

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672

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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:

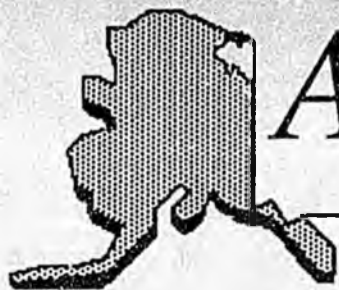
- support opening the Coastal Plain to orderly exploration and development under prudent environmental regulations and stipulations;
- oppose designation of this huge prospective area as Wilderness as is proposed in S. 1804, Senator Roth's and Metzenbaum's bill;
- resist any amendments which would result 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 Assocation • 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 29 billion barrels of oil and 64 trillion cubic feet of gas.

(continued on page 2)

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 Senators 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.

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(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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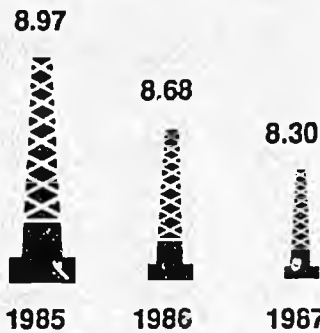
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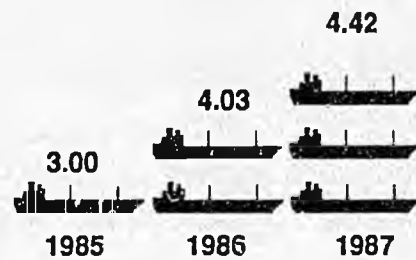
OIL AT A GLANCE

(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.

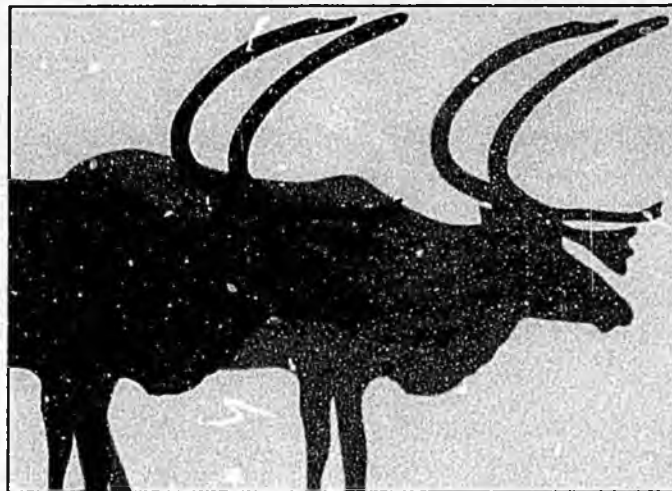
Now because they're worried about predators they are liable to disturbance — when they see a vehicle coming down the road it represents a predator to them. They are not disturbed by the road without the vehicle. We can expect that if we have a road with traffic in a calving ground that

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

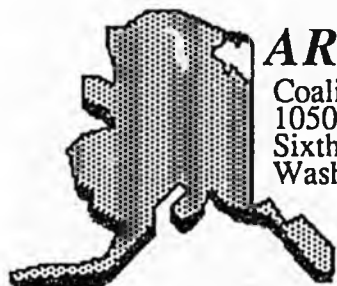
On July 18, 1987 the Board of Directors of the American Association of Blacks in Energy added their voice to the growing concern about America's energy future by adopting the following resolution:

"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

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Scam -
The handouts ARCO
used w/ Gov Congress
on 1/27. They are
being analyzed in ANWR.
Not very convincing.

ANWR LAND TRADES

State Concerns

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),⁹² 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 on 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 antitrust 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
Pendergast*

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

Amend

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 &
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 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—

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 chapter] 1456a of this title, and section 44, Public Printing and Documenting section 1608 of this title, sections 53, and 56 of Title 15, Commerce, section 185 of Title 30, Mineral Mining, section 3502 of Title 49, section 391a of Title 46, Shipping, and provisions set out as notes under and 1651 of this title, section 19 Banks and Banking, section 4 section 791a of Title 16, Consumer section 1221 of Title 33, Navigable Waters] or the applicability held invalid the remainder of not be affected thereby."

North Slope Crude Oil; Equitable Allocation. Pub.L. 94-142, Oct. 22, 1976, 90 Stat. 2916, directed the President, within 6 months of the date of the enactment of this Act, to determine special expediting procedures, to insure the equitable distribution of North Slope crude oil to the States of Washington, Oregon, California, Illinois, Indiana, and Idaho the provisions of section 41 93-153 [set out below], and findings to Congress, such report statement demonstrating the inequity of the delivery system would have on the dependency of New England and the Atlantic States on foreign oil imports.

Trans-Canada Pipeline; Negotiations; Feasibility Study. Sections 301 to 303 of Pub.L. 93-153 directed the President to enter into negotiations with the Government of Canada to determine Canadian willingness to permit construction of pipelines or other transportation facilities across its territory to bring gas from Alaska's North Slope to the United States. The President is directed to protect interests of any parties to such construction, operation, and maintenance; such natural gas or oil transportation; terms and conditions for such transportation across Canadian territory; desired studies to insure environmental protection; reduce regulatory uncertainty; and meeting energy requirements; and gas for which Canada would

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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 of and determination of, a claim under this subsection.

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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.

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Alaska Pipeline

(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 who is the vessel owner or operator.

(12) The term "person" means a natural person, a partnership, an association, a joint-stock company, a corporation, a trust, or any other organized group of persons, whether or not incorporated.

(Pub.L. 93-153, Title II, § 204.)

Delegation of Functions. Functions of the Secretary 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, see § 5449.

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Health and Environment § 255(3); C.J.S. Health and Environment §§ 255(3) et seq., 106 et seq., 129 et seq.

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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 that fact, although literal interpretation indicated a contrary result, overwhelming evidence of legislative history indicated that chapter was intended to deal with environmental accidents other than ordinary torts. *Heppner v. Aly 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 breach of the permit.

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(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.

(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
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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 contrary result, overwhelming evidence of legislative history indicated that chapter was intended to deal with environmental accidents rather 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 sustained in an automobile accident that occurred 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 company from recovering from the United States for

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

Limitations

ties who staked out homestead claims to ted lands were not entitled to sue Secretary terior based upon Alaska Native Claims Set- nt Act, § 22(b), as amended, 43 U.S.C.A. 21(b), requiring that Secretary exclude from conveyances pursuant to Alaska National Int- l Lands Conservation Act, §§ 901-1437, 43 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(D)] had expired. v. U.S., D.Alaska 1985, 629 F.Supp. 721.

in Federal Register

lish in Federal Register such regulations as e necessary to carry out purposes of Act e 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 ctary 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 ather 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 or scribed in this subsection shall be a de arcel 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

§ 1631. 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

Cong. and Adm. News, p. 27. See, also, Pub.L. 99-644, 1' 86 U.S. Code Cong. and Adm. News, p. 6100.

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 occupan's inchoate preference right, which became vested upon filing of timely applica- tion 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 appli- cant 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 For- est System units.

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

(c) Stat s 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 For- est System boundaries.

(d) [See main volume for text].

Sec.

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

(e) Status and administration of lands ac- quired in exchange for lands revest- ed in or reconveyed to United States.

SUBCHAPTER V—RIGHTS-OF-WAY

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

(a) Authorized purposes.

(b) Procedures applicable; administra- tion.

(c) Permanent easement for water sys- tems; 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 (465-3711)

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.

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

SJR 7.125

*Shultz -
who calls
Coughlin?*

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 ^{under the provisions of the Statehood Compact} deserve to be treated equally and fairly in the legislative and administrative

decisions of the U.S. government regarding revenue sharing,
leasing, ownership, and development ^{of public lands: inclusion} on the coastal plain;
and

WHEREAS Alaska's economy is in bad condition, with high unemployment, property foreclosures, and shrinking investment;

BE IT RESOLVED that the Alaska State Legislature adopts the following consensus points on management of the coastal plain, and strongly urges Congress to act on them:

(1) the U.S. Congress should open the coastal plain to environmentally responsible oil and gas exploration, development, and production under the authority of the Mineral Leasing Act of 1920;

(2) the U.S. Congress should provide for maximum participation and job opportunity for Alaska residents in coastal plain exploration and development; and

(3) the U.S. Congress should carefully review any legislative or administrative proposal that ^{is} ~~would~~ diverge from established oil and gas law or policy, ^{in the spirit of the national compact} ~~and should treat~~ Alaskans fairly and equally.

Send copies to ...

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

decisions of the U.S. government, regarding revenue sharing,
leasing, ownership, and development on the coastal plain;
and

WHEREAS Alaska's economy is in bad condition, with high unemployment, property foreclosures, and shrinking investment;

BE IT RESOLVED that the Alaska State Legislature adopts the following consensus points on management of the coastal plain, and strongly urges Congress to act on them:

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(2) the U.S. Congress should provide for maximum participation and job opportunity for Alaska residents in coastal plain exploration and development; and

(3) the U.S. Congress should carefully review any legislative or administrative proposal that would diverge from established oil and gas law or policy, and should treat Alaskans fairly and equally.

Send copies to ...

*file - ANWR - Resolution
- Sam -
my draft that
I handed around
Ned
(Loghill / Swapp / Ad
907 is)*

DRAFT

JOINT RESOLUTION

ARCTIC NATIONAL WILDLIFE REFUGE
EXPLORATION AND DEVELOPMENT

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 study of management alternatives; and

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

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

BE IT RESOLVED that the Alaska State Legislature finds that the State of Alaska supports opening the coastal plain of the Arctic National Wildlife Refuge to environmentally responsible oil and gas exploration, development, and production.

COPIES of this resolution shall be sent to the Honorable Ronald Reagan, President of the United States; the Honorable George Bush, Vice-President of the United States and President of the Senate; the Honorable Jim Wright, Speaker of the House of Representatives; the Honorable Robert Byrd, Senate Majority Leader; and to members of the Alaska congressional delegation.

PROPOSED RESOLUTION NO. LE-14

URGING THE FEDERAL GOVERNMENT TO ENCOURAGE THE
PRUDENT USE OF DOMESTIC ENERGY RESOURCES

(Introduced by the Land and Energy Committee)

WHEREAS, in 1986 the United States' reliance on imported oil increased to thirty-seven percent, the highest percentage in seven years, and while the United States' demand for oil increased at a rate of two percent per year, exploration and production capacity has been crippled by predatory pricing on the world oil market; and

WHEREAS, national energy security depends on the development and transportation of domestic oil and gas resources ^{and coal, fuels,} to replace depleted U.S. reserves; and the United States must prepare to develop domestic resources if it is to prevent overwhelming dependence on foreign energy sources in the 21st century; and

WHEREAS, natural gas consistently provided one-fourth of the United States' energy mix since the late 1960's; and

WHEREAS, the nation's current level of dependence on foreign energy sources poses a threat to the national energy security, balance of trade, and the general economic well-being of the United States. This is partly a result of constrained natural gas pipeline capacity in the northeastern U.S., unused capacity in the Western States, and the inability to transport natural gas ^{gas} from the North Slope of Alaska to wherever markets may be economically found; and

WHEREAS, a large proportion of the nation's undiscovered oil and gas deposits are likely to be found offshore on the outer continental shelf where exploration and development is risky and capital intensive. The risks in high cost, high potential areas, such as the deep water outer continental shelf and Alaskan arctic waters, are unacceptable because of current world market conditions and federal tax structures;

NOW, THEREFORE, BE IT RESOLVED that the Western Legislative Conference of the Council of State Governments encourages Congress, Administrative and Executive Branch Agencies to develop a consistent federal policy maximizing the efficient, environmentally sound exploration, development, and production of domestic energy resources, including:

Approval of exploration, development, and production of oil and gas resources located in the ^{- Coastal PLAIN -} (non-wilderness areas) of the Arctic National Wildlife Refuge;

timely
(Expedited) review of open-access pipeline applications under the Federal Energy Regulatory Commission Order 436 with resolution of take or pay issue in the final rule as mandated by the Washington, D.C. Court of Appeals;

Options to make available unused pipeline capacity and encourage new domestic capacity through projects to stimulate enhanced oil recovery;

Action to ensure that foreign gas producers and gas transporters do not undercut domestic producers through government subsidies;

Incentives [and tax credits] to encourage oil and gas exploration and development in high cost areas;

Approval of construction of a gas transportation system to bring Alaska North Slope natural gas to world markets; and

Consider the formation of a Pan American Energy Alliance to provide reciprocal aid among the U.S., Canada, Mexico, Venezuela, and other American nations to counter future disruptions in the world oil market.

conserve + alternative

Where is this?
This may be the answer to Ann

1 IN THE SENATE

BY COGHILL

2

SENATE BILL NO. 289

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act establishing the Arctic National Wildlife

7

Refuge Policy Council; and providing for an effective

8

date."

9

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

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* Section 1. FINDINGS. The legislature finds that

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(1) state policy supports ~~the recommendation to the United~~ *opening*

12

~~States Congress by the Secretary of the United States Department of the~~

13

~~Interior to open the coastal plain of the Arctic National Wildlife Refuge~~

14

~~to oil and gas exploration, development, and production,~~ *under the 1920 mineral leasing act.*

15

involuntarily responsible (2) the long term effects that Congressional action will have on

16

the citizens of Alaska requires that the state properly monitor the federal

17

public process through a special ad hoc group established for that purpose.

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* Sec. 2. ARCTIC NATIONAL WILDLIFE REFUGE POLICY COUNCIL. (a) The

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Arctic National Wildlife Refuge Policy Council is established and consists

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of the governor, the commissioner of natural resources, one person ap-

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pointed by the governor, the president of the senate, the chairman of the

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senate resources committee, one person appointed by the president of the

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senate, the speaker of the house of representatives, the chairman of the

24

house resources committee, and one person appointed by the speaker of the

25

house of representatives.

26

(b) The Arctic National Wildlife Refuge Policy Council shall seek to

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achieve a consensus in the state on issues relating to the Arctic National

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Wildlife Refuge and advocate those positions before the Congress and other

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forums that the council considers desirable.

DRAFT FOUR 5/13/87

ANWR Resolution

WHEREAS, the U.S. Congress has reserved the right to permit further exploration for, and development of, oil and gas within the coastal plain of the Arctic National Wildlife Refuge; and

WHEREAS, the U.S. Department of the Interior, the State of Alaska, and the oil industry consider the coastal plain to have the highest potential for discovery of very large oil and gas accumulations in North America; and

WHEREAS, the nation will benefit from oil and gas exploration and development on the North Slope, because the trade deficit can be reduced, employment created, and energy security enhanced;

WHEREAS, the biological and recreational resources of the Arctic Refuge are highly valuable and protection of them with adequate development safeguards is in the national and Alaskan interest;

WHEREAS, a decision to permit oil and gas exploration, development, and production on the coastal plain will

facilitate the development of other highly prospective lands on the North Slope, extending the economic life of the Trans-Alaska pipeline and reducing tariffs which are expected to balloon in about twenty years; and

WHEREAS, any development of oil and gas in the Arctic National Wildlife Refuge should and will be subject to strict environmental safeguards, including those protecting water, land, air, and important wildlife habitat which supports subsistence resources used by Alaska and Yukon residents; and

WHEREAS, the permanent protection of large areas of Arctic Alaska is assured by park, reserve, and refuge designations encompassing over 35 million acres of federal land in arctic areas;

WHEREAS, land trades with private corporations, as proposed by the Interior Department, need further review and discussion by Alaskans and Congress before a consensus policy can be reached; and

WHEREAS, Congress may consider reducing the State of Alaska's existing entitlement to oil and gas revenues within the Refuge, even though this might violate the Statehood compact, discriminate against Alaska as compared to other states, and reverse decades-long policies of the federal

government regarding the management of public domain lands within the states;

WHEREAS, the State of Alaska is a vast and underserved state with basic needs for education, improvements, and public services, and any reduction in revenues is a serious matter for the state's citizens; and

WHEREAS, any development of coastal plain oil and gas resources can and should be conducted by Alaska corporations and workers, who have the expertise to bring the resources to market; and

WHEREAS, Alaska's oil and gas industry and employment have been severely affected by reduced activity in recent years, with broad implications for the Alaska economy as a whole;

BE IT THEREFORE RESOLVED that the Legislature of the State of Alaska adopts the following consensus points regarding management of the coastal plain of the Arctic National Wildlife Refuge:

1. Under the terms of the Mineral Leasing Act, the United States Congress should promptly open the coastal plain of the Arctic National Refuge to oil exploration, production, and transportation, directing the Department of

Interior to defer any leasing activity in the core caribou calving area for ten years to allow further study;

2. The U.S. Congress should require the protection of ANWR's environmental and subsistence resources, including wildlife habitat, air, and water, in the event of oil and gas development on the coastal plain;

3. In recognition of Alaska's economic situation and the need for long-term economic development in Alaska, the Congress should require that exploration and development activity in the Refuge shall be conducted by Alaska work forces.

BE IT FURTHER RESOLVED that copies of this resolution be sent to President Ronald Reagan, Secretary of the Interior Donald Hodel, Governor Steve Cowper, Senator Ted Stevens, Senator Frank Murkowski, Congressman Don Young, and all other members of the 100th Congress of the United States.



file -
ANWR resolution

TOWARD A CONSENSUS ON
THE ARCTIC NATIONAL WILDLIFE REFUGE

A proposal by the Commonwealth North
ANWR Committee

1. It is in the best interest of both Alaska and the nation to permit responsible oil and gas exploration and development of the Coastal Plain of ANWR.
 - Nationally, oil and natural gas imports have risen 37% from last year, contributing to the nation's \$60 billion trade deficit and making the U.S. increasingly vulnerable to foreign oil suppliers.
 - ANWR is universally recognized as the most promising onshore oil and gas frontier in North America. At least 26 identified geological structures in ANWR have oil and gas potential which may rival Prudhoe Bay's giant field.

2. The Arctic Coastal Plain must be developed, as Prudhoe Bay has been, with utmost care for environmental and wildlife values.
 - Alaskans are rightfully proud of the record established on the North Slope whereby resource development and the care and protection of wildlife, including the Central Arctic Caribou herd, have gone hand in hand.

3. Time is of the essence. Congress must be encouraged to act.
 - The Secretary of the Interior, after a 5 year study by the U.S. Fish & Wildlife Service, has recommended to Congress that oil and gas exploration and development be allowed in ANWR's 1002H area (roughly 8% of the 18 million acre Refuge).

*Founding Co-Chairmen • Governor William A. Egan • Governor Walter J. Hickel
Bertram B. Bennevillie, President • Richard F. Barnes, Vice President
David Chatfield, Vice President • Harold Henze, Vice President
Robert E. Hulmer, Secretary • Paul Wilcox, Treasurer
Carl F. Brady, Sr. • Julius J. Brecht • John Cairns • Archbishop Francis Hurley
Millett Koller • Mayra Tony Knowles • Joe Lindbold • Jeff Lowenthal
George Ralph Moody • George N. Nelson • Malcolm Roberts • William J. Tolan
Frank G. Tupper • Corina Yostmann*

(2)

- Once Congress gives the "go-ahead" and if oil is discovered, it will take approximately 10 years to produce ANWR oil.
4. Exchanges of public or privately owned inholdings in Federal Conservation System Units for leases in ANWR should be encouraged as part of an open, competitive bidding process.
 5. The state should encourage a high level of Alaska hire and a fair wage during ANWR exploration and development.
 6. The State of Alaska, with the Governor taking the lead, must mount a major educational campaign to inform Congress and the American people about ANWR.
 - The citizens of the State should be encouraged to participate in this campaign by rallying support among their friends and contacts across the nation.

RESOLUTION: Be it resolved that Commonwealth North will actively solicit support for this consensus from the Governor of Alaska, the state's congressional delegation, the state legislature, concerned interest groups and all citizens of the state.

The above resolution was approved by the Commonwealth North Board of Directors on June 2, 1987.

ANWR-
resolution

June 11, 1987

Mr. V. M. Withington
2840 Pelican Drive
Anchorage, AK 99515

Dear Mr. Withington:

I am writing on behalf of Governor Cowper in response to your letter of June 4 regarding the exploration and development of ANWR.

Unfortunately, you have been seriously misinformed. I was personally involved in working with both the Senate and House Resources Committee in support of House Joint Resolution 7. With exception of the language pertaining to land exchanges, we were very supportive of the resolution.

Since your source of information is apparently not reliable, I would strongly encourage you to contact Representative Sam Cotton regarding the facts in this matter. You can also contact Ms. Becky Gay, Executive President of the Resource Development Council, or Mr. Al Fleetwood, Chairman of the Alaska Energy Coalition, who I worked closely with in support of this legislation during the final days of the legislative session.

Sincerely,

Rod Swope
Special Staff Assistant
to the Governor

cc: Representative Sam Cotton

Becky Gay
Resource Development Council

Al Fleetwood
Alaska Energy Coalition

RS:MW:tb

1016

June 4, 1987

V.M. Withington
2840 Pelican Dr
Anchorage, Alaska 99515

Steve Cowper, Governor
Office of the Governor
Third Floor, State Capital
P.O. Box A
Juneau, Alaska 99811

RECEIVED
JUN 08 1987
GOVERNOR'S OFFICE

Dear Steve Cowper,

I understand that Senate passed resolutions supporting the exploration and development of ANWR have been (at your direction) held up in the House by Sam Cotton's House Resource Committee. I am sure that you must realize that presenting anything less than a united front on this subject to the U.S. Congress only serves to delay if not jeopardies the opening of ANWR to oil and gas exploration.

I have written you in the past promoting economic development in the state. Those resolutions promote broadening Alaska's economic base. I strongly urge you to rethink your position and promote the passage of the Senate passed resolutions supporting the exploration and development of ANWR.

Sincerely



V.M. Withington

From: GASCCAB --JDCVM1
To: GASCMRW --JDCVM1 Michele Watts

Date and time 06/16/87 17:02:43

From: Lynn Bartlett
Office of the Governor
465-3500
Subject: SJR-7: Pierce and ANWR

Rod-

At today's coalition meeting, Al Fleetwood read the letter you wrote to the guy (Wimpsey?) re the Governor blocking passage of SJR-7.

Drew Pierce was attending the meeting, and in the course of the discussion following the letter reading she said that the source of the rumor about the Governor's opposition to any ANWR resolution passage was Sam Cotten who told the House Resources Committee in the last hours of the session that the "third floor" was not interested in such a resolution.

I told her that you had worked with Cotten and his staff on getting an acceptable resolution passed, that we were opposed to the land swap concept, and that Cotten had told the coalition that Coghill refused Cotten's request to delete that section.

So the rumor marches on.

Also, Al Fleetwood wants to invite you officially to talk to the group. He said he would be happy to send you a letter if you like. ????

I'll send you a separate message on today's meeting, which was primarily a report by Roger Herrera on his Washington DC trip.

Ben

cc: GASCTMC --JDCVM1
Lynn

GASCCLG --JDCVM1

*Ned,
Also, here's a copy's
message from Ben Harding in
our Wash. D.C. office relating
to this issue.
Rod*

Ned Farquhar
c/o J. Katz
Governor's Office

November 16, 1987

Staffing Levels for
ADEC's North Slope
District Office

Larry Dietrick, Director
Division of Environmental Quality

As requested following are estimates of the Department's current and needed spending levels for North Slope activities. The North Slope is generally defined as the area north of the Brooks Range. Cost estimates in each category includes personnel, rotational travel, office supplies, sampling equipment, ground and air transportation, maintenance of a field office at Prudhoe Bay and training. Costs for legal support or clean-ups are not included. The needed funding level category is an estimate of what is necessary to carry out our real workload. As shown we currently have about half of the resources actually needed to carry out our workload under existing statutes.

The Needed Funding Level does not include resources necessary to conduct additional work for ANWR.

Current Funding Level

<u>Staff</u>	<u>Total Estimated Dollar Cost</u>
4.0 FTE Professional Staff	\$315,000
<u>.5</u>	
4.5 Total Staff	

Needed Funding Level

<u>Staff</u>	<u>Total Estimated Dollar Cost</u>
8.0 FTE Professional Staff	\$800,000
<u>2.0 Clerical</u>	
10.0 Total Staff	

Please contact me if you have any questions.

The Division of Environmental Quality (DEQ) has the broadest responsibilities for protection of public health and the environment. It is responsible for environmental programs ranging from disposal of sewage to regulation of toxic substances. These are the most technically complex programs in the agency. The sophistication of environmental programs dealing with hazardous waste, site cleanup, toxics, and complex chemicals in drinking water has increased tremendously over the last five years. Moreover, increased public awareness that Alaska has real environmental problems has led to increased demands on the agency.

The Division as a whole is extremely strapped. The staff available is far from adequate to carry out all responsibilities. One acute example is the solid waste program, solely a state responsibility, which is supposed to permit and oversee all solid waste disposal facilities in the state. It has the equivalent of six personnel statewide. As a result, only a small percentage of sites are getting the kind of attention they should. For others, disposal practices today will likely create sites that will require cleanup in the future, with associated drinking water and groundwater problems.

Another example is emergency response capability. The department has never had funding available to develop an emergency response capability. Instead, emergency response is accomplished by taking personnel from other programs.

Following is a brief discussion of the key needs.

Douglas Laboratory - The Douglas Laboratory analyzes wastes and suspected hazardous substances for all DEC programs. The laboratory needs additional technical and support staff to perform the needed analyses quickly enough for the agency to address threats to the public health and the environment. Funds necessary to properly train staff are also essential. During the last year, the laboratory has designed and implemented quality assurance and safety programs to ensure that data are reliable and employees are safe. These essential tasks have taken resources from analytic work.

The laboratory is housed in a grossly substandard facility originally constructed in the 1930's to serve as a school. The move to this facility ten years ago was intended to be temporary. Physical space, layout, and ventilation are all inadequate. Structural problems with the building pose long-term liability threats to the state, as the safety of the building is

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The laboratory is housed in a grossly substandard facility originally constructed in the 1930's to serve as a school. The move to this facility ten years ago was intended to be temporary. Physical space, layout, and ventilation are all inadequate. Structural problems with the building pose long-term liability threats to the state, as the safety of the building is

in question. It is essential that the laboratory be moved from the present facility.

A capital request of about \$5.8 million will be proposed for a new laboratory.

Air Quality - We are responsible for permitting and monitoring sources of air pollution, monitoring ambient air quality, and developing strategies to address areas where federal standards are not met. A critical need is to develop a program to manage large scale burning to prevent health effects from smoke inhalation. Current staffing levels do not allow inspections of all stationary sources each year, issuance of permits within statutory time limits, compliance actions for all facilities not meeting standards, control of toxic air contaminants, or development of a management system for emissions from areawide burning.

Hazardous Waste - DEC currently operates under a cooperative agreement with EPA; the state does not yet have federal approval to manage this program. Additional demands are placed on the agency for FY 89 by the statutory requirement that the state assume the federal hazardous waste program and by the need for additional effort to find sites in-state for hazardous waste management facilities. Moreover, if the state is truly to assume responsibility for the program, a greater inspection and enforcement presence will be needed. Also, industry's need to obtain permits would not be met for five to ten years at the continuation level. There will likely also be increased needs for assistance to the regulated community.

Emergency Response - DEC has never had a budget for staff to respond to emergencies like the Cook Inlet oil spill and the chemical release from the tank car at Crown Point. Time spent in performing response activities comes from programs budgeted for other purposes. An emergency response capability should be planned and budgeted for. These responsibilities simply cannot be sandwiched in between and taken from all other agency functions. The result is inadequate response and the exposure of Alaskans to needless risks.

In addition, it will be necessary to request in the operating budget continuation of the reappropriation for the statewide emergency response commission to coordinate an emergency planning function between the state, local, and federal government levels; citizen groups; and affected industrial facilities.

... that this is the result...

Drinking Water - Safe drinking water is essential to public health. In Alaska, responsibility for ensuring that providers of drinking water supply pure water is performed by the state. (In other states, this function rests with county health departments.) Alaska has more than 1600 water systems which require monitoring, proper operation, and safe design and construction. Many are in remote areas and operated by employees with minimal training. Alaska has the lowest rate of compliance with drinking water requirements in the nation.

We are only able to ensure that a portion of the monitoring needed to ensure safe water is done. Critical parameters simply have not received the necessary attention. Moreover, essential activities are plainly inadequate: surveys of drinking water systems to ensure integrity, review of plans for drinking water systems, follow-up to contaminated systems, training for operators, and technical assistance. Some systems are not addressed at all. The discrepancy between the needed level of effort and the state's capability at the continuation level will increase with the implementation of new standards for toxic compounds established under the federal Safe Drinking Water Act.

Oil Pollution Control - The oil pollution control program is responsible for ensuring that facilities storing or transporting large quantities of petroleum products have adequate facilities, plans to minimize the potential for oil spills and to respond to them when they do occur, and adequate resources to address spills. The program also addresses underground storage tanks in concert with the federal program. Originally, the program funding was adequate to meet the needs. However, funding has eroded by about fifty percent over the last eight years, and the number of facilities affected has increased. This has resulted in inadequate staffing to review oil spill contingency plans and to perform needed field work. (Lack of staff directly contributed to our ability to respond to the problem at the MAPCO refinery).

Solid Waste - The level of effort devoted to the solid waste program is far from what is required to provide sound disposal methods and to avoid creating environmental and health problems in the future. Of particular concern are the serious inadequacies in rural Alaska, increased demands from the disposal of materials cleaned up as a result of Superfund or other

The Division of Environmental Health (DEH) is responsible for inspection programs for the dairy, meat, seafood, and shellfish industries. It inspects public facilities and implements the pesticide program. The sanitation and shellfish programs are of most concern because of acute shortfall in program capacity.

Sanitation in public facilities - The sanitation program is responsible for inspecting public facilities to ensure that public health standards are met. In the Fairbanks area and the Matanuska Susitna Borough, inspection levels have declined to one inspection every two years. This is well below the minimum needed to ensure that public health can be protected. This has serious implications for the Alaskan public, as well as for the tourism industry.

The rest of the State falls below minimum inspection rates with approximately one inspection per year. In order to achieve even this level of inspection the sanitation component has excluded 1259 facilities from the regular inspection program and responds only in case of complaints. In another 526 public accommodations, the statutorily required inspection and permit processes are simply not implemented.

For purposes of comparison, the Municipality of Anchorage and the State of California inspect food service facilities four times per year and the State of Washington three to four times per year. The federal Food and Drug Administration (FDA) recommends a minimum of two inspections per year. The greater effectiveness of higher inspection rates is clearly demonstrated by contrasting the results of the state's program with those of the Municipality of Anchorage. In a city with a population base of 250,000 people and 1780 public facilities, there were no disease outbreaks in the last year. By contrast, in the Fairbanks and Matanuska-Susitna Borough areas, there were three disease outbreaks in tour groups, an outbreak in a pool/spa facility and one in a day care facility. The Municipality of Anchorage has 197 facilities per inspector in contrast to the state which has 435 per inspector and a greater geographical area to cover. The municipality spends \$604,000 per year to conduct its inspection program versus the \$920,000 the state expends for about 5000 facilities.

assistance...
constructed...
functioning...
dollars. inspection level of twice per year would require nine

new positions at approximately \$531,000. For the State to reach the more effective level of quarterly inspections, 15 new positions would be required at \$884,000 per year.

Support of the Shellfish Industry - The shellfish industry is experiencing major growth. Under federal Food and Drug Administration regulations, shellfish cannot be sold in interstate commerce unless the state has a federally approved program for shellfish. This requires review and certification of harvest areas, supervision of the catch, and testing of product for paralytic shellfish poisoning (PSP.) Since 1985, the number of certified harvest areas has increased from 5 to 13. An additional 38 areas have been proposed and are in some stage of review. The department has only one position for all work associated with shellfish. The workload already exceeds the capacity of this one position. The federal program review confirms that the existing staff has reached full capacity. Additional resources are essential to allow more areas to be certified and eligible to participate in interstate commerce, thereby enabling this industry to develop.

In addition, growers have expressed strong interest in obtaining more laboratory facilities to test for paralytic shellfish poisoning (PSP). This is required before shellfish can be sold. The department has determined that it is possible to certify private laboratories for this purpose. The certification process would require limited additional resources.

C. Division of Facility Construction and Operation -

The Division provides technical and financial management of capital grants to communities for sanitation projects. Specialized assistance is available for villages. (The capital budget is addressed in the attachment.)

Core Programs - For the Division to accomplish its core program, funds are needed to allow staff working with rural villages to travel; timely auditing of projects and payment to communities; timely award of funds for projects, particularly to the Municipality of Anchorage; and timely implementation of the revolving loan fund.

Rural Water and Wastewater System Management - More assistance in managing projects after they are constructed may be needed to keep community systems working functioning during the decline in available state dollars. This issue is being discussed at the Economic

Dislocation Task Force. Utility management assistance to communities would help them effectively run their utilities to reduce the potential for system failure resulting from lack of resources like fuel oil. This would ultimately save the state money. We will pursue this through the task force.

The Governor has asked that DEC determine what would be required to provide maintenance assistance to rural water and wastewater systems and to protect the state's investment. Several elements are needed to accomplish this on a statewide basis. The Legislature has also asked that we assess the need for remote maintenance workers statewide. This report is due on January 1. I would anticipate that the report, when completed, could result in a proposal for additional funding.

D. Administrative Services/Commissioner's Office

Budget reductions and new statutory responsibilities during recent years have led to erosion of administrative functions and the department's ability to inform the public. In order to support field operations and new programs, these functions have been cut so severely that the department's overall performance is impaired. In addition, funds are not available to address safety of our employees as they work in potentially risky areas as with hazardous materials, toxic substances, and site cleanup.

Administrative and Clerical Support - Two issues exist for administrative and support services within the agency. First is the need to budget administrative support commensurate with increases in programs. Second is the need to budget for clerical support commensurate with the needs of the professional staff. The urgency of these needs reflects prolonged losses from successive budget reductions.

Public Information - The Department addresses a large number of issues and implements a large number of requirements that interest and affect the public. Only a very low level of funding remains for the public information office. This has considerable effects on the ability of the agency to design and implement workable public participation programs and to help the public understand the issues affecting them.

Safety - The Department has no organized safety program, even though activities undertaken by the employees, particularly in field investigations and in working with hazardous materials, may pose substantial risks. The State also has increased responsibility to

employees, as a result of OSHA regulations and requirements under the federal Superfund bill. It is essential that a safety program be designed and implemented to minimize both risks to employees and liability of the State.

Underfunding of Personnel Costs - The budget process over the last several years has not allowed the full costs of authorized positions to be budgeted. This is due in large part to the failure to budget increases provided in union contracts. In all divisions, this has created chronic "underfunding." Needed positions are left vacant for extended periods to adjust for this shortfall. It would be advisable for your office to address this on a statewide basis.

III. Long Term Key Policy Issues Facing the Department -

- A. Mariculture - The State's approach to mariculture could have a major impact on the budget. The department is working with the fisheries mini-cabinet on this issue. The development of mariculture would have substantial effects on the seafood program. A site certification process similar to that employed for shellfish growing areas would likely be needed. Monitoring of chemicals used in operations would be needed as would a regulatory approach to discharges.
- B. Pesticides - The state is reviewing its pesticide program. New regulations will be proposed this fall. There is increasing public awareness of issues related to pesticide application and use. Additional effort may be needed in the future for this program.
- C. Indoor Air Quality - Research is increasingly demonstrating that indoor air quality may have greater impacts on public health than previously thought. Especially in cold climates, where buildings are well sealed and insulated, levels of carbon monoxide and other pollutants may reach unacceptable levels. There is no state program to address this issue at present, but initiatives may be appropriate in the future.
- D. Groundwater - Groundwater is a crucial water resource that has never received the kind of attention from environmental agencies that surface water has. National initiatives are being proposed for groundwater. Moreover, experience in Alaska is revealing that current programs do not provide a full measure of protection, as well as administrative

In FY 88, the State will prepare a strategy on how to address groundwater issues, based on analyses of current problems and the present regulatory structure. The approach will be to rely upon existing authorities to maximum extent. This may have implications for future budg. years.

- E. Risk Assessment - Increasingly, decisions on how to manage environmental problems are incorporating consideration of levels of risk actually posed to the public by various alternatives. The state has little current technical capacity to participate in risk assessments. This capacity may need to be developed in the future.
- F. Hazardous Waste Disposal - The department is continuing with its process to identify possible sites for hazardous waste facilities. If a decision is made for the state to select and then operate a site, considerably more funds will be needed.
- G. Assistance to Rural Sanitation Projects - As mentioned briefly under short term issues, the role of the state in providing technical operational and management assistance to small communities with sanitation projects is an important issue. Experience has shown that projects without maintenance assistance experience catastrophic failures that may destroy the state's investment. Experience is also showing that management assistance on how to run facilities as utilities can result in better operational resources. A policy decision on the role the state should play in these areas, to protect its multi-million dollar investment and the public, is needed.
- H. Emergency Response Planning for Hazardous Materials Spills - In FY 88, the State will begin to address the requirements in the federal Superfund bill for local planning for emergency response. This may require additional resources in the future.
- I. Quality Assurance - Increasing attention is being paid nationally to the accuracy of data generated by environmental agencies. States and EPA are reviewing and improving quality assurance and quality control procedures. The State has begun to address this issue. Further enhancements and improvements will be needed in future years.

Statewide Support
J. Legal Assistance - Legal assistance available to the
Department for legal actions, as well as administrative
Officer

and regulatory proceedings, must be adequate to support agency actions. This issue needs to be addressed.

- K. Arctic National Wildlife Refuge - Additional resources would be needed to address any detailed environmental review on development associated with this area.

IV. Approximate Additional Funding Needed for Core Programs

A. Division of Environmental Quality

Douglas Laboratory Operations	750.0	
Quality Assurance	200.0	
Air Quality Control & Monitoring	1,400.0	
Hazardous Waste -		
Facility Siting and Regulation	860.0	
Emergency Response Capability	484.0	
Emergency Response Commission	94.0	
Drinking Water	1,200.0	
Oil Pollution Control	550.0	
Solid Waste	750.0	
Site Investigation/Cleanup	580.0	
Water Pollution Control	1,500.0	
Placer Mining	**	
Clerical and Contractual	500.0	
Subtotal		8,868,000

B. Division of Environmental Health

Environmental Sanitation	536.0	
Shellfish Program	68.0	
Subtotal		604,000

C. Facility Construction and Operation

Core Program Support	122.0	
Operational Assistance to Systems	**	
Subtotal		122,000

D. Administrative Services/Commissioner's Office

Administrative Support (Fiscal)	60.0	
Clerical Support	40.0	
Public Information	50.0	
Safety Officer	80.0	

Jay Hogan

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September 21, 1987

Subtotal	230,000
TOTAL	9,824,000

** Policy decisions to be made in other forums will prescribe any budget needs here.

Attachments

cc: Janet Clarke
Amy D. Kyle
Division Directors

DDK/ADK/pc/mt
a4/a3

Advanced

Percent grant program

ATTACHMENT
CAPITAL BUDGET ISSUES

Three issues should be considered in the development of the capital budget and the appropriation process for the Facility Construction and Operation Division:

- ° Use of the Alaska Department of Environmental Conservation (DEC) grant programs as the funding mechanism for sanitation projects,
- ° Matching federal funds for the Alaska Clean Water Fund, and
- ° Funding for the Capital Improvement Project component in the operating budget.

Use of DEC grant programs -

The primary funding avenues to send state capital monies to local governments to meet their sanitation needs are:

1. Direct grants administered by the Department of Administration (AS 37.05).
2. Fifty percent Matching Construction Grants Program administered by DEC (AS 46.03).
3. Village Safe Water Program administered by DEC (AS 46.07).

During the last six years, \$431,000,000 in State money has been appropriated for water, sewer, and solid waste projects. Approximately eighty percent has been in the form of direct grants (AS 37.05) and only twenty percent has been administered by DEC.

At a time when state revenues have declined, it is necessary for state capital dollars to be used to the greatest advantage of both the State and local governments. To fund sanitation utility development and to stretch the state's dollars and assure attention to the most pressing needs, the state should use the fifty percent Matching Grants and Village Safe Water programs.

Advantages of the fifty percent grant program include:

- °Local participation in financing;
- °Technical assistance;
- °Payment scheduling;
- °Project auditing;
- °Local financial planning.

Advantages and services of the Village Safe Water Program include:

- °Project planning;
- °Technical assistance;
- °Varying construction techniques (force account labor);
- °Negotiating agreements;
- °Financial accountability;

This approach is consistent with past policy of Governor Cowper. This will require local financial participation in projects (fifty percent Matching Grants Program), or if the community is not financially capable of paying a percentage, that the grant project go through a systematic process with direct assistance from VSW Program staff.

b. Alaska Clean Water Fund

With passage of SB 167, the Alaska Clean Water Fund was established. This revolving loan fund will be capitalized from both federal and State sources. The federal government is making money available to Alaska; however, the state must provide twenty percent match. The Department's FY 89 capital budget will contain a request for this necessary match. With state match, the fund could be as much as \$83 million over an eight-year period.

c. CIP Component revenue

- The capital budget request will propose necessary revenue to fund the CIP component in the Facility Construction and Operation Division. This division administers both the fifty percent Matching Grants Program and the Village Safe Water Program. The FY 89 capital budget proposal will request monies that will be the revenue source for the component.

DATE: JANUARY 7, 1987

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TESTIMONY
OF
TRUSTEES FOR ALASKA,
NATURAL RESOURCES DEFENSE COUNCIL
AND
NATIONAL WILDLIFE FEDERATION

Before the
Subcommittee on Water and Power Resources
Committee on Interior and Insular Affairs
U.S. House of Representatives
on
Environmental Issues Related to
Oil and Gas Development Activities on
Alaska's North Slope

October 8, 1987

Prepared by:

Robert W. Adler, Executive Director
Trustees for Alaska

Lisa Speer, Senior Project Scientist
Natural Resources Defense Council

Mr. Chairman and members of this Committee. My name is Robert W. Adler. I am the Executive Director of Trustees for Alaska, a nonprofit, public interest environmental law firm based in Anchorage, Alaska. With me today is Lisa Speer, Senior Project Scientist with the Natural Resources Defense Council (NRDC), a national environmental organization with approximately 70,000 members and supporters nationwide. Trustees, NRDC and the National Wildlife Federation (NWF) have had a longstanding interest and involvement in oil and gas development in Alaska, and in issues related to the Arctic National Wildlife Refuge.

In July of this year, NRDC, Trustees, and NWF presented testimony before this Committee on the preliminary results of a major review that we are conducting regarding the environmental effects of oil and gas development on the North Slope of Alaska. Most of these impacts were not addressed adequately, and some were not addressed at all, in the Interior Department's Report to Congress and Legislative Environmental Impact Statement on oil and gas development in the Arctic Refuge.

Since that time, the Committee has had the opportunity to visit both Prudhoe Bay and the coastal plain of the Arctic National Wildlife Refuge. With your increased understanding of the nature and magnitude of development required for a major oilfield on the North Slope of Alaska, we would like to take this opportunity to elaborate upon some of the findings we presented to you in July, and to discuss them in light of responses recently raised by the oil industry.

To reiterate, the major conclusions of the NRDC/Trustees/NWF report on Prudhoe Bay are:

- 1) Industrialization of the North Slope related to oil and gas development has resulted in a wide range of environmental impacts, including pollution of the air and water and the destruction of substantial amounts of habitat.
- 2) The conduct of the oil and gas related industries on the North Slope has ranged from environmentally responsible to irresponsible, and in some instances has involved a serious disregard for environmental impacts. Hundreds of violations of state and federal regulatory controls designed to protect the environment have occurred. These range from minor infractions to at least one conviction on multiple criminal counts.
- 3) Existing environmental regulations as they are currently implemented and enforced have not provided adequate protection from significant environmental deterioration resulting from oil and gas activities.

4) The technology to achieve successful restoration of developed areas on the North Slope over the long term has not been effectively demonstrated for large scale projects.

5) Major data gaps exist on environmental impacts and compliance on the North Slope due to a systematic failure in monitoring on the part of the resource agencies. These gaps seem unlikely to be filled in the foreseeable future given the current level of monitoring activity.

A. Compliance Issues

The oil and gas industry responds to many of the serious potential environmental impacts of oil and gas development on the North Slope by pointing to the extensive regulatory system that is designed to prevent or to mitigate those impacts. As we noted in our July testimony, we believe the present regulatory system is not sufficient to protect the air, water and wildlife habitat of the North Slope. Even if these regulatory controls are tightened, they will only be effective if compliance with them is greatly improved. Our July testimony demonstrated just the opposite -- there has been widespread noncompliance with many aspects of the regulatory program designed to protect the North Slope environment.

A few of the most notable examples of the industry's failure to comply with environmental laws and regulations are:

1. Waste discharges to the tundra from fully one half of the drilling mud reserve pits that were dewatered in 1986 violated state effluent limits. In 1985 and 1984 the situation was even worse, with discharges from 85 percent and 100 percent of pits violating permit standards.

2. State records document between 400-600 reported spills of oil and other chemicals per year associated with oil development on the North Slope and the northern portion of the haul road.

3. In 1985, the only year for which the state has compiled black smoke reports in a data base, 150 black smoke incidents in violation of state air quality regulations were reported.

4. There have been a number of hazardous waste violations on the North Slope. In 1983, a major hazardous waste event occurred at the site of North Slope Salvage, Inc., which stored and disposed of drums from North Slope operators.¹ During the cleanup, over 58,000 gallons of contaminated liquids were recovered. Extensive soil and water contamination was documented and the site was determined to pose a "serious environmental and human health hazard."²

Nor is this an isolated incident of improper storage and disposal of hazardous substances. Of 29 hazardous waste inspections by EPA and DEC, 11 revealed violations.³ ADEC has closed two unpermitted oily waste pits with histories of leaking and overtopping fluids.⁴ Most recently, ADEC has discovered additional problems on Deadhorse lease tracts. For example, ADEC discovered more than 500 drums of unidentified petroleum liquids and several tons of other waste on a pad leased to Child's Equipment Services, which has filed for protection from creditors in U.S. Bankruptcy Court. Some of the drums were leaking.⁵

Notably, the industry has done little to respond to these charges. They have not attempted to explain the many violations that are revealed in state and federal agency files. More importantly, they have given no assurances that this violation history will improve in the Prudhoe Bay region, and that such violations will not be repeated in the Arctic National Wildlife Refuge.

In fact, rather than giving assurances that this past disregard for existing environmental standards will be corrected, the industry has continued to press for less stringent environmental protections on the North Slope. For example, in a letter written to the Alaska Office of Management and Budget in April of this year, the Alaska Oil and Gas Association attacked many of the regulations designed to protect the North Slope

¹ ADEC, 1984. Report on the Occurrence, Discovery, and Cleanup of an Oil and Hazardous Substances Discharge at Lease Tract 57, Prudhoe Bay, Alaska.

² Clar, J.M., 1984. An Evaluation of the Environmental and Human Health Hazards of Chemicals found at North Slope Salvage, Inc. (prepared for ADEC).

³ The results of most of these hazardous waste inspections are unavailable in the public record because they are pending review or compliance action.

⁴ The Pingut Oily Waste Pit and Drill Site 1C.

⁵ Anchorage Daily News, 7/19/87.

environment.⁶ This hardly provides reasonable assurance that the industry is willing to improve its environmental compliance efforts on the North Slope.

B. Hazardous and Solid Waste

As reported in our July testimony before this Committee, tremendous quantities of solid and hazardous waste are generated in conjunction with oil and gas development and production on the North Slope of Alaska. To date, the industry has not demonstrated that it can dispose of these wastes in an environmentally acceptable manner.

Much of the waste material produced on the North Slope is the inevitable result of any major industrial undertaking of this magnitude. Solid waste generated by the oil industry includes wrecked vehicles, airplanes, used batteries, styrofoam pipeline insulation, tires, prefabricated scrap construction materials, large quantities of scrap metal, and over 10,000 used drums per year.⁷ As an example, a three-year pipeline construction project can generate over 500 destroyed vehicles, 3,000 batteries, 10,000 tires, 20,000 tons of scrap construction materials, 6,000 tons of equipment components, thousands of used drums, thousands of cubic yards of various camp-related wastes, hundreds of prefabricated buildings, and large quantities of unused pipe.⁸

Perhaps more importantly, North Slope activities generate tremendous quantities of liquid industrial wastes, some of which are hazardous. A review of North Slope liquid wastes by ADEC documented the following volumes of wastes disposed of on the North Slope in 1986:⁹

⁶ Letter dated 4/2/87 from the Alaska Oil and Gas Association to the Alaska Office of Management and Budget.

⁷ ADEC, 1987(a). Solid Waste Management Standards for Arctic and Subarctic Alaska, page 2.

⁸ ADEC, 1986(a). Environmental Information Relative to Air and Water Quality, Solid Waste Disposal and Oil Spill Contingencies for the Arctic National Wildlife Refuge, page 25.

⁹ ADEC, 1987(b). A Review of Liquid Waste Production and Disposal at Oilfield Facilities on the North Slope of Alaska.

Subsurface disposal

1986 {
 Injected wastes - ARCO Pad 3 - 3,649,422 gallons
 CPF 1&2 disposal wells - 23,753,907 gallons
 Annular injection - 116,006,142 gallons

Surface disposal

Reserve pit fluids to tundra - 64,568,520 gallons
 Road discharges - 36,924,594 gallons
 Excavation dewatering - 369,500,000 gallons
 Hydrostatic testing discharges - 3,056,119 gallons
 Domestic wastewater discharges - 1,032,650 gallons

TOTAL 617,861,300 gallons

Many of these wastes have the potential to cause environmental degradation whether or not they are legally defined as hazardous. But the question of which North Slope wastes are hazardous is complicated by the fact that wastes uniquely associated with oil and gas exploration and development are currently exempt by law from classification as hazardous waste, whether or not the materials are in fact RCRA-hazardous. (RCRA §3001(b)(2)(A)).

Nevertheless, biennial hazardous waste generator reports on file at EPA indicate that large quantities of potentially hazardous waste are generated on the North Slope. Total volumes of wastes reported were 16,673,685 gallons in 1983 for all North Slope oilfields, and 166,669 gallons for the North Slope fields, not including ARCO Kuparuk, in 1985.¹⁰

As explained in the compliance history section above, the disposal of solid and hazardous waste materials on the North Slope has been problematic, and in many cases has resulted in direct contamination of land and water. Industry responds with excuses for several of the individual incidents. For example, problems documented at Deadhorse lease tracts are blamed on small, independent oilfield service companies. By bringing such lease tracts under direct oil company control, as has been done at Kuparuk, industry claims that such problems will be avoided. The oil companies also assert that no sites on the North Slope have actually been listed on the National Priority List for cleanup under the Superfund. Both ARCO and Standard now propose to dispose of hazardous wastes on the North Slope through deep

¹⁰ The Kuparuk report could not be located in EPA's files.

well injection,¹¹ a disposal technique they assert will reduce or eliminate hazardous waste problems.

We respond to each of these points below.

It is entirely disingenuous for the major oil companies to disclaim responsibility for the large volumes of wastes generated as a direct result of their profitmaking activities on the North Slope, regardless of the fact that, in the past, these wastes were transferred to smaller companies for handling. The industry will continue to generate significant quantities of hazardous and other liquid wastes on the North Slope, and will generate additional wastes if they are allowed to operate in the Arctic National Wildlife Refuge. These wastes will continue to be handled both by the major oil companies and by smaller, independent companies, whether or not support and production facilities are consolidated.

The overriding question is where and how these massive quantities of wastes will be disposed of if development is allowed in the refuge. The burden of proof is on the oil industry to demonstrate that they can permanently and successfully isolate these wastes from the fragile North Slope environment. To date, they have failed to make this showing. EPA is just beginning to review the industry's proposals for deep well injection of wastes, and there is no guarantee that this practice will be allowed.

In fact, there are serious potential problems with deep well injection of wastes. A study by NRDC of deep well injection of wastes around the country documents numerous cases in which underground injection wells have failed, resulting in extensive groundwater contamination.¹² Indeed, injection even of supposedly innocuous "brines" at oil and gas wells have resulted in significant problems; over one half of 32 oil and gas producing states reported groundwater contamination from underground brine disposal.¹³ The Office of Technology Assessment agrees that underground injection poses a potential

¹¹ ARCO engaged in deep well injection of hazardous and other wastes at Pad 3 from 1976 through 1985, when ARCO stopped accepting hazardous waste for injection at the facility, in part because it did not have "interim status," or authority to operate without a RCRA permit.

¹² Gordon and Bloom, *Deeper Problems: Limits to Underground Injection as a Hazardous Waste Disposal Method* (NRDC, 1986).

¹³ Donald V. Feliciano, "Underground Injection of Wastes. Mini Brief Number MB83238," Congressional Research Service, Oct. 15, 1983, cited in *Deeper Problems*, supra.

threat to groundwater, and identified 8 possible contamination pathways.¹⁴

Nor has the oil industry demonstrated how it will dispose of the large quantities of nonhazardous wastes generated by North Slope oil and gas operations, including oily wastes. In fact, five supposedly nonhazardous waste disposal sites have been the subject of "preliminary assessments" under the Superfund Program.¹⁵ The industry disclaims the importance of this by noting that none of these sites have actually been listed on the National Priority List (NPL) for Superfund cleanup. This claim is highly misleading. Due to the slow pace of the Superfund process in Alaska, none of the five sites have proceeded to the more detailed Site Assessment phase, which is necessary to determine the extent of contamination at any given site. But the five sites have been chosen for further evaluation:

1. ARCO Prudhoe Bay received a "medium" priority assessment.¹⁶ The site allegedly contains 10,000 - 80,000 buried drums, some containing drilling muds, and has received "a substantial volume of industrial (oil drilling-related) wastes."¹⁷ The preliminary assessment recommends that "the risk to nearby water resources should be further evaluated."¹⁸

2. Mukluk Dump - Prudhoe Bay (medium priority assessment) may include "small quantities" of hazardous materials, including drilling muds, mud additives, some heavy metals, and solvents. The preliminary assessment refers to the potential for leaching to the Sagavanirktok River, and potential contamination of a human drinking water source.¹⁹

¹⁴ Technologies and Management Strategies for Hazardous Waste Control, Office of Technology Assessment, U.S. Congress (1983), at 192, cited in Deeper Problems, supra.

¹⁵ Preliminary Assessment of 45 Potential Hazardous Waste Sites in the State of Alaska. Tetra Tech, Inc. 1984.

¹⁶ Four recommendation levels are possible in the Tetra Tech report:

- None - no further action recommended
- Low - inspection recommended on a time-available basis
- Medium - inspection recommended on a scheduled basis
- High - inspection recommended promptly.

¹⁷ Id.

¹⁸ Id.

¹⁹ Id.

3. Mukluk Freight Lines (medium priority assessment) has been a storage site for a large number of industrial chemicals, and survey results indicated that some chemicals were leaking from drums or escaping from damaged and weathered sacks. The assessment also indicated that the site had insufficient structures for groundwater protection.²⁰

4. North Slope Borough Landfill (medium priority assessment) accepts wastes from a large number of entities on the North Slope, and is currently the only operating landfill at Prudhoe Bay. The assessment refers to possible previous disposal of "oils, heavy metals and solvents," and recommends that the "risk to nearby water sources ... be further evaluated."²¹

5. Sand Dunes Landfill (medium priority assessment) also served as a major waste disposal site for North Slope oil and gas activities. Like the other landfills, this site may have received drilling muds, mud additives, heavy metals, solvents, and other hazardous materials. Previous EPA surveys mention potential leaching to the nearby river and possible contamination of potable water.²²

These problems with sites that have been used for solid and liquid waste disposal in the past underscore the serious waste disposal problems that will be presented should oil and gas development be allowed in the Arctic National Wildlife Refuge. To date, neither the oil industry nor the Interior Department have presented a satisfactory plan for how these massive quantities of wastes will be handled in a national wildlife refuge, without posing a long-term contamination threat to the land and water resources of the refuge.

C. Reserve Pits

Built directly on the tundra, reserve pits are designed to contain drilling mud and other wastes with gravel dikes. Individual reserve pits on the North Slope can contain up to 13 million gallons of waste materials. Drilling wastes may contain toxic components such as heavy metals, hydrocarbons, and

²⁰ Id. Standard claims that this site was incorrectly included in the preliminary assessments, and that an EPA official has recommended removal from the program. Standard Oil, 1987. Oil and Gas Development in the Arctic National Wildlife Refuge 1002 Area; Issues Raised by Environmental Groups During Testimony Before Congress, page 16.

²¹ Id.

²² Id.

additives in varying amounts. Many of these components are toxic to a variety of organisms. Disposal of accumulated drilling wastes and contaminated fluids which exceed reserve pit capacities is a major problem on the North Slope.

Despite a number of regulations and permit stipulation requiring reserve pits which store drilling wastes to be impermeable; numerous leaking pits have been documented. Waste fluids also escape due to overtopping or breaching of reserve pit walls. Drilling wastes are disposed of by pumping reserve pit fluids directly onto the tundra, spreading them on gravel roads which are not designed to be impermeable, and injecting them underground. In 1986, 64 million gallons of drilling waste fluids were discharged directly to the tundra from reserve pits and an additional 37 million gallons were applied to roads.²³

In response to testimony presented by NRDC, Trustees and NWF in July, the oil industry has argued that reserve pit fluids are not RCRA-hazardous but instead are "generally innocuous,"²⁴ that new state solid waste regulations will effectively deal with the problem of leaking reserve pits, that state-of-the-art disposal practices have reduced or eliminated altogether the need for reserve pits, that underground injection poses no threat of environmental harm, and that a U.S. Fish and Wildlife Service study of reserve pit fluids we cited was only a draft and is technically flawed.

We address each of these points below.

In a study mandated by §8002(m) of the Resource Conservation and Recovery Act (RCRA), EPA is presently evaluating whether or not petroleum extraction waste should be regulated as hazardous. EPA has not yet determined what percentage of drilling and production waste is RCRA-hazardous; it is thus impossible to confirm industry's assertions that these wastes are not RCRA-hazardous. However, even if such liquids were not hazardous as defined by RCRA, they can in no event be termed "innocuous." Common types of pollutants found in reserve pits include salts, additives, oil and grease, and dissolved heavy metals,²⁵ many of

²³ See pages 4-7 of NRDC/Trustees/NWF testimony presented before this Committee on July 21, 1987.

²⁴ Standard Oil, 1987, supra.

²⁵ EPA, 1987 in prep. Management of Wastes from Oil Exploration, Development and Production, August, 1987, page III-13.

which are toxic to a variety of organisms.²⁶ Pit fluid analyses performed by numerous investigators, including the industry, show concentrations of half a dozen metals at levels that exceed EPA's acute and/or chronic toxicity level for aquatic life.

The FWS study of reserve pit fluids, referred to as a "draft" by the industry, has been finalized and is now going to press.²⁷ The study found that reserve pits are the most likely source of metal and hydrocarbon contaminants that are spreading through tundra wetlands and that are associated with reduced biological diversity and abundance in associated tundra ponds. Presumably, the U.S. Fish and Wildlife Service, which is the expert agency in these matters, did not reach this conclusion lightly.

After years of opposition by the oil industry, the Alaska Department of Environmental Conservation developed new solid waste regulations which went into effect in September of this year. These regulations will require that new reserve pits be designed not to leak. While industry has begun to submit new designs for reserve pits, these designs have yet to be proven effective, the numerous existing leaking pits have yet to be corrected, and the effects of long-term open pits have yet to be determined. While some of these designs rely on lining reserve pits, the technological feasibility of using liners in arctic conditions has yet to be demonstrated.

²⁶ See, e.g.,:

- U.S. Environmental Protection Agency, 1987 in prep. Waste from the Exploration, Development and Production of Crude Oil, Natural Gas, and Geothermal Energy, Interim Report. April 30, 1987.

- Strosher, M.T., W.E. Younkin and D.L. Johnson, 1980. Environmental Assessment of the Terrestrial Disposal of Waste Drilling Muds in Alberta: Chemistry of Sump Fluids and Effects on Vegetation and Soils. A Report prepared for the Canadian Petroleum Association, December, 1980.

- Land, Bernard, 1974. Toxicity of Drilling Fluids to Aquatic Biological Systems, A Literature Review. Environment Canada, Fisheries and Marine Service Report 487.

- U.S. Department of the Interior, 1987. Final Coastal Plain Resource Assessment, Arctic National Wildlife Refuge.

²⁷ West, R.L. and E. Snyder-Conn, 1987 in press. Effects of Prudhoe Bay Reserve Pit Fluids on Water Quality and Macroinvertebrates of Arctic Tundra Ponds in Alaska. Only after a Freedom of Information Act Request and a subsequent appeal was Trustees able to obtain a copy of the final U.S. Fish and Wildlife Service study.

The other solution to problems posed by reserve pits proposed by the industry, underground injection, is not without its problems, as discussed above. These problems can be expected to be aggravated in the case of annular injection, where waste is disposed down the outside, as opposed to the inside, of the well casing, thereby increasing the opportunity for wastes to escape.

Industry claims that volumes of drilling wastes requiring disposal in reserve pits can be dramatically reduced or eliminated altogether and point to the Endicott project offshore Prudhoe Bay in the Beaufort Sea. While it is true that industry does not need to use reserve pits at Endicott, this is because Standard dumps some 4,600 tons of drilling mud and 31,700 barrels of cuttings per year from Endicott wells into the Beaufort Sea under an NPDES permit issued by EPA,²⁸ a practice which can entail very significant impacts to aquatic life. Thus, it is disingenuous for the industry to cite Endicott as evidence supporting the claim that it can eliminate reserve pits.

Industry also claims that it has reduced the use of chromium additives to drilling mud, which will reduce the heavy metal load in reserve pits. While it is true this may reduce the chromium content of muds disposed of in reserve pits, levels of other metals, including lead, mercury, cadmium, copper, aluminum, nickel, zinc, and other mud contaminants will presumably remain unaffected. Moreover, metals are not the only problem related to reserve pit fluids. Polycyclic aromatic hydrocarbons, which can be toxic to aquatic life at the parts per billion level (ppb), are apparently migrating from reserve pits and are accumulating in tundra soils near pits. On the North Slope, "considerable amounts of hydrocarbons were found in the tundra soil hundreds of feet from reserve pits."²⁹

In our July testimony, we noted that discharge permits issued by ADEC allow discharges of cadmium, copper, lead and mercury at levels that exceed EPA's acute and/or chronic toxicity criteria for the protection of freshwater aquatic life. In addition, ADEC's permit places no limits on reserve pit discharges for a number of other metals, which, based on data developed by the industry, occur in reserve pit fluids at concentrations that exceed EPA's acute and/or chronic toxicity

²⁸ NPDES permit No. AK-003866-1. DMRs submitted to EPA by Standard indicate that in 1986, some 22,000 barrels of mud and 31,700 barrels of cuttings were discharged into the ocean. Assumes a mud weight of 10 lbs/gallon.

²⁹ EPA, 1987 in prep., supra.

criteria.³⁰ The fact that millions of gallons of reserve pit liquids that may contain levels of metals that are acutely toxic to aquatic organisms raises very serious questions about the ability of existing state and federal regulatory controls in place to adequately protect the tundra ecosystem.

D. Air Pollution

Oil and gas facilities emit large amounts of air pollutants. For example, ADEC estimated of NO_x permitted to be emitted on the North Slope is greater than 90,000 tons, and that actual emissions are 70-90% of the permitted values³¹ -- or 63,000-81,000 tons of NO_x. ARCO estimates that permitted NO_x emissions in the Prudhoe Bay region at 74,368 tons per year, with actual emissions "somewhat less" than those indicated.³² This contrasts with Standard's assertion that Prudhoe Bay facilities emit only 20,000 tons per year.³³ By way of comparison, the Argonne National Lab estimates that Washington, D.C. emits approximately 23,000 tons of NO_x per year.³⁴

The industry argues that although ambient concentrations of NO_x have doubled at Prudhoe Bay between 1980 and 1987, this is not a "significant change,"³⁵ and further imply that because ambient concentrations of air pollutants are below national standards, there is no environmental problem. While it is true that NO_x and SO₂ levels emitted by Prudhoe Bay facilities have not exceeded the NAAQS, arctic species are known to be more sensitive to air pollutants than are mid-latitude species which have been used to establish standards.³⁶ Moreover, ARCO's air quality monitoring data from Kuparuk indicates that average annual concentrations of NO₂ and SO₂ in 1986 -- the main precursors of acid deposition -- have increased as much as 3-10

³⁰ See pages 6-7 of NRDC/Trustees/NWF July 21, 1987 testimony.

³¹ ADEC, 1986(a), supra.

³² ARCO, 1987. Air Issues on the North Slope of Alaska.

³³ Standard Oil, 1987, supra.

³⁴ Argonne National Laboratory, 1984. Estimated Monthly Emissions of SO₂ and NO₂ for the 48 Contiguous States, 1975-1984.

³⁵ Standard Oil, 1987, supra.

³⁶ ADEC, 1986(b). Response to ARCO's Comments on the Preliminary Air Quality Analysis for Kuparuk CPF-3, April 1986.

fold in certain areas over levels reported by the industry in 1980.³⁷

These pollutants are of concern due to their potential to acidify the sensitive arctic tundra. The industry argues that because only 618 tons of SO₂ is permitted to be emitted on the North Slope, acidification should not be of concern. However, industry conveniently ignores the fact that NO₂ is also an acidifying pollutant, and that further SO₂ and NO₂ together have at least an additive effect, and usually more than additive effect.³⁸

Moreover, EPA has raised concerns that acidification of tundra may result even if ambient air quality standards are being met. The Alaska Department of Environmental Conservation has noted that negative impacts have been known to effect lichen at concentrations at least as low as 39 ug/m³ and that short term concentration are known to be more important to adverse effects than long term averages.³⁹ Maximum one hour SO₂ levels measured at the Kuparuk Field were 52 and 186 ug/m³.⁴⁰ The U.S. Fish and Wildlife Service has also expressed concern about the short term and long term impacts of SO₂ on lichens, which are an important food source for North Slope caribou. The effects of NO_x and other pollutants on plant species which serve as caribou forage

³⁷ In 1979-1980, ambient air monitoring was conducted to establish baseline data for the North Slope. Standard Oil, 1987 page 22. The following is a comparison of the annual average ambient concentration of NO_x and SO₂ measured as ground for the North Slope in the 1979 and 1980 monitoring, and 1986 monitoring at the Kuparuk River "maximum impact" station.

	1979-1980	1986	
		1st qtr	2nd qtr
NO ₂ (annual average)	3.5**, 4.0**	11	19
SO ₂ (annual average)	0.4**, 0.5**	3	5

From: ARCO, 1987, supra, pages 8-9.

* Includes monitoring data collected from June - December, 1986.

** Below the minimum detection limit of the analyzer.

³⁸ EPA, 1982. Air Quality Criteria for Oxides of Nitrogen. EPA-600/8-82-026, page 1-31.

³⁹ ADEC, 1986(b), supra.

⁴⁰ ARCO, 1987, supra, page 9.

are not known and there are no studies underway which evaluate potential effects.

Industry has responded with claims that North Slope lichens are not affected by industrial air pollution, in part because the North Slope is a desert and all precipitation, including acid precipitation, is low. While the North Slope's annual precipitation is low and comparable to desert regions, acid precipitation is not the only process by which acidifying substances can be added to water or land. Dew, frost, frequent fogs and dry deposition through gravitational sedimentation of particles, impaction of aerosols, and adsorption of gases contribute to acidifying effects.

E. Land and Habitat Impacts

Sixty million cubic yards of gravel have been used to construct facilities including over 300 miles of roads and 5,500 acres of gravel pads in the Prudhoe Bay area. Pads and roads are used to support facilities such as drilling sites, housing, and other facilities. Open gravel mines cover approximately an additional 720 acres. An additional 3,400 acres of habitat have been flooded due to the impounding of roads and pads in one of the region's oilfields alone.

The industry claims that only a small percentage of the oilfield are affected by development by only counting land surface which has been directly covered by oil facilities. However, the oilfields sprawl over a large area with development and support facilities connected by roads, pipelines, and transmission lines. While a relatively small amount of the total area affected by oil development is actually covered by gravel fill, additional habitat is altered by oilfield activities, as is demonstrated by the avoidance of maternal groups of caribou of pipelines, roads and other facilities, particularly during calving. An Alaska Department of Fish and Game researcher has concluded that:

even if the amount of direct habitat loss (i.e., vegetation covered by gravel were an order of magnitude larger it would be of minor significance when compared with the amount of habitat that would become unavailable because caribou avoid developments.⁴¹

⁴¹ Shideler, Richard T., 1986. Impacts of Human Developments and Land Use on Caribou: A Literature Review, Vol. 2. Impacts of Oil and Gas Development on the Central Arctic Herd, Technical Report #86-3. Alaska Department of Fish and Game, Division of Habitat.

The habitat within the oilfield may also be altered by flooding caused by impoundments associated with roads, dust which coats vegetation and changes snowmelt patterns, fragmentation of habitat, and human disturbance.

While recent evidence indicates that a few small sites have been the subject of revegetation efforts, no large scale, long term rehabilitation efforts have been attempted, much less demonstrated effective. In addition, there is no assurance that monies have been set aside for what industry predicts to be astronomically high costs of restoration. For example, a letter from the Alaska Oil and Gas Association (AOGA) dated 4/3/87 to the Alaska Office of Management and Budget, claims that removal of facilities constructed for exploratory drilling and rehabilitation of the site will cost 1.5 to 2 times the original construction costs. While industry claims that all sites are still in use and so not available for restoration, state records show that 326 wells have been plugged and abandoned on the North Slope.⁴² Presumably a few of these lie within the Prudhoe Bay area.

F. Implications for the ANWR Decision

The issue of whether a core calving ground exists within the Arctic National Wildlife Refuge, and the magnitude of impacts of oil and gas development on the Porcupine Caribou Herd has consumed the vast majority of attention in this debate. Most people agree that there will be impacts on wildlife as a result of major oil and gas development in the coastal plain. Even the section 1002 report, which recommends full oil and gas leasing in the area, acknowledges that some of these impacts will be major. Only the precise magnitude of the impacts can seriously be debated.

While not wishing to minimize the critical importance of these issues, the NRDC/Trustees/NWF study, as well as critiques of the section 1002 report by CRS, EPA, and other entities, indicate that the chronic, long-range threats to the integrity of the Arctic National Wildlife Refuge include other far more subtle, less press-worthy, but equally serious issues. The following fundamental questions deserve attention by this Committee. Yet most of them were either not considered or received only cursory treatment in the section 1002 report.

⁴² Alaska Oil and Gas Conservation Commission printout, 5/21/87.

1. How would the massive quantities of drilling and production wastes in the Arctic National Wildlife Refuge be handled? Even assuming that the growing, pervasive pollution of tundra wetlands and ponds that has been allowed in the Prudhoe Bay area is acceptable (an assertion we strongly disagree with), such impacts clearly are not consistent with the purposes of a National Wildlife Refuge.

2. What would be the long-range, cumulative impacts of large numbers of spills of oil, diesel, and other substances on the environment of the coastal plain? While many individual spills are small, some spills at Prudhoe Bay have exceeded hundreds of thousands of gallons, and the total volumes from large numbers of "small" spills can be great.

3. What would be the effects of numerous, high visible black smoke incidents on the wilderness and other values of adjacent areas of the Arctic National Wildlife Refuge that have already been designated wilderness? Would such events in combination with other air pollution generated by oil facilities result in long-term visibility impairment?

4. What would be the long-range, chronic effects of acidification from NO_x and SO_x emissions on tundra vegetation within the coastal plain, and what would the effect be on lichen and other food sources for wildlife?

5. The Interior 1002 Report focused heavily on the "net" acreage of oil facilities, e.g. how many acres would actually be covered by roads, drilling pads, etc. They did not, as noted by CRS and other commenters, evaluate many of the secondary effects of these facilities, including indirect habitat modification via ponding, and behavioral impacts. Would habitat alteration in the coastal plain exceed what Interior predicts based solely on the physical number of acres actually affected?

6. Given the lack of substantial successful reclamation over the long-term of oil facilities at Prudhoe Bay, what assurance is there that the Arctic National Wildlife Refuge would be restored to its natural state, or close thereto, when development is over? Given the paucity of bonding requirements, even if reclamation is technologically feasible, who would pay for such work if irresponsible operators abandon sites, as has occurred in the Prudhoe Bay region?

7. How would hazardous wastes be handled, transported and disposed of? ARCO and Standard Alaska have pending permit applications for deep well injection of hazardous wastes at Prudhoe Bay. Would similar hazardous waste disposal permits be required for the Arctic National Wildlife Refuge, and is this appropriate for a National Wildlife Refuge? What are the likely

long term problems associated with deep well injection in this region?

8. How and where would the massive quantities of other solid wastes be disposed in the coastal plain? A large number of landfills have been used at Prudhoe Bay, some of which are being considered for the Superfund program. Would the same be true in the Arctic National Wildlife Refuge?

9. Where would the massive quantities of water and gravel necessary to support oil and gas development in the arctic come from, particularly given the acknowledged shortage of freshwater sources in the Refuge? Both EPA and CRS criticized Interior for their lack of sufficient analysis of this issue.

Thank you for the opportunity to present our views.