'd need to start preparing pretty soon to be sure that DOI would come out here.

Ned

X

2/5 Martha - exchanges

- Feb 13 - paddy will have enough detail

- must have agmt on terms of agmt by late Feb so that there can be tract shown in March

- contract will be in the form that DOI will present → (Congress)

- 7(i) - no mention of it in the latest draft

- no idea what % of land is sfc/subsfc - Village lands aren't subj. to 7(i) -

- they'd pay a subsfc int. - defeasible fee, int in o/g  
: + access / reasonable use - ownership is o/g

- reverter clause: optional. cost is an overriding royalty - 1.5%

\* - lands back exc for value of what is on land (bonuses etc less expenses)  
so no fed'l royalty exc. w/ reverter

can rescind if can't get permits to drill or if w/in a period there's no share of o/g

appraisal process = consid done, not inc. in the exd agmt.

model isn't adeq. -

✓ W/ Fair - U.S. DOI - Horn's ofc. -

Munkovicki -

also inv. Stevens ofc. -

- all corp'no have agmts -

Martha will check

Sam + Mike.

- 1) Governor originally proposed studying the core calving area for 7 years. After the great debate w/ Ted Stevens in D.C. (in June - "Who ~~is~~ ~~goes~~ represents the caribou?"), the Gov. has backed off some, saying basically that there needs to be special attention for the caribou but he's not convinced this is the only way.
- 2) There's a lot of controversy about whether/where the core calving area is. This amendment doesn't say where it is. You'd probably want to refer to the draft 1002 study by Interior - the final obliterated reference to it. Was ~ 220,000 acres.
- 3) This amendment goes further than anyone else does. Gov. Cooper wanted Congress to direct Interior to defer leasing for 7 years + then make a decision based on the data. So Gov. wanted Congress to open ~~the~~ the calving area but study + then have an administrative decision on leasing.
- 4) Industry says the caribou calve anywhere they want + will do it where people are. They call this a ~~calving~~ <sup>calving</sup> concentration area.
- 5) Most of the data analysis seems to indicate (in my view alone) that the calving area has less potential for oil + gas than the rest of the area. But remember how Prudhoe Bay popped up where people didn't expect it - could be analogous.

- 6) Industry will say they can operate in the calving area, especially for the exploration phase which can be conducted in winter. Want to stage development of the calving area?
- 7) Congress (Senate Energy) doesn't seem to be headed this way - closing the calving grounds.
- 8) Some people say that the central herd has increased since Prudhoe/TAPS. I don't know whether the Prudhoe development affects central herd calving grounds.
- 9) The international treaty should provide adequate protection without additional core calving ground language.

A M E N D M E N T

Offered in the HOUSE

By Adams

TO: HCS CSSJR 7(Resources)

Page 2, line 5, after "investment;":

Insert "and"

Page 2, following line 5:

Insert "WHEREAS the United States Department of the Interior is exploring a number of legislative proposals for the early oil and gas development of the coastal plain;"

Page 2, line 22, after "(43 U.S.C. 1653)":

Insert "; and be it

FURTHER RESOLVED that the Alaska State Legislature urges the state administration to be involved in all aspects of the Alaska National Wildlife Refuge oil and gas development process to ensure that the best interests of the state are protected"

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU, ALASKA 99811  
907 465-3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

February 15, 1988

SUBJECT: Compliance with Uniform Rule 49(5)  
TO: Representative Mike Navarre  
FROM: Theresa L. Bannister *TLB*  
Legislative Counsel

This memo accompanies the amendment that you have requested to change the resolve clause on page 2, at line 7, to refer to oil and gas exploration, development, and production in the coastal plain of ANWR. The accompanying amendment will bring HCS CSSJR 7 (Resources) into compliance with Uniform Rule 49(5) by bringing the resolution's content within its title.

If I may be of further assistance, please advise.

Enclosure

TLB:bb  
wkb2/092

A M E N D M E N T

Offered in the HOUSE

By Navarre

TO: HCS CSSJR 7(Resources)

Page 2, line 7, after "on":

Delete "management of the coastal plain"

Insert "oil and gas exploration, development, and production in the coastal plain of the Arctic National Wildlife Refuge"

STATE OF ALASKA  
1988 LEGISLATIVE SESSION

No. 1

BILL VERSION: HCS SJR 7 (RES)  
PUBLISH DATE: HOUSE 2/1/88

FISCAL NOTE

72 REQUEST:

Revision Date: 1/28/88  
Title: Oil & Gas Explor. and Dev. ANWR

Agency Affected: Natural Resources  
BRU: Petroleum Management

Sponsor: Resources Committee  
Requestor: House Resources Committee

Components: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Jim Eason  
Division: Oil and Gas

Phone: 465-2 400  
Date: 1/27/88

Approved by Commission: [Signature]  
Agency: Department of Natural Resources

Date: 1/27/88

Distribution (by preparer):  
Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)

ASSUMPTIONS ON STATE REVENUE PROJECTIONS  
FOR OWNERSHIP SCENARIOS

60000

\$10.00/bbl flat well head price rising with inflation.

Production and development scenario is a 3.5 Billion barrel discovery.

Royalty percentage is 12.5% irrespective of royalty owner.

Bonus Value of \$600MM on the producing tracts.

Severance taxes under current law.

Two scenarios were developed and the states revenue from Bonuses, Royalty and Severance tax were calculated.

20% FEDERAL OWNERSHIP

Severance = (total sev. tax x 20% x 87.5%) + (total x 80%)  
Royalty = total royalty x 20% x 50%  
Bonus = total bonus x 20% x 50%

Native

20% STATE OWNERSHIP

Severance = (total sev. tax x 20% x 87.5%) + (total x 80%)  
Royalty = total royalty x 20%  
Bonus = total bonus x 20%

Native

These calculations do not take into account the impacts on State revenue of other taxes such as the AD Valorem tax or the Income tax

50/50

# COALITION FOR AMERICAN ENERGY SECURITY

January 20, 1988

M. Isabelle Tapia  
Executive Coordinator

## CONGRESSIONAL ALERT

TO: Members and Friends  
FROM: Isabelle Tapia  
RE: Coalition Meeting on Tuesday, January 26

---

With more hearings being planned for the second session, only one committee is ready to begin mark-up.

We anticipate the Senate Energy and Natural Resources Committee to begin mark-up of S. 1217 in the near future. At this critical time your personal visits and follow-up phone calls are necessary.

Three points that should be incorporated into your message to the Senate Energy and Natural Resources Committee are:

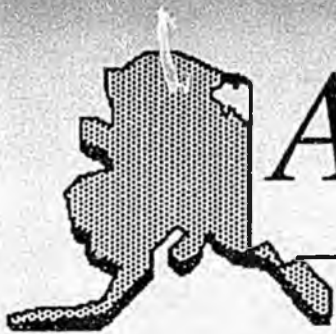
- support opening the Coastal Plain to orderly exploration and development under prudent environmental regulations and stipulations;
- oppose designation of this huge prospective area as Wilderness as is proposed in S. 1804, Senator Roth's and Metzenbaum's bill;
- resist any amendments which would result in further needless delay, or reduce the size of the Coastal Plain available for leasing.

A Coalition legislative status meeting is scheduled for Tuesday, January 26 at 2:30 p.m. in Room 418 of the Russell Senate Office Building. (For your information, 418 Russell is designated as a "non-smoking" room). The meeting will be hosted by Senators Murkowski and Stevens and Congressman Young. Please call Debbie Steward at 333-7484 to confirm your attendance.

1050 Thomas Jefferson Street, N.W. — Sixth Floor, Washington, D.C. 20007

(202) 333-7484

MEMBERSHIP: Alaska Oil & Gas Association • American Association of Petroleum Landmen • American Institute of Merchant Shipping • American Petroleum Institute • American Trucking Associations • Americans for a Rational Energy Policy • Arctic Slope Regional Corporation • The Associated General Contractors of America • Association of Oil Pipelines • BP North America • Brown & Root, Inc. • Caterpillar Inc. • Chevron U.S.A. Inc. • Crowley Maritime • Dresser Industries, Inc. • Fluor Corp. • Highway Users Federation • Independent Petroleum Association of America • International Association of Drilling Contractors • International Association of Geophysical Contractors • Joint Maritime Congress • Marriott Corporation • NAACP - Anchorage Branch • National Association of Home Builders • National Association of Manufacturers • National Association of Realtors • National Coal Association • National Marine Engineers Beneficial Association • National Marine Manufacturers Association • Natural Gas Supply Association • NL Industries, Inc. • National Ocean Industries Association • National Tour Association, Inc. • Petroleum Equipment Suppliers Association • Recreation Vehicle Industry Association • Rocky Mountain Oil and Gas Association • The Standard Oil Company • The National Grange • U.S. Chamber of Commerce • Western Oil and Gas Association



# ARCTIC NOTES

News from the Coalition for American Energy Security

January, 1988

## GUEST COLUMN

### STATE LEGISLATORS URGE CONGRESS: APPROVE COASTAL PLAIN DEVELOPMENT

By Senator Samuel B. Nunez, Jr.

There's a lot of discussion in Washington these days about new oil and gas exploration and development in Alaska. Some predict possible harm to the environment if the Coastal Plain of the Arctic National Wildlife Refuge (ANWR) is opened. At the South/West Energy Council, we don't believe their predictions.

Members of the Council recently had the opportunity to visit the ANWR Coastal Plain in extreme northeastern Alaska. We saw first-hand how oil is produced — under strict safety and environmental controls — at the Prudhoe Bay oil field less than 100 miles away.

According to government and oil industry experts, the ANWR Coastal Plain holds the potential for significant oil and gas production starting in the year 2000. But we don't need an expert to tell us what development of the area could do for our state.

ANWR could provide significant benefits outside Alaska, including more jobs for the citizens of Louisi-

ana, not to mention the citizens of other states. New jobs mean better times for those out of work and a healthier economy. All of us would like that.

Only a small part of ANWR would be opened to oil and gas exploration and production. Currently before Congress are two companion bills that could bring this about: S. 1217 and H.R. 1082.

If passed and enacted into law, the legislation would only affect the 1.5 million acre Coastal Plain (Section 1002 Area) of the 19 million acre Refuge. The Interior Department estimates that only about 12,000 acres, or less than 19 square miles would be directly impacted by oil development activities.

Should ANWR's Coastal Plain be opened to drilling and development in an environmentally safe fashion? Common sense says of course! Too many uncontrollable economic and political risks face this country to delay opening the area. In short, the U.S. needs the oil resources that ANWR might contain.

We now are importing more oil than during the Arab oil embargo in 1973, and the Department of Energy has estimated that we will be importing more than 50 percent of our energy needs by 1990. It is time to act to ensure a secure domestic source of oil for the future.

Studies indicate that ANWR might contain as much as 9 billion barrels of oil and 64 trillion cubic feet of gas.

## ON CAPITOL HILL

### COASTAL PLAIN DECISION LIKELY IN 1988 SESSION

The year ahead should bring Congress to a decision point on the issue of oil and gas development on the coastal plain. While the session will be shortened by the upcoming elections, most believe that our energy posture warrants action.

Last year, four committees in the House and the Senate held 22 hearings related to the issue. This extensive hearing record is likely to grow as additional hearings are scheduled.

In the first session, there were five bills pending on the issue: the Alaska delegation bills (H.R. 1082 by Representative Don Young and S. 1217 by Senator Ted Stevens and Frank Murkowski); the wilderness bills (H.R. 39 by Representative Morris Udall and S. 1804 by Senator William Roth); and a third approach by Representative Walter Jones, which delays development while the government conducts a five-year exploratory drilling program. Many believe the Senate will act first, with a mark-up in the Senate Energy Committee.

Whatever course the legislation takes, it could not be soon enough. Oil imports continue to rise as domestic production falls. At 47 billion dollars in 1987, oil comprises 25% of our country's trade deficit. And, as of last count, we had 30 ships with 20,000 Americans patrolling the Persian Gulf.

Congressional action on a careful program of exploration and development for the Coastal Plain is in the national interest.

## INSIDE THIS ISSUE

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(continued on page 2)

(Guest Column continued)

It's been estimated that between 3.2 billion barrels and 9.2 billion barrels can be recovered. Depending on the price of oil and the amount recovered, ANWR might yield net national economic benefits of between \$79.4 billion and \$325 billion.

Sure, opening the Coastal Plain is controversial, so was building the Trans-Alaska Pipeline. Opponents managed to delay construction of that vital pipeline for four years, costing millions of dollars. But, based on our recent first-hand look at oil production on Alaska's North Slope, the oil industry is doing an admirable job of preserving areas where it operates, especially in the frozen Arctic.

The oil industry's record on the North Slope of Alaska is something of which all Americans can be proud. Industry monitors migratory birds and the populations of flocks; digs channels for fish to swim through near offshore operations; and tracks whales from Alaskan waters to Mexico and Hawaii and back again. These are just a few examples, but anti-development factions ignore them.

In 1972, when opponents of the Trans-Alaska Pipeline were lobbying hard to stop the project, they testified: "...the Arctic National Wildlife Range (as it was designated then) has practically no exceptional or unique natural value."

The environmentalists said that a pipeline would do less damage if it were built through the refuge. Amazingly, one recommendation called for building a railroad through the area instead of the Trans-Alaska Pipeline.

The ANWR Coastal Plain is basically tundra. It's vast, flat and treeless. It's occupied for a short time

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**The Coalition for  
American Energy Security**

For additional copies or further information, please contact:

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*Coalition for American Energy Security*

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*Sixth Floor*

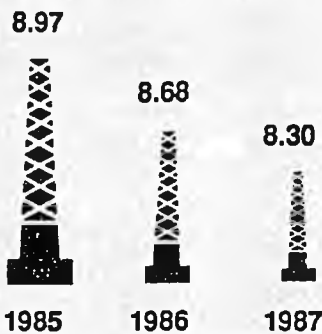
*Washington, D.C. 20007*

*(202) 333-7484*

## OIL AT A GLANCE

(Million barrels per day)

### As U.S. Production Falls



### Imports Grow



Source: Energy Information Administration

each year by the Porcupine caribou herd — a fact some groups would use to prevent opening the area to oil and gas development.

But another herd, the Central Arctic herd, which makes the Prudhoe Bay oil field its home each year, hasn't been hurt. In fact, the Central Arctic herd has quadrupled in size in less than 15 years, growing from about 3,000 in 1972, to 13,000 in 1985.

Objective environmental research has been performed for years: there has been no measurable deterioration in the fish and wildlife populations. Nor is there any evidence that the habitat to support fish and wildlife has been harmed.

Oil exploration and development can co-exist with wildlife in the Arctic environment.

We must not forget the positive impact that oil development of Alaska's North Slope has had in every state. Since 1975, this development has generated \$24 billion of business activity with 37,000 companies located in all 50 states.

In Louisiana, some \$148 million — maybe more — was spent between 1980 and 1986 for equipment, supplies and services for North Slope development. We believe that businesses and workers throughout Louisiana also will be major participants in any future industry activity in ANWR.

The net economic benefit that could be realized from ANWR would be distributed throughout the United States. In addition, the impact on our nation's trade deficit would be enormous.

We, as a nation, have the opportunity to discover another giant oil field in Alaska at a time when our domestic reserves are declining and our oil imports from unstable Middle East sources are climbing. By carefully exploring and developing ANWR's Coastal Plain, this nation has the chance to reduce our reliance on imported oil through increased domestic production: thereby reducing our vulnerability to supply disruptions and reducing our foreign trade deficit.

Members of the South/West Energy Council have traveled to Alaska to see this area first-hand. All of our states benefited from the development of Prudhoe Bay and the construction of the Trans-Alaska Pipeline. We would all share in the jobs and economic development from future development within ANWR.

That is why many of our members will be telling their Congressional representatives during the opening days of the 1988 Congressional session that we strongly support careful development of the Coastal Plain and oppose further restrictions or delay. And that is why both the Southern Legislative Conference and the Western Legislative Conference have adopted similar policy positions.

With America's energy future at stake, we simply can't afford to delay any longer.

*Samuel Nunez is the President of the Louisiana Senate and chairs the South/West Energy Council and the Louisiana Energy Development Study Commission. A geologist by training, he will be Chairman of the National Conference of State Legislatures during 1988-89.*

## FLORA AND FAUNA: CAN MAN AND CARIBOU CO-EXIST?

Recently, Senator Frank Murkowski talked by phone with Dr. Tom Bergerud of Canada's University of Victoria. The following are excerpts from that interview:

**Murkowski:** Dr. Bergerud, I understand that you have devoted a good portion of your life to research on caribou. Can you tell me a little bit about your background and the observations you've made on the caribou in various areas of the world?

**Bergerud:** Well, I've been working with caribou since 1955. I was a chief biologist in Newfoundland for many years and then the director of the game department.

I worked with the Newfoundland herds, then I worked with the Labrador herds, the herds in Quebec, Ontario and lately in British Columbia and the Northwest Territory. I've had one field on Alaska.

I spent 22 years on the calving grounds when the cows were giving birth. I spent 19 years with the animals during the rut. I've devoted my whole professional life to the well being of the species.

**Murkowski:** I'm interested in the question of activity associated with oil and gas exploration in the area of caribou habitat or in their calving ground.

What happens when there's exploration in an area where they traditionally come to calve?

**Bergerud:** Well, the calving grounds of most of the big herds are on the northern edge of the annual distribution of the herds.

The paper that I've been publishing, and is becoming more generally accepted, is that caribou go to calving grounds as an anti-predator strategy. They go to the very northern edge of their range and this allows them to get away from wolves. Wolves usually den along treelines, so that is the most important thing to keep in mind.

The caribou are going to calving grounds in my view to escape wolves, not because there is some unique food supply or forage there. Where the bulls are, south of the calving grounds, the food is much better and if the cows were really interested in food supply they would have stayed back with the bulls. But, they've gone up to get away from the predators.

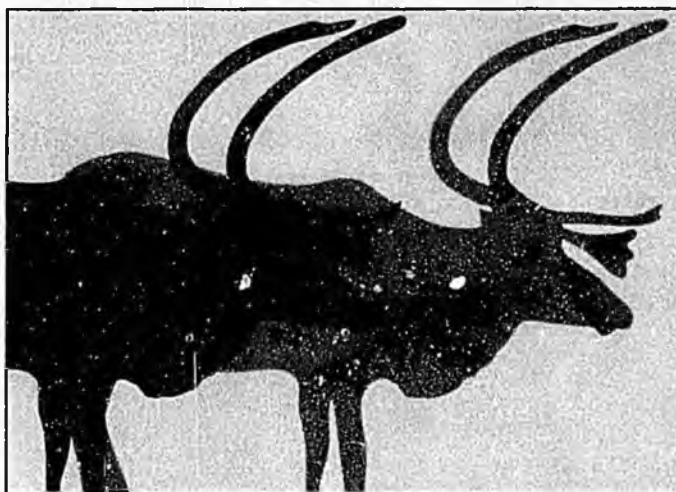
Now because they're worried about predators they are liable to disturbance — when they see a vehicle coming down the road it represents a predator to them. They are not disturbed by the road without the vehicle. We can expect that if we have a road with traffic in a calving ground that

the bulls will probably pay little attention to the road but that the cows will move back perhaps a mile from the road and then they will resume their normal activities.

In fact, we don't want the caribou to habituate to the traffic because in fact this is their natural predator response.

**Murkowski:** Do I understand you to say that the mere presence of roads, drilling pads, and drill rigs will not necessarily displace the caribou? Rather, is it the activity associated with those structures — men and vehicles working, etc. — which may cause the caribou to move away from the area?

**Bergerud:** It's the disturbance that causes them to be displaced, if they are going to be displaced. It doesn't necessarily need to be traffic.



One person did a study up there on the Central Arctic Herd and he made a fence and he had burlap bags hanging on the fence. When the bags flapped in the wind, the caribou avoided this fence, in my view, because it resembled a predator.

If you have things that look like predators it's the predator response on the road that makes them peel away.

Now this is mostly the cows and the calves. The bulls are not nearly as shy of predators. They actually go into the willow valleys to feed. That's what they have to do to get big and breed females. The female has to stay away from predators so her calf will live.

And even if there's a lot of traffic on the road, the displacement is only a mile on each side of the activity. Also, if we do want to keep all the traffic going, we will lose a strip of occupation of about two miles wide.

The big thing is that we don't have a barrier. I don't see why we should worry about this two miles on each side because the range is not limiting. And the herd can continue to prosper.

**Murkowski:** How does the noise associated with the activities of man affect the caribou?

**Bergerud:** I was in the Delta Herd in Alaska. That herd is near an army base. Right at calving time the army people used to come out with their big Huey helicopters which really look sinister at very low elevations and the caribou were so habituated to this noise that they didn't even stand up.

(continued on page 4)

## CALENDAR OF EVENTS

- January 25 President Reagan's State of the Union Address
- January 26 Coalition Meeting: Senate Russell Ofc. Bldg. 418 (2:30 p.m.)
- February 9 NAM Luncheon: Speaker will be Senator Mark Hatfield (12:00, Multnomah Club, Portland, Oregon). For more information contact Jean Ellen Wilson at (312) 698-3838.

*(continued from page 3)*

*Murkowski: Do you know of any areas where caribou are currently in close contact with the activities of man?*

Bergerud: I was over in Norway once in 1979 and I watched a caribou herd right in the middle of Army maneuvers. In Norway they maneuver in the national parks in unusual situations. The caribou were paying no heed to this.

The Central Arctic Herd next to the Porcupine herd of course has a tremendous amount of development — pipes and feeder lines and so forth, and that herd has prospered; increasing from some 3,000 to 15,000 during the development. I think that's the acid case that shows that caribou can co-adapt to this.

They cannot co-adapt to being over harvested, but they can certainly take living side-by-side with an ethical man.

### ANWR Policy Statement

On July 18, 1987 the Board of Directors of the American Association of Blacks in Energy added their voice to the growing concern about America's energy future by adopting the following resolution:

*"Be it resolved that the American Association of Blacks in Energy enjoin our elected officials at the local, state and federal levels; to develop a comprehensive U.S. energy policy which:*

*Maximizes production of all potential U.S. energy resources, to include offshore oil development and development of the Coastal Plain of the Arctic National Wildlife Refuge with necessary and appropriate safeguards to ensure maximum protection of the environment and of the rights of the indigenous populations of the regions."*

## COALITION MEMBERSHIP

Alaska Oil & Gas Association, American Association of Petroleum Landmen, American Petroleum Institute, Americans for a Rational Energy Policy, American Institute of Merchant Shipping, Arctic Slope Regional Corporation, Associated General Contractors of America, Association of Oil Pipelines, American Mining Congress, BP North America, Brown & Root, Caterpillar Inc., Chevron U.S.A., Cooper Industries, Inc., Crowley Maritime, Dresser Industries, Fluor Corp., Hehr International Inc., Highway Users Federation, Independent Petroleum Association of America, International Association of Drilling Contractors, International Association of Geophysical Contractors, Joint Maritime Congress, Marriott Corporation, NAACP - Anchorage Branch, National Association of Home Builders, National Association of Manufacturers, National Association of Realtors, National Cattlemen's Association, National Marine Engineers Beneficial Association, National Marine Manufacturers Association, National Coal Association, National Ocean Industries Association, National Tour Association, National Wool Growers Association, Natural Gas Supply Association, NL Industries, Petroleum Equipment Suppliers Association, Public Lands Council, Recreation Vehicle Industry Association, Rocky Mountain Oil and Gas Association, The Standard Oil Company, The National Grange, U.S. Chamber of Commerce, and the Western Oil and Gas Association.



### ARCTIC NOTES

Coalition for American Energy Security  
1050 Thomas Jefferson Street, N.W.  
Sixth Floor  
Washington, D.C. 20007

ANWR LAND TRADES

State Concerns

See -  
The handouts ARCO  
used w/ Gov. Conyer  
on 1/27. They are  
being analyzed in ANR.  
Not very convincing.

N

- Negative impact on ANWR access.
  
- Negative impact on state revenues, economy.
  
- Poor public policy:
  1. Benefits accrue to a select few.
  2. Valuation of Native surface.
  3. Valuation of ANWR subsurface (giveaway).
  4. Competitive leasing would be much superior.
  
- Best ANWR tracts have been selected and little remains. Natives have taken the cream.

STATE RECEIPTS

REVENUE SHARING - 50% FEDERAL/50% STATE

TRADE ACREAGE ONLY (STATE ≈ NATIVE)

	<u>Federal Leasing</u>	<u>Native Trade</u>	<u>State Trade</u>	<u>Total</u>
Bonus	50%	0	100%	50%
Royalty	50%	0	100%	50%
Severance	100%	114%	100%	107%
State Income Tax	100%	100% plus Tax on native Royalty	100%	100%+

Other Benefits:

- Realize revenue and jobs creation at least 2-4 years early
- Native trades mean that bonus & royalties that would have gone to Washington, D.C. staying in the state creating:
  1. Economic activity
  2. Personal wealth
  3. Jobs
  4. Recycle benefits
- Increased competition in subsequent federal sale

SUMMARY:

- The state has much to gain by participation in the ANWR land trades:
  - Improved chances of ANWR access.
  - Improved state economy and higher royalty and tax receipts.
  - Acceleration of timing of ANWR exploration and (hopefully) development. This means earlier revenue receipts and earlier job creation.
  
- An objective should be to capture as much of the ANWR access "environmental payment" as possible in the state. Trades are a natural mechanism to accomplish this.
  
- Downside to this position is low:
  - Access will likely be driven by national security concerns and world events.
  - If Congress will not accept these trades, the final ANWR vote will not include them.
  
- Downside to the state's active opposition to the trades is high:
  - Discrediting DOI hurts access.
  - Discrediting DOI and harming that relationship may carry future costs.
  - Demotivating other advocates hurts access.
  - Attacking land values is not in state's interest.
  - "Environmental payment" and benefits likely to go outside the state.
  
- The access issue needs state leadership to unite the conflicting voices.

"Approved: Trigg Twichell, Representative, United States of America.

"Attest: Willard B. Mills, Secretary."

Sec. 2. In order to carry out the purposes of this Act, and the purposes of article XIII of this compact consented to by Congress by this Act, the congressional consent to this compact includes and expressly gives the consent of Congress to have the United States of America named and joined as a party litigant in any litigation in the United States Supreme Court, if the United States of America as an indispensable party to such litigation, and if the litigation arises out of this compact, or its application, and if a signatory State to this compact is a party litigant, in the litigation.

Sec. 3. The right to alter, amend, or repeal this Act, is expressly reserved.

Approved Nov. 13, 1973.

## TRANS-ALASKA PIPELINE AUTHORIZATION ACT

*For Legislative History of Act, see p. 2417*

PUBLIC LAW 93-153; 87 STAT. 576

[S. 1081]

An Act to amend section 28 of the Mineral Leasing Act of 1920, and to authorize a trans-Alaska oil pipeline, and for other purposes.

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

### TITLE I

Section 101. Section 28 of the Mineral Leasing Act of 1920 (41 Stat. 449), as amended (30 U.S.C. 185),<sup>92</sup> is further amended to read as follows:

#### "Grant of Authority

"Sec. 28. (a) Rights-of-way through any Federal lands may be granted by the Secretary of the Interior or appropriate agency head for pipeline purposes for the transportation of oil, natural gas, synthetic liquid or gaseous fuels, or any refined product produced therefrom to any applicant possessing the qualifications provided in section 1 of this Act, as amended, in accordance with the provisions of this section.

#### "Definitions

"(b)(1) For the purposes of this section 'Federal lands' means all lands owned by the United States except lands in the National Park System, lands held in trust for an Indian or Indian tribe, and lands on the Outer Continental Shelf. A right-of-way through a Federal reservation shall not be granted if the Secretary or agency head

92. 30 U.S.C.A. § 185.

holders of rights-of-way and permits under this Act shall be liable to the United States for damage or injury incurred by the United States in connection with the right-of-way or permit. Where the right-of-way or permit involves lands which are under the exclusive jurisdiction of the Federal Government, the Secretary or agency head shall promulgate regulations specifying the extent to which holders shall be liable to third parties for injuries incurred in connection with the right-of-way or permit.

"(2) The Secretary or agency head may, by regulation or stipulation, impose a standard of strict liability to govern activities taking place on a right-of-way or permit area which the Secretary or agency head determines, in his discretion, to present a foreseeable hazard or risk of danger to the United States.

"(3) Regulations and stipulations pursuant to this subsection shall not impose strict liability for damage or injury resulting from (A) an act of war, or (B) negligence of the United States.

"(4) Any regulation or stipulation imposing liability without fault shall include a maximum limitation on damages commensurate with the foreseeable risks or hazards presented. Any liability for damage or injury in excess of this amount shall be determined by ordinary rules of negligence.

"(5) The regulations and stipulations shall also specify the extent to which such holders shall indemnify or hold harmless the United States for liability, damage, or claims arising in connection with the right-of-way or permit.

"(6) Any regulation or stipulation promulgated or imposed pursuant to this section shall provide that all owners of any interest in, and all affiliates or subsidiaries of any holder of, a right-of-way or permit shall be liable to the United States in the event that a claim for damage or injury cannot be collected from the holder.

"(7) In any case where liability without fault is imposed pursuant to this subsection and the damages involved were caused by the negligence of a third party, the rules of subrogation shall apply in accordance with the law of the jurisdiction where the damage occurred.

#### "Antitrust Laws

"(y) The grant of a right-of-way or permit pursuant to this section shall grant no immunity from the operation of the Federal anti-trust laws."

## TITLE II

### SHORT TITLE

Sec. 201. This title may be cited as the "Trans-Alaska Pipeline Authorization Act".

### CONGRESSIONAL FINDINGS

Sec. 202. The Congress finds and declares that:

(a) The early development and delivery of oil and gas from Alaska's North Slope to domestic markets is in the national interest be-

cause of growing domestic shortages and increasing dependence upon insecure foreign sources.

(b) The Department of the Interior and other Federal agencies, have, over a long period of time, conducted extensive studies of the technical aspects and of the environmental, social, and economic impacts of the proposed trans-Alaska oil pipeline, including consideration of a trans-Canada pipeline.

(c) The earliest possible construction of a trans-Alaska oil pipeline from the North Slope of Alaska to Port Valdez in that State will make the extensive proven and potential reserves of low-sulfur oil available for domestic use and will best serve the national interest.

(d) A supplemental pipeline to connect the North Slope with a trans-Canada pipeline may be needed later and it should be studied now, but it should not be regarded as an alternative for a trans-Alaska pipeline that does not traverse a foreign country.

#### CONGRESSIONAL AUTHORIZATION

Sec. 203. (a) The purpose of this title is to insure that, because of the extensive governmental studies already made of this project and the national interest in early delivery of North Slope oil to domestic markets, the trans-Alaska oil pipeline be constructed promptly without further administrative or judicial delay or impediment. To accomplish this purpose it is the intent of the Congress to exercise its constitutional powers to the fullest extent in the authorizations and directions herein made and in limiting judicial review of the actions taken pursuant thereto.

(b) The Congress hereby authorizes and directs the Secretary of the Interior and other appropriate Federal officers and agencies to issue and take all necessary action to administer and enforce rights-of-way, permits, leases, and other authorizations that are necessary for or related to the construction, operation, and maintenance of the trans-Alaska oil pipeline system, including roads and airstrips, as that system is generally described in the Final Environmental Impact Statement issued by the Department of the Interior on March 20, 1972. The route of the pipeline may be modified by the Secretary to provide during construction greater environmental protection.

(c) Rights-of-way, permits, leases, and other authorizations issued pursuant to this title by the Secretary shall be subject to the provisions of section 28 of the Mineral Leasing Act of 1920, as amended by title I of this Act (except the provisions of subsections (h)(1), (k), (q), (w)(2), and (x)); all authorizations issued by the Secretary and other Federal officers and agencies pursuant to this title shall include the terms and conditions required, and may include the terms and conditions permitted, by the provisions of law that would otherwise be applicable if this title had not been enacted, and they may waive any procedural requirements of law or regulation which they deem desirable to waive in order to accomplish the purposes of this title. The direction contained in section 203(b) shall supersede the provisions of any law or regulation relating to

*Dennis  
Pender*

an administrative determination as to whether the authorizations for construction of the trans-Alaska oil pipeline shall be issued.

(d) The actions taken pursuant to this title which relate to the construction and completion of the pipeline system, and to the applications filed in connection therewith necessary to the pipeline's operation at full capacity, as described in the Final Environmental Impact Statement of the Department of the Interior, shall be taken without further action under the National Environmental Policy Act of 1969; and the actions of the Federal officers concerning the issuance of the necessary rights-of-way, permits, leases, and other authorizations for construction and initial operation at full capacity of said pipeline system shall not be subject to judicial review under any law except that claims alleging the invalidity of this section may be brought within sixty days following its enactment, and claims alleging that an action will deny rights under the Constitution of the United States, or that the action is beyond the scope of authority conferred by this title, may be brought within sixty days following the date of such action. A claim shall be barred unless a complaint is filed within the time specified. Any such complaint shall be filed in a United States district court, and such court shall have exclusive jurisdiction to determine such proceeding in accordance with the procedures hereinafter provided, and no other court of the United States, of any State, territory, or possession of the United States, or of the District of Columbia, shall have jurisdiction of any such claim whether in a proceeding instituted prior to or on or after the date of the enactment of this Act. Any such proceeding shall be assigned for hearing at the earliest possible date, shall take precedence over all other matters pending on the docket of the district court at that time, and shall be expedited in every way by such court. Such court shall not have jurisdiction to grant any injunctive relief against the issuance of any right-of-way, permit, lease, or other authorization pursuant to this section except in conjunction with a final judgment entered in a case involving a claim filed pursuant to this section. Any review of an interlocutory or final judgment, decree, or order of such district court may be had only upon direct appeal to the Supreme Court of the United States.

(e) The Secretary of the Interior and the other Federal officers and agencies are authorized at any time when necessary to protect the public interest, pursuant to the authority of this section and in accordance with its provisions, to amend or modify any right-of-way, permit, lease, or other authorization issued under this title.

#### LIABILITY

*general*

Sec. 204. (a)(1) Except when the holder of the pipeline right-of-way granted pursuant to this title can prove that damages in connection with or resulting from activities along or in the vicinity of the proposed trans-Alaskan pipeline right-of-way were caused by an act of war or negligence of the United States, other government entity, or the damaged party, such holder shall be strictly liable to all damaged parties, public or private, without regard to fault for

such damages, and without regard to ownership of any affected lands, structures, fish, wildlife, or biotic or other natural resources relied upon by Alaska Natives, Native organizations, or others for subsistence or economic purposes. Claims for such injury or damages may be determined by arbitration or judicial proceedings.

(2) Liability under paragraph (1) of this subsection shall be limited to \$50,000,000 for any one incident, and the holders of the right-of-way or permit shall be liable for any claim allowed in proportion to their ownership interest in the right-of-way or permit. Liability of such holders for damages in excess of \$50,000,000 shall be in accord with ordinary rules of negligence.

(3) In any case where liability without fault is imposed pursuant to this subsection and the damages involved were caused by the negligence of a third party, the rules of subrogation shall apply in accordance with the law of the jurisdiction where the damage occurred.

(4) Upon order of the Secretary, the holder of a right-of-way or permit shall provide emergency subsistence and other aid to an affected Alaska Native, Native organization, or other person pending expeditious filing of, and determination of, a claim under this subsection.

(5) Where the State of Alaska is the holder of a right-of-way or permit under this title, the State shall not be subject to the provisions of subsection 204(a), but the holder of the permit or right-of-way for the trans-Alaska pipeline shall be subject to that subsection with respect to facilities constructed or activities conducted under rights-of-way or permits issued to the State to the extent that such holder engages in the construction, operation, maintenance, and termination of facilities, or in other activities under rights-of-way or permits issued to the State.

(b) If any area within or without the right-of-way or permit area granted under this title is polluted by any activities conducted by or on behalf of the holder to whom such right-of-way or permit was granted, and such pollution damages or threatens to damage aquatic life, wildlife, or public or private property, the control and total removal of the pollutant shall be at the expense of such holder, including any administrative and other costs incurred by the Secretary or any other Federal officer or agency. Upon failure of such holder to adequately control and remove such pollutant, the Secretary, in cooperation with other Federal, State, or local agencies, or in cooperation with such holder, or both, shall have the right to accomplish the control and removal at the expense of such holder.

(c)(1) Notwithstanding the provisions of any other law, if oil that has been transported through the trans-Alaska pipeline is loaded on a vessel at the terminal facilities of the pipeline, the owner and operator of the vessel (jointly and severally) and the Trans-Alaska Pipeline Liability Fund established by this subsection, shall be strictly liable without regard to fault in accordance with the provisions of this subsection for all damages, including clean-up

*Pollution  
control &  
cleanup*

costs, sustained by any person or entity, public or private, including residents of Canada, as the result of discharges of oil from such vessel.

(2) Strict liability shall not be imposed under this subsection if the owner or operator of the vessel, or the Fund, can prove that the damages were caused by an act of war or by the negligence of the United States or other governmental agency. Strict liability shall not be imposed under this subsection with respect to the claim of a damaged party if the owner or operator of the vessel, or the Fund, can prove that the damage was caused by the negligence of such party.

(3) Strict liability for all claims arising out of any one incident shall not exceed \$100,000,000. The owner and operator of the vessel shall be jointly and severally liable for the first \$14,000,000 of such claims that are allowed. Financial responsibility for \$14,000,000 shall be demonstrated in accordance with the provisions of section 311(p) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1321(p)) before the oil is loaded. The Fund shall be liable for the balance of the claims that are allowed up to \$100,000,000. If the total claims allowed exceed \$100,000,000, they shall be reduced proportionately. The unpaid portion of any claim may be asserted and adjudicated under other applicable Federal or state law.

(4) The Trans-Alaska Pipeline Liability Fund is hereby established as a non-profit corporate entity that may sue and be sued in its own name. The Fund shall be administered by the holders of the trans-Alaska pipeline right-of-way under regulations prescribed by the Secretary. The Fund shall be subject to an annual audit by the Comptroller General, and a copy of the audit shall be submitted to the Congress.

(5) The operator of the pipeline shall collect from the owner of the oil at the time it is loaded on the vessel a fee of five cents per barrel. The collection shall cease when \$100,000,000 has been accumulated in the Fund, and it shall be resumed when the accumulation in the Fund falls below \$100,000,000.

(6) The collections under paragraph (5) shall be delivered to the Fund. Costs of administration shall be paid from the money paid to the Fund, and all sums not needed for administration and the satisfaction of claims shall be invested prudently in income-producing securities approved by the Secretary. Income from such securities shall be added to the principal of the Fund.

(7) The provisions of this subsection shall apply only to vessels engaged in transportation between the terminal facilities of the pipeline and ports under the jurisdiction of the United States. Strict liability under this subsection shall cease when the oil has first been brought ashore at a port under the jurisdiction of the United States.

(8) In any case where liability without regard to fault is imposed pursuant to this subsection and the damages involved were caused by the unseaworthiness of the vessel or by negligence, the owner and

operator of the vessel, and the Fund, as the case may be, shall be subrogated under applicable State and Federal laws to the rights under said laws of any person entitled to recovery hereunder. If any subrogee brings an action based on unseaworthiness of the vessel or negligence of its owner or operator, it may recover from any affiliate of the owner or operator, if the respective owner or operator fails to satisfy any claim by the subrogee allowed under this paragraph.

(9) This subsection shall not be interpreted to preempt the field of strict liability or to preclude any State from imposing additional requirements.

(10) If the Fund is unable to satisfy a claim asserted and finally determined under this subsection, the Fund may borrow the money needed to satisfy the claim from any commercial credit source, at the lowest available rate of interest, subject to approval of the Secretary.

(11) For purposes of this subsection only, the term "affiliate" includes—

(A) Any person owned or effectively controlled by the vessel owner or operator; or

(B) Any person that effectively controls or has the power effectively to control the vessel owner or operator by—

(i) stock interest, or

(ii) representation on a board of directors or similar body, or

(iii) contract or other agreement with other stockholders, or

(iv) otherwise; or

(C) any person which is under common ownership or control with the vessel owner or operator.

(12) The term "person" means an individual, a corporation, a partnership, an association, a joint-stock company, a business trust, or an unincorporated organization.

ANTITRUST LAWS

Sec. 205. The grant of a right-of-way, permit, lease, or other authorization pursuant to this title shall grant no immunity from the operation of the Federal anti-trust laws.

ROADS AND AIRPORTS

Sec. 206. A right-of-way, permit, lease, or other authorization granted under section 203(b) for a road or airstrip as a related facility of the trans-Alaska pipeline may provide for the construction of a public road or airstrip.

TITLE III—NEGOTIATIONS WITH CANADA

Sec. 301. The President of the United States is authorized and requested to enter into negotiations with the Government of Canada to determine—

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# UNITED STATES CODE ANNOTATED

## Title 43

### Public Lands

#### §§ 931 to End

Comprising All Laws of a General and Permanent Nature  
Under Arrangement of Official Code of  
the Laws of the United States  
with  
Annotations from Federal and State Courts

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## CHAPTER 34—TRANS-ALASKA PIPELINE

- Sec.
1651. Congressional findings and declaration.
1652. Authorizations for construction.
- (a) Congressional declaration of purpose.
  - (b) Issuance, administration, and enforcement of rights-of-way, permits, leases, and other authorizations.
  - (c) Applicability of statutes governing rights-of-way for pipelines through Federal lands; other statutory terms and conditions; waiver of procedural requirements; supersedure of administrative authorizations for construction.
  - (d) National Environmental Policy Act of 1969 by-passed; issuance of authorizations for construction and operation not to be subject to judicial review; time limits on charges of invalidity or unconstitutionality; jurisdiction; hearings; review.
  - (e) Amendment or modification of rights-of-way, permits, leases, or other authorizations.
1653. Liability for damages.
- (a) Activities along or in vicinity of pipeline right-of-way; strict liability; limitation on liability; subrogation; emergency subsistence and other aid; exemption for State of Alaska.
  - (b) Control and removal of pollutants at expense of right-of-way holder.
  - (c) Discharges of oil from vessels loaded at terminal facilities of pipeline; strict liability; limitation on liability; apportionment of liability; establishment and operation of Trans-Alaska Pipeline Liability Fund.
1654. Antitrust laws.
1655. Roads and airports.

## § 1651. Congressional findings and declaration

The Congress finds and declares that:

(a) The early development and delivery of oil and gas from Alaska's North Slope to domestic markets is in the national interest because of growing domestic shortages and increasing dependence upon insecure foreign sources.

(b) The Department of the Interior and other Federal agencies, have, over a long period of time, conducted extensive studies of the technical aspects and of the environmental, social, and economic impacts of the proposed trans-Alaska oil pipeline, including consideration of a trans-Canada pipeline.

(c) The earliest possible construction of a trans-Alaska oil pipeline from the North Slope of Alaska to Port Valdez in that State will make the extensive proven and potential reserves of low-sulfur oil available for domestic use and will best serve the national interest.

(d) A supplemental pipeline to connect the North Slope with a trans-Canada pipeline may be needed later and it should be studied now, but it should not be regarded as an alternative for a trans-Alaska pipeline that does not traverse a foreign country.

(Pub.L. 93-153, Title II, § 202, Nov. 16, 1973, 87 Stat. 584)

Short Title. Section 201 of provided that: "This title [which chapter] may be cited as the Pipeline Authorization Act."

Separability of Provisions. Pub.L. 93-153 provided that: section of this Act [enacting this c 1456a of this title, and section 44, Public Printing and Documenting section 1608 of this title, s 53, and 56 of Title 15, Commerce, section 185 of Title 30, Mine Mining, section 3502 of Title 391a of Title 46, Shipping, and provisions set out as notes under and 1651 of this title, section 1 Banks and Banking, section 1 section 791a of Title 16, Commerce, section 1221 of Title 33, Navigation and Marine Waters] or the applica held invalid the remainder of not be affected thereby."

North Slope Crude Oil; Equitable Allocation. Pub.L. Oct. 22, 1976, 90 Stat. 2916, d President, within 6 months of determine special expediting necessary to insure the equitable North Slope crude oil to the States of Washington, Oregon, tana, Illinois, Indiana, and Ida the provisions of section 4 93-153 [set out below], and findings to Congress, such rep statement demonstrating the i delivery system would have c dependency of New England Atlantic States on foreign oil

Trans-Canada Pipeline; Ne Canada; Feasibility Study. tions 301 to 303) of Pub.L. 93- the President to enter into ne the Government of Canada to nadian willingness to permit pipelines or other transport across its territory to bring g Alaska's North Slope to the the need for intergovernmental protect interests of any partic construction, operation, and such natural gas or oil tra tems; terms and conditions l across Canadian territory; des studies to insure environme reduce regulatory uncertainty meeting energy requirements; and gas for which Canada v

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Short supply controls, domestically produced crude oil, see section 2406 of the Appendix to Title 50, War and National Defense.

#### Federal Practice and Procedure

Relationship to lower federal court jurisdiction, see Wright, Miller & Cooper: Jurisdiction 2d § 3526.

#### West's Federal Forms

Preliminary injunctions and temporary restraining orders, matters pertaining to, see § 5271 et seq.

Supreme Court jurisdiction on appeal, see § 121 et seq.

#### West's Federal Practice Manual

Rights-of-way, see § 5449.

#### Notes of Decisions

##### 1. Purpose

The intent of this section which vests exclusive jurisdiction over certain disputes in the United States district courts was to limit

litigation that would delay construction of the pipeline. *Alyeska Pipeline Service Co. v. U.S.*, 1980, 624 F.2d 1005, 224 Ct.Cl. 240.

### § 1653. Liability for damages

(a) Activities along or in vicinity of pipeline right-of-way; strict liability; limitation on liability; subrogation; emergency subsistence and other aid; exemption for State of Alaska

(1) Except when the holder of the pipeline right-of-way granted pursuant to this chapter can prove that damages in connection with or resulting from activities along or in the vicinity of the proposed trans-Alaskan pipeline right-of-way were caused by an act of war or negligence of the United States, other government entity, or the damaged party, such holder shall be strictly liable to all damaged parties, public or private, without regard to fault for such damages, and without regard to ownership of any affected lands, structures, fish, wildlife, or biotic or other natural resources relied upon by Alaska Natives, Native organizations, or others for subsistence or economic purposes. Claims for such injury or damages may be determined by arbitration or judicial proceedings.

(2) Liability under paragraph (1) of this subsection shall be limited to \$50,000,000 for any one incident, and the holders of the right-of-way, or permit shall be liable for any claim allowed in proportion to their ownership interest in the right-of-way or permit. Liability of such holders for damages in excess of \$50,000,000 shall be in accord with ordinary rules of negligence.

(3) In any case where liability without fault is imposed pursuant to this subsection and the damages involved were caused by the negligence of a third party, the rules of subrogation shall apply in accordance with the law of the jurisdiction where the damage occurred.

(4) Upon order of the Secretary, the holder of a right-of-way or permit shall provide emergency subsistence and other aid to an affected Alaska Native, Native organization, or other person pending expeditious filing and determination of, a claim under this subsection.

(5) Where the State under this chapter, the subsection, but the holder of the pipeline shall be subjected or activities of the State to the extent that maintenance, and territorial rights-of-way or permit

##### (b) Control and removal

If any area within or under this chapter is polluted, the holder to whom such pollution damages or the private property, the cost of the expense of such holder incurred by the Secretary, in cooperation with such holder, the control and removal

##### (c) Discharges of oil from liability; limitation on liability

(1) Notwithstanding if transported through the terminal facilities of the (jointly and severally) as provided by this subsection in accordance with the provisions of the clean-up costs, sustained by residents of Canada,

(2) Strict liability shall be imposed on the holder or operator of the vessel or operator of the vessel, or by the negligence of such

(3) Strict liability for such damages shall not exceed \$100,000,000. The holder and severally liable for the damages. Financial responsibility for such damages shall be provided by the Fund shall be liable for such damages reduced proportionately. and adjudicated under other

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Cooper: Jurisdiction 2d

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(5) Where the State of Alaska is the holder of a right-of-way or permit under this chapter, the State shall not be subject to the provisions of this subsection, but the holder of the permit or right-of-way for the trans-Alaska pipeline shall be subject to this subsection with respect to facilities constructed or activities conducted under rights-of-way or permits issued to the State to the extent that such holder engages in the construction, operation, maintenance, and termination of facilities, or in other activities under rights-of-way or permits issued to the State.

(b) Control and removal of pollutants at expense of right-of-way holder

If any area within or without the right-of-way or permit area granted under this chapter is polluted by any activities conducted by or on behalf of the holder to whom such right-of-way or permit was granted, and such pollution damages or threatens to damage aquatic life, wildlife, or public or private property, the control and total removal of the pollutant shall be at the expense of such holder, including any administrative and other costs incurred by the Secretary or any other Federal officer or agency. Upon failure of such holder to adequately control and remove such pollutant, the Secretary, in cooperation with other Federal, State, or local agencies, or in cooperation with such holder, or both, shall have the right to accomplish the control and removal at the expense of such holder.

(c) Discharges of oil from vessels loaded at terminal facilities of pipeline; strict liability; limitation on liability; apportionment of liability; establishment and operation of Trans-Alaska Pipeline Liability Fund

(1) Notwithstanding the provisions of any other law, if oil that has been transported through the trans-Alaska pipeline is loaded on a vessel at the terminal facilities of the pipeline, the owner and operator of the vessel (jointly and severally) and the Trans-Alaska Pipeline Liability Fund established by this subsection, shall be strictly liable without regard to fault in accordance with the provisions of this subsection for all damages, including clean-up costs, sustained by any person or entity, public or private, including residents of Canada, as the result of discharges of oil from such vessel.

(2) Strict liability shall not be imposed under this subsection if the owner or operator of the vessel, or the Fund, can prove that the damages were caused by an act of war or by the negligence of the United States or other governmental agency. Strict liability shall not be imposed under this subsection with respect to the claim of a damaged party if the owner or operator of the vessel, or the Fund, can prove that the damage was caused by the negligence of such party.

(3) Strict liability for all claims arising out of any one incident shall not exceed \$100,000,000. The owner and operator of the vessel shall be jointly and severally liable for the first \$14,000,000 of such claims that are allowed. Financial responsibility for \$14,000,000 shall be demonstrated in accordance with the provisions of section 1321(p) of Title 33 before the oil is loaded. The Fund shall be liable for the balance of the claims that are allowed up to \$100,000,000. If the total claims allowed exceed \$100,000,000, they shall be reduced proportionately. The unpaid portion of any claim may be asserted and adjudicated under other applicable Federal or state law.

Index

Environmental

(4) The Trans-Alaska Pipeline Liability Fund is hereby established as a non-profit corporate entity that may sue and be sued in its own name. The Fund shall be administered by the holders of the trans-Alaska pipeline right-of-way under regulations prescribed by the Secretary. The Fund shall be subject to an annual audit by the Comptroller General, and a copy of the audit shall be submitted to the Congress.

(5) The operator of the pipeline shall collect from the owner of the oil at the time it is loaded on the vessel a fee of five cents per barrel. The collection shall cease when \$100,000,000 has been accumulated in the Fund, and it shall be resumed when the accumulation in the Fund falls below \$100,000,000.

(6) The collections under paragraph (5) shall be delivered to the Fund. Costs of administration shall be paid from the money paid to the Fund, and all sums not needed for administration and the satisfaction of claims shall be invested prudently in income-producing securities approved by the Secretary. Income from such securities shall be added to the principal of the Fund.

(7) The provisions of this subsection shall apply only to vessels engaged in transportation between the terminal facilities of the pipeline and ports under the jurisdiction of the United States. Strict liability under this subsection shall cease when the oil has first been brought ashore at a port under the jurisdiction of the United States.

(8) In any case where liability without regard to fault is imposed pursuant to this subsection and the damages involved were caused by the unseaworthiness of the vessel or by negligence, the owner and operator of the vessel, and the Fund, as the case may be shall be subrogated under applicable State and Federal laws to the rights under said laws of any person entitled to recovery hereunder. If any subrogee brings an action based on unseaworthiness of the vessel or negligence of its owner or operator, it may recover from any affiliate of the owner or operator, if the respective owner or operator fails to satisfy any claim by the subrogee allowed under this paragraph.

(9) This subsection shall not be interpreted to preempt the field of strict liability or to preclude any State from imposing additional requirements.

(10) If the Fund is unable to satisfy a claim asserted and finally determined under this subsection, the Fund may borrow the money needed to satisfy the claim from any commercial credit source, at the lowest available rate of interest, subject to approval of the Secretary.

(11) For purposes of this subsection only, the term "affiliate" includes—

- (A) Any person owned or effectively controlled by the vessel owner or operator; or
- (B) Any person that effectively controls or has the power effectively to control the vessel owner or operator by—
  - (i) stock interest, or
  - (ii) representation on a board of directors or similar body, or
  - (iii) contract or other agreement with other stockholders,

(iv) otherwise; or

(C) Any person which is the vessel owner or operator.

(12) The term "person" means an individual, a partnership, an association, a joint-stock company, a corporation, a trust, or a non-profit organization.

(Pub.L. 93-153, Title II, § 204,

Delegation of Functions. Functions of the Secretary of the Department of the Interior under section 1321(p)(1) of Title 33, Navigation and Navigable Waters, as incorporated by reference in subsection (b) of this section, relating to the determination of financial responsibility for vessels engaged in the loading of oil from the Trans-Alaska Pipeline System, are delegated to the Secretary of the Department of the Interior.

West's

Rights-of-way, see § 5449.

Code

Liability fund, see 43 CFR 29.1 et seq.  
Oil pollution, financial responsibility,

Health and Environment § 25.5(3).  
C.J.S. Health and Environment §§ 106 et seq., 129 et seq.

Claims within section 1  
Strict liability  
Generally 2  
Construction accidents 3  
Pollution clean-up 4

1. Claims within section  
This section was intended to deal with environmental risks of the pipeline but does not cover ordinary personal injury or wrongful death claims unconnected with environmental injury, in view of fact that although literal interpretation indicated contrary result, overwhelming evidence of legislative history indicated that chapter was intended to deal with environmental accidents other than ordinary torts. *Heppner v. Alaska Pipeline Service Co.*, C.A.Alaska 1981 F.2d 868.

2. Strict liability—Generally  
Provisions of this chapter were designed to establish the permit holders of the pipeline right-of-way as strictly liable for a

is hereby established as a  
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ney paid to the Fund, and  
satisfaction of claims shall be  
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tors or similar body,  
other stockholders.

(iv) otherwise; or

(C) Any person which is under common ownership or control with  
the vessel owner or operator.

(12) The term "person" means an individual, a corporation, a partner-  
ship, an association, a joint-stock company, a business trust, or an unincor-  
porated organization.

(Pub.L. 93-153, Title II, § 204, Nov. 16, 1973, 87 Stat. 586.)

#### Historical Note

Delegation of Functions. Functions of the  
President under section 1321(p)(1) to (2) of  
Title 33, Navigation and Navigable Waters,  
as incorporated by reference in subsec. (c)(3)  
of this section, relating to the demonstration  
of financial responsibility for vessels carrying  
oil loaded from the Trans-Alaska pipeline,  
delegated to the Secretary of the Department

in which the Coast Guard is operating, see  
Ex.Ord. No. 12418, § 4, May 5, 1983, 48  
F.R. 20891, set out as a note under section  
1321 of Title 33.

Legislative History. For legislative history  
and purpose of Pub.L. 93-153, see 1973 U.S.  
Code Cong. and Adm. News, p. 2417.

#### West's Federal Practice Manual

Rights-of-way, see § 5449.

#### Code of Federal Regulations

Liability fund, see 43 CFR 29.1 et seq.

Oil pollution, financial responsibility, see 33 CFR 131.1 et seq.

#### Library References

Health and Environment ⇨25.5(3).  
C.J.S. Health and Environment §§ 91 et  
seq., 106 et seq., 129 et seq.

#### Notes of Decisions

Claims within section 1  
Strict liability  
Generally 2  
Construction accidents 3  
Pollution clean-up 4

##### 1. Claims within section

This section was intended to deal with  
environmental risks of the pipeline but did  
not cover ordinary personal injury and  
wrongful death claims unconnected with any  
environmental injury, in view of fact that,  
although literal interpretation indicated con-  
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tive history indicated that chapter was intend-  
ed to deal with environmental accidents rath-  
er than ordinary torts. Heppner v. Alyeska  
Pipeline Service Co., C.A.Alaska 1981, 665  
F.2d 868.

##### 2. Strict liability—Generally

Provisions of this chapter were designed to  
establish the permit holders of the pipeline  
right-of-way as strictly liable for a broad

range of damages to the land, fish, wildlife,  
air, water, and the subsistence lifestyle of the  
Alaskan Native. Jordan v. Amerada Hess  
Corp., D.C.Alaska 1979, 479 F.Supp. 573.

##### 3. — Construction accidents

This section was intended to render permit  
holders strictly liable for environmental harm,  
but was not intended to hold permit holders  
strictly liable for all damages of any kind that  
occurred "in connection with" or "in the  
vicinity of the proposed trans-Alaska pipeline  
right-of-way," and, hence, was not a basis for  
holding defendant oil companies strictly liable  
in action arising from injuries allegedly sus-  
tained in an automobile accident that oc-  
curred in vicinity of Alaska pipeline or in  
wrongful death action arising as a result of a  
construction accident in Alaska pipeline  
right-of-way. Jordan v. Amerada Hess  
Corp., D.C.Alaska 1979, 479 F.Supp. 573.

##### 4. — Pollution clean-up

This chapter barred pipeline service compa-  
ny from recovering from the United States for

# UNITED STATES CODE ANNOTATED

**Title 43**  
**Public Lands**  
**§ 931 to End**

**1987**  
**Cumulative Annual Pocket Part**  
Replacing 1986 pocket part in back of volume

Includes the Laws of the  
99th CONGRESS, SECOND SESSION (1986)

For close of Notes of Decisions  
See page III

For Later Laws and Cases  
Consult  
USCA  
Supplementary Pamphlet Service

ST. PAUL, MINN.

WEST PUBLISHING CO.

lish any duty on part of native corporation to deals claiming lands based on homestead Lee v. U.S., D.Alaska 1985, 629 F.Supp.

**Limitations**

ries who staked out homestead claims to ted lands were not entitled to sue Secretary terior based upon Alaska Native Claims; Set- mt Act, § 22(b), as amended, 43 U.S.C.A. 21(b), requiring that Secretary exclude from conveyances pursuant to Alaska National Int- Lands Conservation Act, §§ 901-1437, 43 U.S.C.A. §§ 1631-1641 those homestead claims mined to be valid and to make homestead ations prior to making any conveyances, e 12-year statute of limitations under Quiet Act [28 U.S.C.A. § 2409a(f)] had expired. v. U.S., D.Alaska 1985, 629 F.Supp. 721.

**in Federal Register**

lish in Federal Register such regulations as be necessary to carry out purposes of Act not require Secretary to publish regulations nterpretations relating to the Act's provisions, merely "authorizes" him to publish such in- nation. Aleknagik Natives, Ltd. v. U.S., laska 1985, 635 F.Supp. 1477.

**OF ALASKA NATIVE CLAIMS  
SKA STATEHOOD**

, the ownership by a Native Corpora- land conveyed to such Corporation or Settlement Act [43 U.S.C.A. § 1601 et etary of the Interior that the water ot be subject to judicial determination ates District Court within eight years eyance: if the interim conveyance was e years after December 2, 1980, if the re December 2, 1980. If a parcel of ther than an interim conveyance, the e shall be filed within eight years after tent was executed after December 2, 1980, if the patent was executed on rscribed in this subsection shall be a de rcel which is the subject of the action.

*Text of (b) to (h) ]*

. 42; Pub.L. 99-644, Nov. 10, 1986, 100 Stat.

1986 Amendment. Subsec. (a). Pub.L. 99-258 substituted "six years after the date of execution" for "five years after the date of execution" in two places.

**Legislative History.** For legislative history and purpose of Pub.L. 99-258, see 1986 U.S. Code

Cong. and Adm. News, p. 27. See, also, Pub.L. 99-644, 1986 U.S. Code Cong. and Adm. News, p. 6100.

**§ 1634. Alaska Native allotments**

**Notes of Decisions**

**1. Purpose**

Congress' intent in enacting § 905 of Alaska National Interest Lands Conservation Act, which provides for legislative approval of certain native

allotment applications made pursuant to Alaska Native Allotment Act of 1906, was to facilitate approval of backlog of native allotment applications by dispensing with usual time-consuming adjudication procedures. Olympic v. U.S., D.C. Alaska 1985, 615 F.Supp. 990.

**CHAPTER 34—TRANS-ALASKA PIPELINE**

**§ 1652. Authorization for construction**

**Notes of Decisions**

**Preference right 3**

**Purpose 1**

**Segregation of lands 2**

**2. Segregation of lands**

Segregation of lands did not defeat subsequent native allotment application where the native allotment applicant had met the five-year substantial use and occupancy requirements prior to seg-

regation. State of Alaska v. 13.90 Acres of Land, D.Alaska 1985, 625 F.Supp. 1315.

**3. Preference right**

Native occupant's inchoate preference right, which became vested upon filing of timely application for native allotment, related back to initiation of occupancy and took preference over pipeline company's right-of-way application filed prior to the native allotment application. State of Alaska v. 13.90 Acres of Land, D.Alaska 1985, 625 F.Supp. 1315.

**§ 1653. Liability for damages**

**Notes of Decisions**

**Condemnation award 5**

**5. Condemnation award**

Condemnation award to native allotment applicant in pipeline company's quiet title claim and on native allotment applicant's trespass claim against the pipeline company would be limited to value of

unimproved land and would not include value of improvements built by the pipeline company or state of Alaska; the pipeline condemnation was a "public use," fact that pipeline company did not receive condemnation authority until after entry did not affect the result, nor was it relevant whether pipeline company's initial entry was in good faith or willful, so long as there was absence of subjective bad faith. State of Alaska v. 13.90 Acres of Land, D.Alaska 1985, 625 F.Supp. 1315.

**CHAPTER 35—FEDERAL LAND POLICY AND MANAGEMENT**

**SUBCHAPTER II—LAND USE PLANNING  
AND LAND ACQUISITION AND  
DISPOSITION**

**Sec.**

1715. Acquisitions of public lands and access over non-Federal lands to National Forest System units.

(a), (b) [See main volume for text].

(c) Status of lands and interests in lands upon acquisition by Secretary of the Interior; transfers to Secretary of Agriculture of lands and interests in lands acquired within National Forest System boundaries.

(d) [See main volume for text].

**Sec.**

1715. Acquisitions of public lands and access over non-Federal lands to National Forest System units.

(e) Status and administration of lands acquired in exchange for lands re-vested in or reconveyed to United States.

**SUBCHAPTER V—RIGHTS-OF-WAY**

1761. Grant, issue or renewal of rights-of-way; authorized purposes; procedures applicable.

(a) Authorized purposes.

(b) Procedures applicable; administration.

(c) Permanent easement for water systems; issuance, preconditions, etc.

This committee has had more than a dozen hearings on the ANWR issue. We tried to look at all the angles last session: Alaska hire, environmental protection, subsistence, revenue sharing, and land trades. Our record is fairly complete. Here are the minutes. They're quite thick.

At the end of last session the Senate passed SJR 7 with implied support for the ANWR land trades. I just could not accept putting the State on record in that position. So I talked to some key senators, hoping we'd get the land trade issue settled and send a resolution back to Washington before the summer. But they were adamant in their support of the trades, and there wasn't time to resolve the issue. It was classic pressure politics.

Now that there's more information about the trades I am glad we held this resolution over. I believe the State can't afford to endorse the trades. I think all Alaskans -- including the congressional delegation, which has been so supportive of the trades -- need to focus on the central issue, and drop the land trades. That's the only way we can possibly defuse the controversy in Congress and hope for action this year. If you want to know more about the trade issue, call me anytime.

I've checked with the Senate Energy Committee in Congress and it's timely for Alaska to go on record supporting the

opening of the coastal plain. That is what the Legislature really needs to do. Rep. Sund was just back in Washington and might be able to tell the committee about the mood in Washington. And we have John Katz on the phone from the Governor's Office in Washington.

So this resolution says that the nation and Alaska will be served by opening the coastal plain. It also recommends a fairly high standard of environmental protection, although it is silent on the core calving area question we heard so much about last session. The resolution urges Congress to treat us fairly on the revenue issues. Our revenue entitlement shouldn't be reduced.

Chairman Herrmann has added some language to this draft CS about subsistence. It doesn't give me any problem for now, and I look forward to hearing the committee's discussion of it. But I do hope that we can get the resolution out of committee at this meeting.

Now, if Chairman Herrmann and Rep. Sund have any comments, and Senator Sturgulewski, and then we'll go to Mr. Katz if he has anything to add.

DRAFT

Amendment to HCS CS SJR 7 (Res) am  
by Rep. Adelheid Herrmann

INSERT on Page 1, line 29

WHEREAS the long-term effects on the Porcupine Caribou Herd  
from oil development and exploration are not fully understood,

INSERT on Page 2, line 25

(5) the United States Congress should recognize the Alaska  
Governor's position and continue caribou studies for seven  
years.

- Sen. James McClure, Senate Energy and Natural Resources Committee
- Sen. Quentin Burdick, Chair, Senate Environment and Public Works Committee
- Sen. Robert Stafford, Senate Environment and Public Works Committee
- Sen. George Mitchell, Chair, Subcommittee on Environmental Protection
- Sen. John Chaffee, Subcommittee on Environmental Protection
- Rep. George Miller, Chair, Subcommittee on Water and Power Resources
- Rep. Charles Pashayan, Subcommittee on Water and Power Resources
- Rep. Walter Jones, Chair, Merchant Marine and Fisheries Committee
- Rep. Robert Davis, Merchant Marine and Fisheries Committee
- Rep. Gerry Studds, Chair, Subcommittee on Fisheries and Wildlife Conservation and the Environment

January 28, 1988

ANWR HEARINGS IN STATE HOUSE

JUNEAU -- The Resources Committee of the Alaska State House is expected Friday to pass out a resolution urging Congress to allow oil and gas exploration and development in the Arctic Refuge.

The resolution will ask Congress to allow environmentally responsible oil and gas development on ANWR's coastal plain. It will also call for Alaska hire provisions in any federal oil and gas leasing.

The resolution is not expected to mention the proposed ANWR land trades that have stirred controversy in Washington. However, the resolution will seek equal treatment for Alaska on revenue issues, including the state's existing entitlement to 90% of revenues from federal oil and gas leasing.

Last year the Alaska Senate passed a resolution near the end of the legislative session, but the resolution included an implied endorsement of the then-secret land exchanges. As a result the resolution was considered too controversial for action in the waning days of the session.

"Now it's important for Alaskans -- including our congressional delegation -- to get off the land trade topic and work toward the single objective of opening the coastal plain," said Rep. Sam Cotten, co-chair of the Resources Committee. "The highly negative reaction of Congress against these exchanges should be a lesson for those who've said the trades might help get passage of a coastal plain bill. That's just wrong."

The original resolution, SJR 7, was introduced by Senator Arliss Sturgulewski. "I've talked to Senator Sturgulewski. She didn't include any mention of the trades in her original resolution because of her concern that we need to focus on the central issue of opening ANWR and because of the lack of consensus on the trade issue. I think the new version of the resolution gets back to her original intent and gets the issue moving toward Congress," said Cotten.

Immediate action is necessary for Alaska to have an impact on Capitol Hill. "My office has been in contact with Senator Johnston's Energy Committee in Congress, which is taking up the ANWR legislation. Senator Johnston is planning to mark up a bill in Congress next month, and he continues to oppose the land trade idea. We just have to hope he remains friendly to the idea of opening the coastal plain," Cotten said.

"On the other hand, if some legislators still insist on the inclusion of pro-trade language, we might end up in a conference committee and the resolution might not reach Washington," Cotten stated.

The hearing is scheduled for Friday January 29 at 8:30 a.m. in Room 124 of the Capitol building.

The Resources Committee is also expected to join the Senate Resources Committee for a joint hearing on ANWR land trade issues next week. Senator Jack Coghill has invited Assistant Interior Secretary Bill Horn to address the joint committees, and Commissioner Judy Brady of the Alaska Department of Natural Resources will explain the State of Alaska's opposition to the land trades.

30 - 30 - 30 - 30

FOR MORE INFORMATION CONTACT:

Sam Cotten, Ned Farquhar (465-5/11)

Ned, let me know where you think these whereas clauses should be inserted.

WHEREAS, even when the strictest standards of environmental safety are applied there is still some risk to the land, water, and wildlife resources from oil exploration and drilling, and

WHEREAS, many individuals depend upon the land, water, and wildlife for subsistence, and,

WHEREAS, subsistence users should be protected in the event that oil exploration and drilling result in damage to subsistence resources,

-----  
Insert as (3) on page 3, line 12, of CSSJR (Res) am  
or similar place in your CS.

THREFORE BE IT RESOLVED[or BE IT FURTHER RESOLVED] that in any Act authorizing the opening of the Arctic National Wildlife Refuge to oil exploaration or drilling that the Ccngress include language similar to the language in the Trans Alaska Pipeline Authorization Act Section 204 addressing indemnification to subsistence users of the resource.

*Subs =  
Who calls Coghill?*

DRAFT

JOINT RESOLUTION

WHEREAS in 1980 the U.S. Congress suspended the operation of the Mineral Leasing Act of 1920 on the coastal plain of the Arctic National Wildlife Refuge to allow for the study of management alternatives; and

WHEREAS the coastal plain has been found to have the best potential for onshore oil and gas discoveries in the United States; and

WHEREAS Congress recognized the environmental importance of the coastal plain by placing it in the national wildlife refuge system in 1980, and the wildlife and habitat deserve a high standard of protection should oil exploration and development proceed;

WHEREAS exploration and development of oil and gas on the coastal plain could reduce the nation's trade deficit, increase energy security, prevent erosion of our oil and gas industry, improve the national and state economies, and occur with full environmental protection and safeguards; and

WHEREAS the people of Alaska ~~deserve~~ to be treated equally and fairly in the legislative and administrative

*based on the provisions of the Statehood  
are " compact*