

ALASKA LEGISLATURE COMMITTEE FILES 2007-2008 RES 12661

EXCERPT

**§ 1425, Alaska National Interest Lands
Conservation Act (ANILCA)**

**Public Law 96-487, Dec. 2, 1980, 94 Stat.
2371**

EKLUTNA VILLAGE CORPORATION LANDS

Sec. 1425. Eklutna-State Agreements and Negotiations.-(a) The purpose of this section is to provide for the settlement of certain claims and litigation, and in so doing to consolidate ownership among the United States, the State of Alaska, the Municipality of Anchorage, Eklutna, Incorporated, and Cook Inlet Region, Incorporated, thereby facilitating land management, a fair implementation of the Alaska Native Claims Settlement Act, // 43 USC 1601 // the protection of State public park lands and resources, and appropriate development patterns in and about Anchorage, Alaska.

(b) The Secretary shall accept relinquishments and make conveyances of selections in accordance with the specific terms, conditions, covenants, reservations, and other restrictions set forth in any agreement respecting the lands described in subparagraph (1) below, executed by the State of Alaska, by the Municipality of Anchorage, and by Eklutna, Incorporated, and hereafter submitted to the Senate Committee on Energy and Natural Resources and the House Committee on Interior and Insular Affairs and filed with the Secretary, the execution and implementation of which agreement are hereby authorized as to those duties and obligations of the United States, the State of Alaska, the Municipality of Anchorage, and Eklutna, Incorporated, which arise under Federal law: Provided, however, That any conveyance under such agreement of lands to Eklutna, Incorporated, shall be only of the surface estate, with a subsequent conveyance to Cook Inlet Region, Incorporated, of the subsurface estate except as otherwise provided in subsection (h). In aid thereof:

(1) The following lands located within the townships described in sections 11(a) (1) and (2) of the Alaska Native Claims Settlement Act // 43 USC 1610. // with respect to the Native Village of Eklutna are withdrawn, subject to valid existing rights, from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, and including Public Law 94--204, // 43 USC 1604, 1611 // except section 12 thereof, and from selection under the Alaska Statehood Act, // 48 USC prec. 21. // or any statutes authorizing selections by the State of Alaska: (A) lands withdrawn or reserved for national defense purposes; and (B) lands determined by the Secretary under section 3(e)(1) of the Alaska Native Claims Settlement Act // 43 USC 1602. // not to be public lands for purposes of the Alaska Native Claims Settlement Act. This withdrawal and the agreement shall not affect the administrative jurisdiction of the Department of Defense or any other holding agency over the lands withdrawn, but all forms of disposition other than in accordance with this section and the agreement are prohibited: Provided, That the foregoing to the contrary notwithstanding, lands placed prior to July 15, 1979, in the pool contemplated by part I.C.(2) of the document entitled "Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area as clarified 8--13--76", but only to the extent authorized by that document under section 12 of Public Law 94--204 // 43 USC 1611 // as amended heretofore and in accordance with the procedures and with the consents and approvals required by laws, regulations and Executive orders in effect on such date of placement, may be selected by Cook Inlet

Region, Incorporated, free of the effects of the agreement pursuant to this section; if the lands placed in that pool are not thereafter selected in accordance with part I.C.(2) of that document any agreement pursuant to this section shall govern: Provided further, That neither the revocation of certain withdrawals of lands made by subsection (b) effective upon the filing of the agreement, nor the expiration of the withdrawal made by subsection (b) in the event no agreement is reached, shall be deemed an action causing those lands affected thereby to be subject to disposition under such section 12. The withdrawal made by this subsection (b) will expire March 15, 1982, if an executed agreement described in this section is not filed by the parties thereon or before that date with the Secretary in the Alaska State Office of the Bureau of Land Management; and if an agreement is so executed, rights under the agreement shall vest as of the effective date of this Act, and this withdrawal shall become permanent, except as otherwise provided in the agreement. The agreement shall not impose upon the United States obligations or outlays of funds, except as reasonable in the ordinary course of business, or impose any procedural requirements or require the reassignment of personnel; and any of its provisions to the extent to the contrary shall be void as against the Secretary.

(2) Upon termination or revocation of any national defense withdrawal or reservation or of any other withdrawal in effect December 18, 1971, respecting lands described in subsection (b)(1), or upon declaration of their excess status in whole or in part, whichever first occurs, but not before, and from time to time, the lands excessed or as to which the withdrawal is terminated or revoked shall be conveyed to Eklutna, Incorporated, as to the surface estate and Cook Inlet Region, Incorporated as to the subsurface estate, or to the State of Alaska (for reconveyance by the State of Alaska in whole or in part to the Municipality of Anchorage), as may be provided in the agreement described in this subsection: Provided, however, That such conveyance shall not be made of lands in the pool established under part I.C.(2) of the document entitled "Terms and Conditions for Land Consolidation and Management in the Cook Inlet Area as clarified 8--31--76" under section 12 of Public Law 94--204 // 43 USC 1611 // as amended heretofore, unless and until removed from that pool in accordance with such part I.C.(2). This section and the agreement shall preempt the procedures of the Federal Property Act (40 U.S.C. 471, et seq., and of 41 CFR 101--47.000 et seq.), (other than as to fixtures and personalty) and the preference right for State selection of section 6(g) of the Alaska Statehood Act. The conveyances to Eklutna, Incorporated, of lands withdrawn by this subsection called for by the agreement shall not be subject to section 1613(c) of title 43, United States Code. This section shall revoke PLO 5187 as it pertains to any lands withdrawn by this subsection and any power project withdrawals other than Power Project 350 as to such lands, effective upon the date of filing of the agreement. Lands conveyed to the State of Alaska, the surface estate of lands conveyed to Eklutna, Incorporated, and the subsurface estate conveyed to Cook Inlet Region, Incorporated, pursuant to this section and the agreement, shall be charged against their respective entitlements under sections 12 and 14 of the Settlement Act // 43 USC 1611, 1613. // and be considered conveyed and received pursuant to the Settlement Act, and section 6 of the Alaska Statehood Act // 43 USC 1601 // or section 906(c) of this Act.

(c) If an agreement to the following effect executed by the State of Alaska and Eklutna, Incorporated, is hereafter filed with the Secretary in the Alaska State Office of the Bureau of Land Management on or before April 2, 1982, the public lands as defined in the Settlement Act, // 43 USC 1601 // located within township 17 north, range 3 east, Seward Meridian, Alaska, shall be deemed to have been withdrawn pursuant to section 11(a) of the Settlement Act // 43 USC 1610. // as of December 18, 1971, and selections heretofore made by Eklutna, Incorporated, with respect to lands therein shall be processed by the Secretary as though said selections had been made within a township heretofore validly withdrawn pursuant to section 11(a). If no such agreement is filed, this subsection shall not be held to affect the validity or invalidity of such selections. Whether or not any agreement is filed, this subsection shall not be held to affect the validity or invalidity of any third party interest heretofore created by the State of Alaska.

(d) Notwithstanding other provisions of this Act, the State and Eklutna, Incorporated, are each authorized to relinquish, in whole or in part, pursuant to either or both of the agreements contemplated by subsections (b) and (c), any one or more land selections affecting lands to be conveyed under the agreement to the other whether or not such selections have been previously approved or tentatively approved. The lands affected by the State selections so relinquished shall be deemed public lands as of December 18, 1971, as that term is defined in the Settlement Act.

(e) Eklutna, Incorporated, and the Secretary shall stipulate to dismiss cause number A-78--24 Civil in the United States District Court for the District of Alaska, when the Secretary tenders to Eklutna, Incorporated, a conveyance of all lands in township 17 north, range 3 east, Seward Meridian, which are to be conveyed to Eklutna, Incorporated, under the agreement referred to in subsection (c).

(f) Eklutna, Incorporated, and the Secretary shall stipulate to dismiss cause number A-78--192 Civil in the United States District Court for the District of Alaska except as to the lands affected thereby which under the agreement referred to in subsection (b) are to remain in litigation in that cause, if any, when the Secretary tenders to Eklutna, Incorporated, a conveyance of all those lands which under the agreement the State agrees are to be conveyed to Eklutna, Incorporated, from among those selected at one time by the State under the authority of the Mental Health Enabling Act of 1956 (70 Stat. 709).

(g) The Secretary shall convey to Eklutna, Incorporated, its entitlement without regard to the acreage or interests which may ultimately be conveyed to Eklutna, Incorporated, under the agreement from within lands withdrawn by subsection (b). The agreement shall, however, require Eklutna, Incorporated, to subject to section 907 of this Act one or more compact tracts of lands of at least equal acreage to that ultimately to be conveyed to Eklutna, Incorporated, under the agreement from those withdrawn by subsection (b). The agreement shall require Eklutna, Incorporated, to reconvey to the State lands from those subject to section 907 in an amount provided by the agreement, upon the occasion of each receipt of lands by Eklutna, Incorporated, from among those withdrawn by subsection (b). Lands received by the State in such a reconveyance from

Eklutna, Incorporated, shall be charged, to the extent of the acreage received by Eklutna, Incorporated, in the relevant conveyance to it, against the State's entitlement under section 6 of the Alaska Statehood Act, // 48 USC prec. 21. // or section 906(c) of this Act, as the State may elect. If thereby the State receives more than its entitlements under the Act elected, it shall reconvey to the United States a compact tract of unencumbered State lands of equal acreage contiguous to lands belonging to the United States. Eklutna, Incorporated, shall also subject to section 907 of this Act, once an agreement under subsection (c) exists and thereafter from time to time, one or more compact tracts which equals the acreage amount by which Eklutna, Incorporated's entitlement would be over satisfied considering the acreage already conveyed to Eklutna, Incorporated; to the extent such a risk of over entitlement abates the lands may be withdrawn from the Land Bank.

(h) In the event that Eklutna, Incorporated, receives a conveyance from the United States of the surface estate in lands withdrawn by subsection (b) pursuant to the agreement authorized in that subsection, and if a reconveyance from Eklutna, Incorporated, of the surface estate in land to the State from those subject to section 907 of this Act is thereby occasioned, a conveyance of the subsurface estate in the lands conveyed to Eklutna, Incorporated, shall be withheld until the Secretary ascertains to whom the subsurface estate is to be conveyed under this subsection. The entity owning the subsurface estate in those reconveyed lands shall retain that interest, unless it in the agreement or separately consents to convey the same to the State. In the event such entity so consents to convey the subsurface to the State, the Secretary shall convey the subsurface estate in the lands conveyed to Eklutna, Incorporated, to that entity; if such entity does not so consent, the subsurface estate in the lands conveyed to Eklutna, Incorporated, shall be conveyed to the State.

3 (e)

AGREEMENT

BETWEEN

ARRC-EI

JAN 1987

AGREEMENT OF ALASKA RAILROAD CORPORATION
AND EKLUTNA, INC.
SETTLING CLAIMS OF VALID EXISTING RIGHTS
TO RAIL PROPERTIES OF THE ALASKA RAILROAD AND PROVIDING
FOR CONVEYANCES PURSUANT TO THE ALASKA NATIVE CLAIMS
SETTLEMENT ACT AND THE ALASKA RAILROAD TRANSFER
ACT OF 1982

3e agreement

January 8, 1987

16.1 Conveyance of Rock Quarry Lands Upon Cessation of Use. The Parties acknowledge that, pursuant to paragraph I.B(3)(e) of the North Anchorage Land Agreement of March 15, 1982, Among Eklutna, Inc., the Municipality of Anchorage, and the State of Alaska, the State of Alaska or its assignee is required to convey to Eklutna, Inc. certain lands including Parcel B of the Eklutna Rock Quarry, as described in subparagraph 1.5.2, above, and Exhibit No. 3B hereto, if the State of Alaska or its assignee ceases to use such lands "in connection with furnishing mass or bulk transportation." To further implement the requirements of paragraph I.B(3)(e) of the North Anchorage Land Agreement, the Parties agree as follows:

(a) The Alaska Railroad Corporation or its successor will notify Eklutna, Inc., the Governor of Alaska, the Legislature of Alaska, and the Municipality of Anchorage of the cessation of use of Parcel B of the Eklutna Rock Quarry in connection with furnishing mass or bulk transportation when such cessation occurs.

(b) Within 90 days after receipt of notice of cessation of use pursuant to the foregoing clause (a), Eklutna, Inc. will notify the Alaska Railroad Corporation or its successor whether Eklutna, Inc. desires to receive a conveyance of Parcel B of the Eklutna Rock Quarry.

(c) As soon as feasible after receipt of a request for conveyance of Parcel B of the Eklutna Rock Quarry from Eklutna,

Inc., pursuant to the foregoing clause (b), but in no event sooner than January 5, 1995, and subject to legislative approval if necessary at the time of conveyance, the Alaska Railroad Corporation or its successor will convey the lands within Parcel B in accordance with the requirements of paragraph I.B(3)(e) of the North Anchorage Land Agreement.

(d) The Parties agree that cessation of use of Parcel B of the Eklutna Rock Quarry in connection with furnishing mass or bulk transportation will occur only when (i) the rock structure occupying the parcel has been exhausted and no quarry rock that can be removed remains above the subgrade of the track bed presently situated on the parcel; or (ii) the parcel is devoted principally to a use other than the mining of rock. During the period the Alaska Railroad Corporation is using Parcel B of the Eklutna Rock Quarry for mining purposes, it may also use Parcel B for other incidental railroad support functions, including storage of railroad equipment. The Alaska Railroad Corporation shall not quarry rock situated lower than the existing subgrade of the track bed, and rock below such grade shall not be considered in determining whether the rock structure has been exhausted.

16.2 Conveyance of Easements by Eklutna, Inc. Within three days after its receipt of the conveyance of Parcel A of the Eklutna Rock Quarry, described in subparagraph 1.5.1, above, Eklutna, Inc. shall deliver to the Alaska Railroad Corporation

**NORTH ANCHORAGE
LAND AGREEMENT
&
AMENDMENTS**

Work Session

File Copy

MARCH 1982

NORTH ANCHORAGE LAND AGREEMENT

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ject of litigation in the case of Eklutna, Inc. v. Andrus,
A78-192 Civ., U.S.D.C. Alaska. This portion of the Agreement
is authorized by Section 1425(f) of ANILCA.

Section IV of this Agreement contains miscellaneous
provisions concerning the relationships between and among the
parties which do not affect the conveyance of lands by the De-
partment of the Interior.

I.

DISPOSITION OF LAND WITHDRAWN BY SECTION 1425(b)(1) OF ANILCA

- A. For the purposes of this Section I, the parties agree that
Section 1425(b)(1) of ANILCA withdraw the following lands
located within Townships 18 North, Ranges 1 and 2 East,
and Ranges 1 and 2 West; Townships 17 North, Ranges 1 and
2 East, and Ranges 1 and 2 West; Townships 16 North,
Ranges 1, 2 and 3 East, and Ranges 1, 2 and 3 West; Town-
ships 15 North, Ranges 1, 2 and 3 East, and Ranges 1, 2
and 3 West; and Townships 14 North, Ranges 1, 2 and 3 East
and Ranges 1, 2 and 3 West, Seward Meridian, and provided
for their disposition pursuant to this Agreement:
- (1) Lands withdrawn or reserved for national defense pur-
poses; and
 - (2) Lands determined by the Secretary under Section
3(e)(1) of the Alaska Native Claims Settlement Act,
43 U.S.C. 1601 et seq. ("ANCSA") not to be public
lands for the purposes of ANCSA.
- B. The parties agree that upon termination or revocation of
any withdrawal or upon a declaration of excess status in
whole or in part of lands withdrawn by Section 1425(b)(1),
or disposition other than in accordance with Section 1425
and this Agreement, the Secretary shall convey such lands

Eklutna's or the State's entitlement, a conveyance of an undivided one-half interest (or a surface estate in an undivided one-half interest) in an acre shall be charged as if each party had received one-half acre. The parties agree that the cross reference in Section 1425 of ANILCA to Section 906(c) is a typographical error and should in fact be to Section 906(b).

(3) Lands Determined by the Secretary Pursuant to Section 3(e)(1) of ANCSA not to be Public Lands for the Purposes of ANCSA.

(a) Any lands within the following described areas which are finally determined under Section 3(e)(1) of ANCSA not to be public lands shall be conveyed to Ek'utna:

Sections 13, 23, 24, 25 and 26, Township 16 North, Range 1 West, and Sections 18, 19 and 30, Township 16 North, Range 1 East, Seward Meridian.

(b) Any other lands which are finally determined under Section 3(e)(1) of ANCSA not to be public lands shall be conveyed to the State.

(c) The parties agree that the revocation of F.L.O. 5187 and power project withdrawals effected by the filing of this Agreement shall not affect the Secretary's authority to make 3(e) determinations under ANCSA concerning such land. The parties understand that the lands within Power Site Classification 107 within Township 14 North, Range 1 East, Seward Meridian, should be conveyed to the State.

(d) This paragraph A shall not affect the rights of Eklutna in lands finally determined by the Secretary under Section 3(e)(1) of ANCSA to be public lands.

(e) Notwithstanding subparagraph B(3)(a) of the introduction language to this paragraph B, the parties agree that the Alaska Railroad may become the property of the State of Alaska as an operating entity whether or not first excised without there being any violation of Section 1425 or this Agreement, to the extent of the lands lawfully determined by the Secretary under Section 3(e)(1) of ANCSA not to have been public lands (including any of the same that may be included in the descriptions in subparagraph B(3)(a)); if lands or interests in lands in Paragraph (a) above are transferred to the State by the United States as part of the railroad transfer, the State will reconvey the land to Eklutna if it ceases to use them in connection with furnishing mass or bulk transportation. For so long as the railroad is in operation, the Secretary shall not convey to Eklutna the lands lawfully determined not to have been public lands.

B. Section 1425(c) provides that the State and Eklutna are authorized pursuant to the agreement contemplated by Section 1425(b), to relinquish one or more land selections whether or not such selections have been previously approved or tentatively approved. Pursuant to this authority, Eklutna hereby relinquishes its selections of the

desires to mine, the parties acting by registered professional engineers with experience in fluvial geomorphology shall prepare a plan of operations based upon sustained yield. The plans shall address the volume of materials which can be removed without damage to the bridge or to other riparian lands. Eklutna and the State shall likewise agree upon a system of accounting for materials removed and other necessary aspects of the operation.

STATE OF ALASKA

WILSON CONDON, ESQ.
Attorney General

By: [Signature]
Chip Dennerlein, Director
Subject to the approval of
the Commissioner of the Department
of Natural Resources and the
Legislature of the State of Alaska

By: [Signature]
Barbara J. Miracle, Esq.
Assistant Attorney General

ATTEST:

ANCHORAGE, a municipal corporation

[Signature]
Municipal Clerk

By: [Signature]
Tony Howles, Mayor

EKLUTNA, INC.

BURR, PEASE & KURTZ

By: [Signature]
Daniel Alex, President

By: [Signature]
Edward Gould Burton

RECOMMENDED AND APPROVED:

By: [Signature]
Dorothy Cook, Vice President

By: [Signature]
Jerry Westbaugher
Acting Municipal Attorney

Pertinent Sections of AS 42.40, Alaska Railroad Corporation Act

Sec. 42.40.285. Legislative approval required. Unless the legislature approves the action by law, the corporation may not

- (1) exchange, donate, sell, or otherwise convey its entire interest in land;
- (2) issue bonds;
- (3) extend railroad lines; this paragraph does not apply to a spur, industrial, team, switching, or side track;
- (4) lease land for a period in excess of 55 years unless the corporation reserves the right to terminate the lease if the land is needed for railroad purposes;
- (5) apply for or accept a grant of federal land within a municipality; before approving an action under this paragraph, the legislature must determine that the federal land is required for essential railroad purposes; this paragraph does not apply to the application for or acceptance of a grant of federal land associated with

(A) the Anchorage-Wasilla line change project on Elmendorf Air Force Base and Fort Richardson;

(B) the Fairbanks intermodal rail yard expansion project;

(C) a conveyance of rail properties of the Alaska Railroad under the original Alaska Railroad Transfer Act of 1982 as set out in Title VI, P.L. 97-468; in this subparagraph, "rail properties of the Alaska Railroad" has the meaning given in 45 U.S.C. 1202(10). (§2 ch 153 SLA 1984; am §4 ch 59 SLA 1999; am §1 ch 30 SLA 2002)

Sec. 42.40.350. Land. (a) The corporation shall receive from the United States and, in its own name, take title to all rail property transferred under 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982). All land that is transferred or acquired by the corporation is designated as follows:

(1) railroad rights-of-way are railroad utility corridors;

(2) land outside railroad utility corridors is rail land.

(b) Railroad utility corridors shall be of a width at least 100 feet on both sides of the centerline of the extended main or branch line, unless the corporation does not own or control sufficient land to allow a corridor of that width. Railroad utility corridors may be surveyed by the metes and bounds method. The corporation may not convey its entire interest in land within a utility corridor except as provided in AS 42.40.285, 42.40.370(d) and 42.40.400. However, the corporation may lease, subject to AS 42.40.285 and (d) of this section, grant easements in or permits for, or otherwise authorize use of portions of a utility corridor for transportation, communication, and transmission purposes and support functions associated with those purposes, and for commercial and other uses authorized under this chapter if the use does not restrict other parallel uses of the utility corridor.

(c) The corporation may lease, subject to AS 42.40.285 and (d) of this section, grant easements in or permits for, or otherwise authorize use of portions

of rail land. However, the corporation may not convey its entire interest in rail land except as provided in AS 42.40.285, 42.40.370(d) and 42.40.400.

(d) A lease or disposal of land approved by the legislature under AS 42.40.285 by the corporation to a party other than the state shall be made at fair market value as determined by a qualified appraiser or by competitive bid. (§2 ch 153 SLA 1984)

Sec. 42.40.400. Vacation of easements. The corporation may vacate an easement acquired under this chapter by executing and filing a deed in the appropriate recording district. If the easement was acquired by the corporation under 45 U.S.C. 1201-1214 (Alaska Railroad Transfer Act of 1982), the state shall acquire the easement for use in conformity with those laws. (§2 ch 153 SLA 1984)

**MUNICIPALITY OF ANCHORAGE
PLANNING AND ZONING COMMISSION RESOLUTION NO. 2006-066**

A RESOLUTION APPROVING A FINAL CONDITIONAL USE TO ALLOW NATURAL RESOURCE EXTRACTION IN THE T (TRANSITION) ZONE DISTRICT FOR T16N, R1W, SEC. 24, PARCEL B, EKLUTNA ROCK QUARRY SUBDIVISION.

(Case 2006-151; Tax I.D. No. 052-061-04)

WHEREAS, a request has been received from Alaska Railroad Corporation (ARRC) to allow natural resource extraction for Parcel B, generally located northwest of the Village of Eklutna, and

Whereas, the actual rock and gravel quarrying operations have been completed and the applicant proposes to clean up and stabilize the quarry before deeding the property to Eklutna, and requires a conditional use for this purpose, and

WHEREAS, notices were published, posted and mailed and a public hearing was held December 4, 2006.

NOW, THEREFORE, BE IT RESOLVED, by the Municipal Planning and Zoning Commission that:

- A.** The Commission makes the following findings of fact:
1. Quarrying operations have been completed. The ARRC conditional use for natural resource extraction is actually for the purpose of removing stockpiled rock and gravel material, general clean-up of the site, and rock face stabilization to return the area to a safe condition before turning the property over to Eklutna.
 2. Eklutna Inc. and the Village of Eklutna support the conditional use.
- B.** The Commission **APPROVES** a final conditional use permit to allow natural resource extraction in the T (Transition) Zone District for T16N, R1W, SEC. 24, Parcel B, Eklutna Rock Quarry Subdivision, subject to the following conditions.
1. A Notice of Zoning Action, including a copy of the approved Commission Resolution for this case, shall be filed with the State Recorder's Office and proof of such shall be submitted to the Planning Department.
 2. The conditional use is intended to allow removal of approximately 145,000 tons of stockpiled rip-rap, ballast, and fines from Parcel B.
 3. All construction shall substantially conform to the petitioner's narrative and submitted plans on file at the Planning Department, except as modified by other conditions herein.

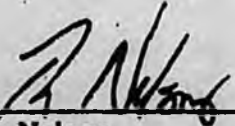
4. Prior to the issuance of any land use or excavation permit, the following shall be accomplished:
 - a. Review and approval of a final Air Quality Plan by the Department of Health and Social Services, Air Quality Office; the plan shall include any dust mitigation measures on public roadways and on the roadways within the site; a copy of the approved plan shall be submitted to the Planning Department.
 - b. Resolve the need for a drainage plan, sedimentation and erosion control plan, and a plan for the treatment of stormwater runoff. Plans shall be submitted to Municipal Project Management and Engineering Section for review and approval. Include copies of any required AK-DNR or AK-DEC applications, permits or plans.
 - c. Resolve the need for a restoration plan with Eklutna Inc. and the Planning Department. If the development of the site does not begin within a year, the site will be sodded or hydro-seeded to maintain runoff and air quality, or shall be restored via an alternative method approved by DHHS, DNR, DEC and PM&E.
 - d. A noise control permit application shall be submitted for review, to be approved by DHHS, with a copy to be provided to the Planning Department. Blasting is to be limited to restoring the rock faces to a safe and stable condition and shall be limited to the hours of 8:00 am to 4:00 pm, Monday through Friday. If the Applicant proposes to store explosives on site, a copy of the approved magazine application shall be submitted to the Planning Department. All equipment used in these operations shall comply with Chapter 15.70 Noise Control of the Anchorage Municipal Code.
5. Operational hours for removal of previously quarried materials shall be limited to loading and train operations from 6:00 a.m. to 7:00 p.m., Monday through Saturday. Only emergency operations are permitted on Sundays and holidays, or outside of the above hours. Removal of quarried material by truck will be allowed only by amendment to this conditional use.
6. The operation of the site shall include the following:
 - a. On-site personnel shall be formally trained on all aspects of the excavation operation.
 - b. The telephone number of the contractor selected to perform the work, as well as a contact telephone number for the owners, shall be placed on site. The sign shall be of sufficient size to be visible from the adjacent roadways and the view of the sign shall be unobstructed by equipment, machinery, vegetation and the like.
 - c. On-site personnel shall have total authority to direct road clean-up and maintenance operations as needed. On-site personnel shall have the

authority to call a sweeper, water truck and motor grader, as necessary, to respond to specific site conditions or complaints.

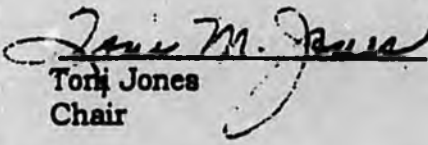
- d. Circulation roads within the excavation area shall be maintained to minimize materials carried onto the adjacent properties.
 - e. The owners shall identify contact people to respond to public inquiries. The numbers of the contact people shall be provided to the Chair of the Chugiak Community Council, representatives of the Village of Eklutna and Eklutna Inc., and to the Manager, Land Use Enforcement. The Community Council chairman and Land Use Enforcement shall be notified of any change in the contact personnel or business telephone number(s).
7. This approval is valid until October 31, 2011. Prior to that date the petitioner may apply for a time extension on the same record supplemented as deemed appropriate by the Department. The time extension would be granted after a non-public hearing if the Commission finds the operation has not violated the conditions of approval nor has it created environmental problems either on-site or off-site.
8. Beginning December 1, 2007, and every December 1 thereafter until the property is transferred to Eklutna, Inc., the Applicant shall submit to the Planning Department, an annual monitoring report containing the following information:
- a. A log of any complaints reported in the previous year and how the complaint was resolved.
 - b. An update on the amount of material removed during the previous year, and an update, if necessary, of any change to the proposed completion date.
 - c. A close out inspection of the property with representatives of the Planning Department and Eklutna, Inc. at the completion of operations.
9. The Alaska Railroad Corporation shall seek a jurisdictional determination from the Corps of Engineers, and seek any necessary Clean Water Act authorizations from the COE and EPA. In addition ARRC shall limit adverse impact to water quality and habitat functions, and plan the work to avoid and minimize activities in the intertidal waters, wetlands, and streams, and to provide a non-disturbance buffer for such areas to the maximum extent practical. Copies of permits and plans shall be provided to the Planning Department.

PASSED AND APPROVED by the Municipal Planning and Zoning Commission on the 4th day of December, 2006.

ADOPTED by the Anchorage Municipal Planning and Zoning Commission this 29th day of January 2007. If the secretary received a written request and intent to appeal, this written decision/resolution of the Planning and Zoning Commission is final and any party may appeal it within twenty (20) days to the Board of Adjustment pursuant to Anchorage Municipal Code 21.30.030 and Anchorage Municipal Code of Regulations 21.10.304. If the secretary did not receive a written request and intent to appeal within seven (7) calendar days of the date the decision was made on the record, December 4, 2006, then this written decision is final and not appealable to any other administrative body. Final administrative decisions with no further administrative remedy may be appealed to the Superior Court within thirty (30) days.



Tom Nelson
Secretary



Toni Jones
Chair

(Case Number 06-151)
(Parcel ID 052-061-04)

ab



NATIVE VILLAGE OF EKLUTNA

February 21, 2007

Rep. Bill Stoltz:
Alaska State Legislature
600 E. Railroad Avenue
Wasilla, AK 99654

RE: NVE, ARRC and EI MOU

Dear Representative Stoltz:

As Tribal Administrator of the Native Village of Eklutna, I am writing to assure you that the that the Native Village of Eklutna supports the "Memorandum of Agreement Regarding the Eklutna Quarry" that was recently signed by the Native Village Eklutna, the Alaska Railroad Corporation, and Eklutna, Inc. As we agreed when we signed the Memorandum of Agreement, ARRC will transfer the land of the Quarry to Eklutna, Inc., subject to legislative approval, and ARRC already has the consent to remove stockpiled rock from the Eklutna Quarry. We support both those goals and hope that legislation can be passed that will allow ARRC to make the transfer. If any changes are to be made, we want to be in that loop. When a bill is introduced, we want a copy for our review. Thank you for your consideration of our wishes.

Sincerely,

Daniel Alex, Tribal Administrator, The Native Village of Eklutna

Honorable decision

Alaska Railroad opts to correct a wrong done to Natives

(Published: February 23, 2007)

If the Legislature gives permission, the Alaska Railroad will bring a constructive end to a long and sometimes bitter dispute with Eklutna Natives in Anchorage.

The railroad has given up its controversial, long-running efforts to quarry rock from a cultural site revered by the Natives. Instead, the railroad has agreed to clean up the site and deed it back to Native ownership. (Signing over the land requires legislative approval.) In return, the railroad gets permission to haul off and use a large stockpile of quarried rock on the site.

It's a good deal all around and deserves speedy approval by the Legislature.

The deal marks a striking change in attitude by the railroad. Previously, the railroad focused on one thing: extracting the rock. The attitude was: "We need it for operations. It's cheap and easy to get at. It's on land we own. We have the right to take it out, and that's what we're going to do."

But the railroad's effort to do that hit many a legal obstacle, due largely to the opposition of Eklutna-area Natives.

Rock would come from two knobs that have special cultural significance. The name "Eklutna" means "two hills on a river," says Eklutna tribal administrator Dan Alex. The two hills were a lookout point for guarding against enemies and offered a high, dry refuge from the tides of upper Cook Inlet, with firewood and fresh water.

"You take away the hills, you take away the name 'Eklutna,'" Mr. Alex said more than a decade ago during an earlier phase of the village's battle against quarrying operations.

Eklutna Natives say that their title to the railroad's quarry site was wrongly taken away decades ago by the federal government. Long before the 1971 Native land claims settlement, the area was part of the Eklutna Indian reserve. As with Indian reserves at the time, it was managed in trust for the Natives by the federal Bureau of Indian Affairs. But BIA was hardly a vigilant defender of Native interests.

Citing wartime necessity, the U.S. Army took over the quarry site for railroad operations during World War II. After the war, the railroad kept it instead of returning the land to the Indian reserve.

When Alaska Railroad Corp. president and CEO Pat Gamble learned all that history, he decided the railroad should reverse course. He wanted a more cooperative relationship with Eklutna Natives, who own much of the land surrounding the railroad tracks in north Anchorage.

Under Mr. Gamble's leadership, the railroad was able to strike a deal that will put this dispute to rest. The land will go to Eklutna Inc., the Native corporation that replaced the Indian reserve as part of the 1971 land claims settlement. The tribal government of Eklutna village, which is separate from the corporation, is happy with the deal.

Required by the 1971 settlement, mining rights to the remaining rock will belong to Cook Inlet Region, the Native corporation for the Southcentral region. Eklutna Natives say they've been assured that

CERI will not violate their wishes on the site.

All in all, this is one of those deals where everyone gets something and nobody is left out, trying to kill it. Broad support should make it easy for the Legislature to give the deal its blessing.

BOTTOM LINE: Eklutna Natives will get back land that never should have been taken from them.

No-show should go

University regent ought to resign

As if a 92-count federal indictment on fraud charges isn't enough of a reason for Jim Hayes to resign as a member of the University of Alaska Board of Regents, a recent news report has given Alaskans another motivation to call for Mr. Hayes to step down.

He has missed more than half of the board meetings in the past 14 months.

If he is not going to participate, then he should step aside and let someone else step up to help lead the university.

A federal grand jury in January indicted Mr. Hayes and his wife for allegedly diverting federal social service grants to their own personal use. The couple have pleaded not guilty to misusing \$450,000 in federal funds.

Mr. Hayes has resisted numerous calls that he resign from the university board, stating that he intends to stick around and serve until the end of his term in 2011. But if he doesn't go to even half the meetings, can he consider that serving? According to the university, he missed four of nine regent meetings last year, and both meetings so far this year.

Nor does he admit to his attendance shortcomings. "My attendance has been pretty good," he told the UAF campus newspaper. "I think I only missed one meeting last year."

Gov. Sarah Palin's attorney general has advised her that she lacks the legal authority to remove Mr. Hayes from the board. The opinion was all about firing without cause. She could fire him for cause, but it would be messy. That leaves just two options: The Legislature could impeach Mr. Hayes, or he could simply resign.

He should resign for the good of the university. But if not, and if he's not going to even attend the meetings, he should stop this charade as a regent and immediately resign.

BOTTOM LINE: Criminal charges? Lousy attendance? When is it enough to push Mr. Hayes to resign?

Print Page

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Story Last modified at 1:33 p.m. on Thursday, March 1, 2007

Alaska Railroad to return 48.2 acres of tribal land to Eklutna

By **DARRELL L. BREESE**
Alaska Star

After nearly 15 years of contentious battling and three Alaska Supreme Court cases, the Alaska Railroad has reached an agreement with the Eklutna Village and Eklutna Inc. to return 48.2 acres, including the Eklutna Hills, back to the Dena'ina people of Eklutna.

"It's time to settle our differences and do what's right," Alaska Railroad president and CEO Pat Gamble said. "The land is of historic and cultural significance to the people of Eklutna, so we're returning it to the rightful owners."

The land has been used by the railroad as a rock quarry since the mid 1940s, and, according to the Alaska Native Claims Settlement Act and the North Anchorage Land Agreement, ownership is to revert to Eklutna Inc. once the railroad ceases to use the quarry. "We've determined that we will no longer be using the land," Gamble said. "After we complete the removal of stockpiled material, we're going to return the land to Eklutna as per our agreement."

Gamble added that railroad work crews stopped working in the quarry in 2001.

The agreement, reached Jan. 22, involved

Alaska Weather

Last updated: Thu, 01-Mar-2007 14:32

Temperature: 12° F

Rel. Humidity: 30%

Wind: From the ENE at 29 MPH gusting to 46 MPH

Pressure: 29.94 in. Hg

Visibility: 3 miles

Conditions: Clear

Choose Your City 

Calendar

March

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representatives from the railroad, the Native Village of Eklutna and Eklutna Inc. However, for the transfer of ownership to be complete, approval from the state Legislature is required.

That could be a sticking point to the whole deal, as there is no legislation currently being considered for the transfer.

"The railroad officials were down in Juneau trying to drum up support and secure a sponsor for the land transfer legislation, but they didn't have anything ready to sponsor," Chugiak Rep. Bill Stoltze said. "I'm not going to sponsor legislation before I can read it and have the details, and the railroad didn't have anything prepared when they spoke to me."

Stoltze said if a draft bill were prepared by the railroad he'd consider it, but added he wouldn't sponsor it until he had all the details and knew each of the parties involved was comfortable and happy with the deal. "My chief concern is trust," Stoltze said. "I represent the area, and I trust Eklutna Inc. and the Village of Eklutna. But when the railroad is involved, my antennas go up, especially considering the history of litigation between the parties."

Despite Stoltze's radar being activated, both Gamble and Jim Arnesen, corporate land manager for Eklutna Inc., say the deal is all aboveboard.

"Eklutna is just getting the land and the remaining resources intact," Arnesen said. "The transfer of ownership for this land has no connection with other dealings that we might have with the railroad."

"We're just being good neighbors," Gamble said. "This land is an important part of the village, and we are happy to give it back to the rightful owner."

Eklutna Village chief administrator David Alex sent a letter to Stoltze, spelling out the village's

support for the deal.

"We support both the goals (the railroad completing removal of stockpiled rock and the transfer of land to Eklutna Inc.)," he wrote. "We hope that legislation can be passed that will allow the Alaska Railroad to make the transfer."

Under the agreement and part of the land rehabilitation, the railroad will perform is the extraction of the 145,000 tons of stockpiled material from the quarry.

"It cost us about \$1 million to produce the rock about six years ago when the quarry was last active," said Tom Brooks, the lead engineer for the railroad. "Without Eklutna giving us access to stockpile, it would cost an estimated \$2 million to produce or purchase the same amount elsewhere."

The assurance by Eklutna allowing the railroad access to the stockpile led to federal regulations limiting the use of the rock from the quarry to be lifted and the railroad to acquire the necessary permits for the use of the materials.

After removing the surplus rock, the railroad will remove the spur track leading into the quarry before returning the land to Eklutna.

Reach the reporter at
darrell.breese@alaskastar.com.

This article published in The Alaska Star on Thursday,
March 1, 2007.

MAIL TO: 2007-03-01

FRONTIER FRIENDLY MEDIA

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Chair:
House Finance Subcommittees for,
Department of Public Safety
Department of Law

BILL STOLTZE
STATE REPRESENTATIVE
Representative_Bill_Stoltze@legis.state.ak.us

Sponsor Statement

House Bill 212 - *House Companion Bill*

Alaska Railroad Land Transfer of Eklutna Quarry to Eklutna, Inc.

House Bill 212 would authorize the Alaska Railroad Corporation (ARRC) to transfer its entire interest in the Eklutna Quarry site north of Eagle River to Eklutna, Inc., the ANCSA village corporation created for the Eagle River area containing the quarry site.

On February 1, 2007, ARRC, Eklutna Inc. and the Native Village of Eklutna signed an agreement memorializing this land transfer. The agreement allows ARRC to obtain appropriate permits and begin removing stockpiled material in the quarry with a replacement value of approximately \$2 million. All parties understood that legislative approval would be required before ARRC could carry out the land transfer.

This 48-acre property and its use as a quarry has been the subject of a long-running dispute between ARRC on the one side and the Native Village of Eklutna and the Municipality of Anchorage on the other. That dispute culminated in three Alaska Supreme Court decisions, which denied ARRC continued use of the quarry without first obtaining a municipal conditional use permit, and prevented ARRC from obtaining federal approval to use the rock on federally funded projects.

While ARRC has recently obtained local and federal approval to remove the processed material, it is unlikely to ever obtain future permits for new blasting without consent of the Village as tribal representative of the Dena'ina Native people. That consent is highly unlikely because the hills that comprise the quarry have valid historic and cultural significance to the Dena'ina. As a result, ARRC determined that it will not use the Eklutna Quarry again for mining rock and has developed a new quarry site on property it owns near Curry, which is approximately 20 miles north of Talkeetna.

Certain agreements that resolved ANCSA Native land claims long ago identified Eklutna, Inc. as the eventual recipient of title to the quarry. Under the North Anchorage Land Agreement (NALA), and the ARRC-Eklutna 3(e) Claims Settlement Agreement, the Quarry will revert to Eklutna, Inc. when it ceases to be used for certain transportation purposes.

Legislative approval of HB 212 will execute these long-standing agreements and pave the way for ARRC and Eklutna, Inc. to work on future land negotiations that are beneficial to both entities.

DISTRICT 16

BIRCHWOOD • BUTTE • CHUGIAK • EKLUTNA • FAIRVIEW LOOP
KNIK RIVER ROAD • LAZY MOUNTAIN • PALMER • PETERS CREEK

SB

104

(FILE 1)

ALASKA STATE LEGISLATURE

Sen. Charlie Huggins, Chair
Sen. Bert Stadman, Vice Chair
Sen. Lyda Green
Sen. Gary Stevens
Sen. Lesil McGuire
Sen. Bill Wielechowski
Sen. Thomas Wagoner



State Capitol, Room 119
Juneau AK 99801-1182
907-465-3878
Fax: 907-465-3265
800-862-3878

Senate Resources Committee

March 5, 2007

Mr. John Bitney, Legislative Director
Office of the Governor
State Capitol
Juneau, Alaska 99811-0001

Dear Mr. Bitney,

This is in response to your letter of February 27, inquiring about the committee's hearing schedule. It is my intention to begin hearings on the Alaska Gas Inducement Act (AGIA) mid-month.

We look forward to receiving the back-up materials attendant to this legislation and eagerly anticipate a fulsome discussion in the legislature leading to timely passage of a vehicle that expeditiously moves us forward toward construction of a natural gas pipeline.

Sincerely,

A handwritten signature in cursive script, appearing to read "Charlie Huggins".

for Charlie Huggins, Chair
Senate Resources Committee

SARAH PALIN
GOVERNOR

GOVERNOR@GOV.STATE.AK.US



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

P.O. Box 110001
JUNEAU, ALASKA 99811-0001
(907) 465-3800
FAX (907) 465-3832
WWW.GOV.STATE.AK.US

February 27, 2007

Request

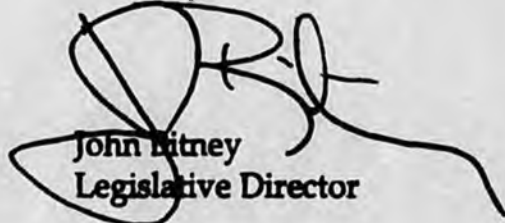
The Honorable Charlie Huggins, Chair
Senate Resources Committee
Alaska State Legislature
State Capitol, Room 119
Juneau, Alaska 99801-1182

Dear Senator Huggins:

Governor Palin plans to introduce a bill on Friday to help spur development of an Alaska natural gas pipeline entitled, "An Act relating to the Alaska Gasline Inducements Act; establishing the Alaska Gasline Inducements Act matching contribution fund; providing for a state gas pipeline coordinator; relating to payment of certain rentals and costs under the Right-of-Way Leasing Act; making conforming amendments; and providing for an effective date."

We shall provide you a copy of the Governor's transmittal, fiscal notes, and other back-up materials on Friday, but, as you prepare next week's committee schedule, we respectfully request that you schedule this measure at the earlier possible opportunity.

Sincerely,



John Bitney
Legislative Director

ALASKA STATE LEGISLATURE

Sen. Charlie Huggins, Chair
Sen. Bert Stedman, Vice Chair
Sen. Lyda Green
Sen. Gary Stevens
Sen. Lesil McGuire
Sen. Bill Wielechowski
Sen. Thomas Wagoner



State Capitol, Room 119
Juneau AK 99801-1182
907-465-3678
Fax: 907-465-3265
800-862-3678

Senate Resources Committee

March 8, 2007

Mr. John Bitney, Legislative Director
Office of the Governor
State Capitol
Juneau, Alaska 99811

Dear Mr. Bitney,

Further to your inquiry about our schedule for hearing AGIA: our current plan is to dispense with the remainder of Governor Palin's appointments to boards and commissions, which have thus far been referred to this committee, on Monday March 12th. The remainder of the week's schedule has been cleared and reserved for AGIA.

We're looking forward to the two part explication of the legislation by the Administration and will of course calendar additional sessions to accommodate your team if needed. Please let us know if this schedule meets your needs, or if you have any special requests for space or audio visual support. Although your presentation hearings will be scheduled as "listen only" we'll be requesting LIO's, state-wide, be teleconferenced into the meeting in order to make the information available to the broadest possible audience.

Sincerely,

Charlie Huggins, Chair
Senate Resources Committee

SARAH PALIN
GOVERNOR
GOVERNOR@GOV.STATE.AK.US



P.O. BOX 110001
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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

March 2, 2007

The Honorable Lyda Green
President of the Senate
Alaska State Legislature
State Capitol, Room 111
Juneau, AK 99801-1182

Sponsor
Smt

Dear President Green:

Under the authority of Article III, Section 18, of the Alaska Constitution, I am transmitting a bill that facilitates commercialization of Alaska's North Slope natural gas resources and promotes continued exploration and development of those resources. The bill will induce expeditious construction of a natural gas pipeline to transport Alaska's North Slope natural gas to market using a process that is fair, transparent, and competitive. Our nation's energy markets are hungry for Alaska's gas resources, and Alaskans have waited for decades to see these resources developed.

Earlier this week I had several successful meetings with federal officials in Washington, D.C., including the distinguished members of Alaska's Congressional delegation. These meetings affirmed for me that it is time for Alaska's natural gas resources to be developed in order to meet the energy demands of our nation. The Chairman of the Federal Energy Regulatory Commission, Joseph Kelliher, made the statement that my plan does "represent the best hope for building a pipeline to bring Alaska's vast natural gas resources to the energy consuming lower 48 states."

This bill sets forth the following: (a) midstream inducements to encourage companies to identify development benchmarks and build the gas pipeline; (b) upstream inducements that will encourage the holders of North Slope gas reserves to commit their gas to the project; (c) terms that an application must contain to qualify to compete for an exclusive license to the midstream inducements; (d) evaluative criteria by which competing applications will be measured; (e) a public process for reviewing the applications; (f) a procedure by which the applications will be reviewed and a notice of intent to issue a license that will be transmitted to the legislature; and (g) auditing and enforcement tools to protect state contributions and interests.

The Honorable Lyda Green

March 2, 2007

Page 2

The midstream inducements will include a matching contribution of up to \$500 million paid out during the highest risk phase of the project, which is the period the licensee is completing the work necessary to obtain a certificate from either the Federal Energy Regulatory Commission (FERC) or the Regulatory Commission of Alaska (RCA). The licensed project will also benefit from a state program that provides training to Alaskans for gas pipeline jobs.

The bill offers explicit requirements that state permits and authorizations relating to the pipeline be expedited and coordinated in order to avoid complicated, time-consuming and conflicting state and federal permitting processes. In order to facilitate a successful project and an expedient process, the bill will empower the governor to appoint a gas pipeline coordinator to oversee the state permitting process and work with the federal pipeline coordinator to integrate the state and federal permitting processes.

The upstream inducements will encourage those who hold gas reserves under lease to commit that gas to the pipeline licensed under the bill. Under the "royalty inducements," the state will develop regulations to provide predictability in the determination of royalty value and the exercise of its right to take its royalty share in kind (as gas) or in value (as money). A "gas production tax exemption" will give shippers of gas an exemption from production tax equal to the difference between the tax obligation based upon the tax rate in effect at Open Season, and any higher rate that becomes effective in the ten years following commencement of the gas pipeline commercial operations. These provisions address leaseholders' concerns that they need to know how their royalty and tax obligations will be measured for a reasonable period into the future before they irrevocably commit to ship their gas at an Open Season. The benefits will be available to all leaseholders who commit gas to the licensed gas pipeline project during the initial Open Season.

The bill will accomplish six primary goals: (1) initiate an application process open to any project sponsor; (2) take clear steps to promote the construction of a gas pipeline as quickly as possible, (3) ensure the North Slope basin is open to long-term gas exploration and development, (4) ensure reasonable tariff rates are available to transport Alaska's natural gas to market, (5) ensure North Slope natural gas is available to Alaskans, and (6) ensure Alaskans are trained and ready for the natural gas pipeline jobs and those jobs are made available to Alaskans.

To accomplish the first goal, applications will be welcomed from any entity or a coalition of entities interested in constructing the gas pipeline. However, only those

The Honorable Lyda Green

March 2, 2007

Page 3

applications that fulfill the "qualifying application requirements" will be considered for the license to the midstream inducement package.

To accomplish the second goal, the bill will require that applications provide a detailed description of the applicant's proposed project, including route, size, design capacity, timeline and budget. Applicants must agree to hold an Open Season (to solicit firm commitments to ship gas on the pipeline) within three years of getting the license, and will detail steps toward obtaining a Certificate of Public Convenience and Necessity from FERC or the RCA. The state gas pipeline coordinator will also ensure an expeditious regulatory process.

To accomplish the third goal, applicants must commit to expanding the pipeline project when new gas is available. There is currently more than 35 trillion cubic feet (Tcf) of proven reserves of natural gas on Alaska's North Slope. However, most geologists agree that there is many times that amount of North Slope gas awaiting discovery. By ensuring that the pipeline will be expanded when more gas is discovered and ready to be shipped, the bill assures that Alaska's gas will serve the nation's energy needs for decades. Therefore, applicants must commit to evaluate the demand for pipeline expansion at least every two years, and to expand when there is sufficient quantities of gas to ensure an economic expansion. The costs of any expansions will then be collected through "rolled-in" rates that pass those expansion costs on to all shippers in the gas pipeline. The AGIA will cap the cost of rolled-in price increases at no more than 15 percent of initial rates, in response to concerns regarding the predictability of tariff rates.

To accomplish the fourth goal, applicants will have to commit to propose and support tariff rates that would produce the lowest reasonable transportation costs in order to produce the highest price at the wellhead. Minimizing transportation costs result in the state maximizing its royalty revenue stream as well as that of the producers.

To accomplish the fifth goal, applicants must provide for a minimum of five off-take points in Alaska. This, in conjunction with the "distance sensitive tariff rates", will allow gas to be withdrawn from the pipeline at reasonable transportation costs in order to serve residential and business needs across the state.

To accomplish the sixth goal, applicants must commit to establishing a gas pipeline project headquarters in Alaska, establishing hiring offices in Alaska, and hiring qualified Alaskans, thus giving Alaskans access to the thousands of new pipeline jobs.

The Honorable Lyda Green

March 2, 2007

Page 4

The bill requires the application process to commence no more than three months after the bill passes, when the commissioners of Natural Resources and Revenue issue a request for applications (RFA). Applications will be due under a deadline established by the commissioners; however, our intention is to allow applicants three (3) months to respond to the RFA.

Applicants will be deemed "qualified" by having fulfilled the bill's requirements. Qualified applications will then be evaluated by the commissioners of Natural Resources and Revenue to determine which application best meets the stated goals. Before issuing a written determination, the commissioners will publicly release complete applications and take comments for 60 days. Applicants could apply to keep confidential the proprietary information or trade secrets included in their applications.

The bill sets forth "evaluative criteria" to facilitate the selection process. The evaluative criteria are: the proposed project timeline, the proposed method to manage cost overruns, the proposed tariff rates, the ability of the project design to accommodate expansion, the percentage of the state matching fund that will be used, whether the project is feasible, and the applicant's ability to perform. The commissioners will publish a notice of intent to issue a natural gas pipeline project license with written findings, and forward the notice of intent, with findings and supporting documentation, to the legislature. The legislature will have 30 days to disapprove the commissioners' proposed action.

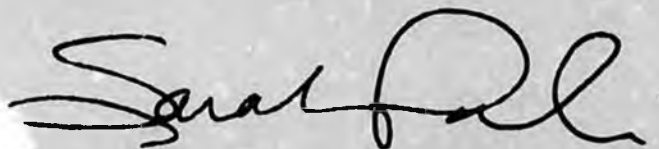
The bill also provides that the licensee must commit to spend the money necessary to build the pipeline within one year of receiving a certificate from the FERC or the RCA if the project has credit support adequate to finance construction of the project. If necessary, the licensee would have an additional four years to obtain financing, or transfer the certificate and all associated work product to another licensee designated by the state. If the project becomes uneconomic after the license is awarded, the bill provides a process for relinquishing the license that will enable the state to recover the benefit of its investment in the project and issue another license. To encourage the licensee to spend its money working toward Open Season, and certification, and building the gas pipeline project, the state will agree that if it provides financial benefits to another company to encourage the construction of a competing pipeline project after the license is issued, the licensee will be entitled to recover from the state three times the amount it spent on the project.

The bill identifies quantifiable values the state is willing to commit to encourage early and appropriate development of an Alaska Gas Pipeline project. It also identifies the elements necessary to protect the state, and the nation's, long-term interests in

The Honorable Lyda Green
March 2, 2007
Page 5

development of additional gas reserves. The bill protects the state from untenable risks and will induce expedited construction of a gas pipeline that powers the state and the nation. I urge your prompt and favorable action on the bill.

Sincerely,

A handwritten signature in black ink, appearing to read "Sarah Palin", with a stylized flourish at the end.

Sarah Palin
Governor

FISCAL NOTE

**STATE OF ALASKA
2007 LEGISLATIVE SESSION**

Fiscal Note Number: LL07-0080-DNR-O&G-03-01-C

Bill Version: LL07-0080

() Publish Date: _____

Revision Date/Time (Note if correction): _____

Dept. Affected: Natural Resources

Title: Alaska Gasline Inducements Act

RDU: Resource Development

Component: Oil & Gas Development

Sponsor: Rules Committee

Requester: Governor

Component No.: 439

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type-Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2007) cost: 6,550.0 ** Requested as a capital project

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

**This fiscal note represents the gasline-related supplemental requested in HB138/SB82, Section 2 (a). This was requested as a capital project with an effective date of February 1, 2007.

Section 2(a) - \$6,550,000 general fund for gas pipeline analysis projects. This funding will be used to pay for consultants to advise the state on the structure of an RFP for gasline proposals; and to cover the cost of outside experts and legal counsel on federal pipeline law and the FERC process. DNR estimates that \$4,135,000 will be expended in FY07, and \$2,415,000 in FY08.

Prepared by: Kevin Banks, Acting Director
 Division: Oil & Gas
 Approved by: Tom Irwin, Commissioner
 Agency: Natural Resources

Phone: 907-269-8800
 Date/Time: 3/1/2007
 Date: 3/1/2007

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: LL 07-0080
 () Publish Date: _____

Revision Date/Time (Note if correction): _____
 Title Alaska Gasline Inducementz Act
 Dept. Affected: Natural Resources
 RDU Resource Development
 Component Alaska Gasline Inducementz Act
 Sponsor Rules Committee
 Requester Governor
 Component No. new

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services	261.3	612.2	612.2	612.2	612.2	612.2
Travel	20.0	20.0	20.0	20.0	20.0	20.0
Contractual	10.8	27.0	27.0	27.0	27.0	27.0
Supplies	10.0	19.0	10.0	10.0	10.0	10.0
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	302.1	678.2	669.2	669.2	669.2	669.2

CAPITAL EXPENDITURES	600,000.0*					
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
1002 Federal Receipts						
1003 GF Match						
1004 GF	302.1	678.2	669.2	669.2	669.2	669.2
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type—Do not abbreviate)						
TOTAL	302.1	678.2	669.2	669.2	669.2	669.2

Estimate of any current year (FY2007) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

POSITIONS	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Full-time	2	5	5	5	5	5
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 This bill authorizes the Alaska Gasline Inducement Act (AGIA) which would create a competitive public process for inviting applications for a license under this Act. The application process would include certain application requirements before an application can be considered as well as criteria by which the Commissioners of Natural Resources and Revenue will evaluate all qualifying applications.
 The Act would also create inducements including: state matching contributions for pipeline construction in an amount not to exceed \$500 million and the benefit of a state gas pipeline coordinator.
 Under the AGIA, the licensee or its designated affiliate would be entitled to state matching contributions for qualified expenditures (post license costs incurred by the licensee that are directly and reasonably related to obtaining a certificate of public necessity and convenience from the FERC or RCA for development of the project).
 (Continued on next page).

Prepared by: Kevin Banks, Acting Director Phone 269-8800
 Division Oil and Gas Date/Time 2/28/2007
 Approved by: Tom Irwin, Commissioner Date 2/28/2007
 Agency Natural Resources

ANALYSIS CONTINUATION

Until the close of the first binding season, the state will match equally the licensee's qualified expenditures. After the close of the first binding open season, the state shall match the qualified expenditures at a level specified in the license but the amount may be no greater than 80 percent. Over a five year period, these contributions may not exceed \$500 million. The present value of the state's total \$500 million contribution would be roughly \$415 million, because state spending will be spread over several years.

AGIA will generate a number of project benefits that could more than offset its costs. The size of these benefits will depend on ultimate project scope and market prices, which AGIA leaves to the competitive process. Actual benefits will vary depending upon project terminus (Alberta, Chicago), size (1.2 Bcf/day, 4.5 Bcf/day), mode of transport (pipeline only, pipeline plus LNG facilities), among other things. Illustrative benefits shown here assume a 4.3 Bcf/day project to Alberta, Canada with a construction cost that is 50% greater than assumed in 2001. Results are presented in present value dollars, assuming a discount rate of 5%, to recognize that a dollar of state benefit received in the future will be worth less than a dollar spent today.

First, AGIA is likely to result in a project sooner than if no pipeline legislation is passed. By having the state agree to shoulder a large share of the up-front capital that is particularly risky, AGIA ensures that in exchange project proponents commit to move the project forward past clearly defined benchmarks. Because AGIA results in a project sooner, the current value of project revenues to the state is enhanced. Assuming a gas price of \$5.50, if AGIA accelerates project startup by one year, from 2017 to 2016, state benefits will exceed \$1.6 billion; a two-year acceleration in the project returns \$3.2 billion; a three-year acceleration generates \$4.9 billion.

Second, AGIA's requirement of a minimum 70 percent share of debt in the determination of tariffs ensures that the state will not pay unnecessarily high transportation costs. Without this protection, project tariffs could be calculated on the basis of 60 or even 50 percent debt and still pass regulatory scrutiny. The tariff benefits of a 70 percent debt structure, rather than 60 percent or 50 percent, are 26 cents and 55 cents per MMBtu, respectively. The savings to the state are \$1.25 billion and \$2.63 billion, respectively. Meanwhile, lower tariffs improve project economics for holders of both existing and yet to be discovered gas reserves, thereby increasing the likelihood that the project will commence sooner. The degree to which such savings are realized depends on how, absent AGIA's requirements, project tariffs would otherwise have been determined.

Third, AGIA's pipeline access provisions promise to increase competition for exploration and development of Alaska's gas resources, leading to earlier and more significant pipeline expansions. The value to the state of such expansions is scenario specific, and cannot be accurately predicted. That said, if AGIA's expansion provisions caused the pipeline to expand by 10% in year 3 of its operations, whereas without AGIA such an expansion would not occur, the increase in state royalty and taxes would be roughly \$3 billion in today's dollars. Even if the chances that such an expansion would otherwise not occur were only one in five the AGIA investment of \$500 million would more than pay for itself in this provision alone.

Finally, AGIA will directly ensure lower tariffs. The state's direct investment in up-front development costs would reduce the cost of moving gas to Alberta by roughly 4 cents. The present value royalty and tax benefits of this 4 cent tariff reduction come to \$183 million. Put differently, assuming \$5.50 gas prices, during pipeline operation the state will receive roughly 45% of the value of its contribution in increased royalty and production tax benefits. And at gas prices of \$7.50 or higher the state's up-front contribution actually generates more in royalty and tax benefits than it costs.

The state gas pipeline coordinator will help expedite the review and coordination of all state and federal permits and processes, ensure that all state and federal environmental requirements have been completed, and coordinate with the federal coordinator for natural gas transportation projects in Alaska. It is this position's responsibility to ensure that no steps have been missed that may slow down the construction of the pipeline and that the state's involvement in the Federal EIS process facilitates expeditious permitting.

The state gas pipeline coordinator is an exempt position (Range 26M \$209.0). To assist the state coordinator, four additional positions would be needed: a Pipeline Engineer (Range 26D \$150.9), a Natural Resource Specialist IV with knowledge of state and federal environmental regulations and administrative procedure (Range 21C \$108.9), a Natural Resource Specialist III to assist with title work (Range 18C \$91.1), and an Administrative Clerk II (Range 8 \$52.3). It is anticipated that the state coordinator and clerk would begin in FY 08. There will be travel associated with the functions of at least two of these positions. All of the positions will sunset one year after commencement of the gas pipeline commercial operations.

This fiscal note assumes that the FY07 Supplemental Appropriation for Gasline requested in HB138/SB62-Sec2(a&b) will be fully funded.

* \$300,000,000 was appropriated last year (SLA2006/Ch13/Sec14) from the general fund to Alaska Housing Finance Corporation for the purpose of funding capital projects including financing expenses and may be available to partially fund the matching grant.

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: LL-07-0060-DOR-NGC-2-28-07

Bill Version: LL-07-0060

() Publish Date: _____

Revision Date/Time (Note if correction): _____

Title AGIA

Dept. Affected: Revenue

RDU Administration & Support

Component Natural Gas Commercialization

Sponsor Governor

Requester Rules Committee

Component No. 2859

Expenditures/Revenues

(Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services	294.0	294.0	294.0	294.0	294.0	294.0
Travel	25.0	25.0	25.0	25.0	25.0	25.0
Contractual	1,897.0	900.0	450.0	10.0	10.0	10.0
Supplies	10.0	2.0	2.0	2.0	2.0	2.0
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	2,226.0	1,221.0	771.0	331.0	331.0	331.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	2,226.0	1,221.0	771.0	331.0	331.0	331.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type—Do not abbreviate)						
TOTAL	2,226.0	1,221.0	771.0	331.0	331.0	331.0

Estimate of any current year (FY2007) cost: 784.0

Check this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time	2	2	2	2	2	2
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Operating expenditures include costs for 2 additional economists/commercial analysts in exempt positions. These positions would be used to draft the tax related provisions of the request for application, assess economic viability of projects contained in applications, including economic impacts on future state revenues and value of inducements, and develop the Department's recommendations for changes to the existing gas production tax statutes and regulations that will need to be in place as inducement for producer's gas commitments under the Alaska Gasline Inducements Act. In addition, property tax impacts of pipeline construction to state and municipal revenues will need to be understood and forecasted.

Prepared by: Roger Marks

Division: Tax Division

Approved by: Jerry Burnett

Agency: Department of Revenue

Phone 289-0062

Date/Time 2/28/07 12:00 AM

Date 2/28/2007

FISCAL NOTE

**STATE OF ALASKA
2007 LEGISLATIVE SESSION**

BILL NO. LL-07-0060

ANALYSIS CONTINUATION

Contractual expenditures include assistance in formulating revisions to the tax structure, studying comparative international fiscal systems for gas to ensure changes to state's gas production taxes leave Alaska in a globally competitive position, and writing regulations.

Other contractual costs are for legal support for attorneys/law firms with appropriate specialties outside of AGs office to advise us on tax structures and creation of new tax structure; assessment of legal issues and impediments to marketing options now being considered to assist in evaluation of projects; and legal assessment of financial covenants impacting state and its project selection in standard commercial financing arrangements and governmentally guaranteed financing scenarios.

The FY 2008 costs are also in the Oil & Gas Supplemental Bill (SB 82). In addition, that Bill contains FY 2007 costs of \$123,000 personal services, \$425,000 contractual, \$10,000 travel, and \$365,000 legal support.

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: LL 07-60-DOA-AOGCC-03-02-07

Bill Version: LL 07-60

() Publish Date: _____

Revision Date/Time (Note if correction): _____

Dept. Affected: Administration

Title: Alaska Gasline Inducement Act

RDU: AOGCC

Component: AOGCC

Sponsor: Rules Committee

Requester: Governor

Component No.: 2010

Expenditures/Revenues

(Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2006	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
1162 AOGCC Receipts	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation will not have a fiscal impact upon the Alaska Oil and Gas Conservation Commission.

Prepared by: Jody J. Colombia, Special Assistant I
 Division: Alaska Oil and Gas Conservation Commission

Phone: 793-1221
 Date/Time: 3/2/07 3:19 PM

Approved by: Rachael Petro, Deputy Commissioner
 Agency: Department of Administration

Date: 3/2/2007 1:00pm

ALASKA STATE LEGISLATURE

Sen. Charlie Huggins, Chair
Sen. Bert Stedman, Vice Chair
Sen. Lyda Green
Sen. Gary Stevens
Sen. Lesil McGuire
Sen. Bill Wielechowski
Sen. Thomas Wagoner



State Capitol, Room 119
Juneau AK 99801-1182
907-465-3878
Fax: 907-465-3265
800-862-3878

Senate Resources Committee

Wednesday March 14, 2007
3:30 p.m. - 5:30 p.m.

AGENDA

- **SB 104 - Natural Gas Pipeline Project**
"An Act relating to the Alaska Gasline Inducement Act; establishing the Alaska Gasline Inducement Act matching contribution fund; providing for an Alaska Gasline Inducement Act coordinator; making conforming amendments; and providing for an effective date."

Presentation by Administration:

Pat Galvin, Commissioner, DOR

Kevin Banks, Acting Director, Division of Oil & Gas, DNR

Kurt Gibson, Acting Deputy Director, Division of Oil & Gas, DNR

Bonnie Harris, Senior Asst. AG; Oil, Gas & Mining Section, DOL (available for questions)

Antony Scott, Division of Oil & Gas, Commercial Section, DNR

Don Schepler, Greenberg Taurig Consultants (available for questions)

By Teleconference:

Larry Ostrovski, Chief Asst. AG; Oil, Gas & Mining Section, DOL

Marcia Davis, Deputy Commissioner, DOR

Michael Williams, Chief Economist, Tax Division, DOR

SB 104

VS B

transmitted w/ Gov's
letter of transmittal

25-GS1060B

SENATE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced:

Referred:

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the Alaska Gasline Inducement Act; establishing the Alaska Gasline
2 Inducement Act matching contribution fund; providing for an Alaska Gasline
3 Inducement Act coordinator; making conforming amendments; and providing for an
4 effective date."

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

6 * **Section 1.** AS 43 is amended by adding a new chapter to read:

7 **Chapter 90. Alaska Gasline Inducement Act.**

8 **Article 1. Inducement to Construction of a Natural Gas Pipeline in this State.**

9 **Sec. 43.90.010. Purpose.** The purpose of this chapter is to encourage
10 expedited construction of a natural gas pipeline that

11 (1) facilitates commercialization of North Slope gas resources in this
12 state;

13 (2) promotes exploration and development of oil and gas resources on
14 the North Slope in this state;

1 (3) maximizes benefits to the people of this state of development of oil
2 and gas resources in this state; and

3 (4) encourages state oil and gas lessees and other persons to commit
4 natural gas from the North Slope of this state to a gas pipeline system for
5 transportation to markets in this state or elsewhere.

6 **Article 2. Alaska Gasline Inducement Act License.**

7 **Sec. 43.90.100. Gas project.** The commissioners may award an Alaska
8 Gasline Inducement Act license as provided in this chapter. The person awarded a
9 license under this chapter is entitled to the inducement set out in AS 43.90.110.

10 **Sec 43.90.110. Natural gas pipeline project construction inducement.**
11 Subject to the limitations of this chapter, a license issued under this chapter entitles the
12 licensee or its designated affiliate to receive

13 (1) state matching contributions in an amount not to exceed
14 \$500,000,000, paid in total to the licensee over a five-year period; the payment period
15 may be extended by the commissioners under an amendment or modification of the
16 project plan under AS 43.90.220; the payment period commences on the date of the
17 issuance of the license; payments under this paragraph shall be made according to the
18 following:

19 (A) on or before the close of the first binding open season, the
20 state shall match equally the licensee's qualified expenditures;

21 (B) after the close of the first binding open season, the state
22 shall match the licensee's qualified expenditures at a level specified in the
23 license; however, the state's matching contribution may not be greater than 80
24 percent of the qualified expenditures incurred after the close of the first
25 binding open season;

26 (C) qualified expenditures are costs that occurred after the
27 license was issued under this chapter, were incurred by the licensee or the
28 licensee's designated affiliate, and are directly and reasonably related to
29 obtaining a certificate of public necessity and convenience from the Federal
30 Energy Regulatory Commission or the Regulatory Commission of Alaska, as
31 appropriate, for development of the project; in this subparagraph, "qualified

1 expenditures" do not include overhead costs, litigation costs, assets or work
2 product predating the issuance of the license, or civil or criminal penalties or
3 fines;

4 (2) the benefit of an Alaska Gasline Inducement Act coordinator who
5 has the authority prescribed in AS 43.90.330; and

6 (3) the benefits of a state program that provides training for
7 employment in gas pipeline project management, construction, operations,
8 maintenance, and other gas pipeline-related positions.

9 **Sec. 43.90.120. Abandonment of project.** (a) If the commissioners and the
10 licensee agree that the project is uneconomic and should be abandoned, inducement
11 provided for in AS 43.90.110 terminates and, except for requirements imposed on the
12 licensee under AS 43.90.230, the state and the licensee no longer have any obligations
13 under this chapter with respect to the license.

14 (b) If the commissioners or the licensee independently determine that the
15 project is uneconomic and should be abandoned, but the other party does not agree,
16 the commissioners or the licensee may request that an impartial third party take
17 evidence and hear arguments of the commissioners and the licensee and make a final
18 determination of the matter. The commissioners and the licensee shall select the
19 impartial third party by mutual agreement. If the impartial third party determines that
20 the project is uneconomic and should be abandoned, the state and the licensee no
21 longer have any obligations under this chapter with respect to the license, except for
22 requirements imposed on the licensee under AS 43.90.230.

23 (c) If the state makes a payment to the licensee under AS 43.90.440, the
24 license is deemed abandoned and the state and the licensee no longer have any
25 obligations under this chapter with respect to the license except that the licensee must
26 comply with the

27 (1) requirements imposed on the licensee under AS 43.90.230
28 regarding state money received by the licensee before the license was deemed
29 abandoned; and

30 (2) requirements of AS 43.90.440.

31 (d) The commissioners shall establish by regulation the procedures governing

1 the impartial third-party process authorized under this section.

2 **Sec. 43.90.130. Request for applications for the license.** (a) The
3 commissioners shall commence a public process to request applications for a license
4 under this chapter within three months of the effective date of this chapter.

5 (b) The commissioners may use independent contractors to assist in
6 developing the provisions for the application for a license and in evaluating
7 applications received under this chapter.

8 (c) Requests for applications under this chapter are not subject to AS 36.30
9 (State Procurement Code).

10 **Sec 43.90.140. Application requirements.** An application for a license must
11 be consistent with the terms of the request for applications under AS 43.90.130 and
12 must

13 (1) be filed by the deadline established by the commissioners in the
14 request for applications;

15 (2) provide a detailed description of a proposed natural gas pipeline
16 project for transporting natural gas from the North Slope of this state to market,
17 including

18 (A) the route proposed for the natural gas pipeline;

19 (B) receipt and delivery points and the size and design capacity
20 of the proposed natural gas pipeline at the proposed receipt and delivery
21 points;

22 (C) an analysis demonstrating the project's economic and
23 technical viability as required in the request for applications;

24 (D) an economically and technically viable work plan, timeline,
25 and associated budget for developing the proposed project, including how the
26 applicant will perform field work, environmental studies, design, and
27 engineering, and how the applicant will comply with all applicable state,
28 federal, and international regulatory requirements that affect the proposed
29 project; the work plan must address the following:

30 (i) if the proposed project involves a pipeline into or
31 through Canada, a description in detail of the applicant's proposal to

1 obtain necessary rights-of-way and authorizations in Canada;

2 (ii) if the proposed project involves marine
3 transportation of liquefied natural gas, a description of the pipeline
4 route, system, and capacity proposed to bring North Slope gas to
5 tidewater, including a description of proposed transportation services to
6 be provided by third parties and an estimate of rates and charges for all
7 services; a detailed description of all access and tariff terms the
8 applicant would propose for liquefaction services or, if third parties
9 would perform liquefaction services, identify the third parties and the
10 terms they would offer; and a complete description of the proposed
11 ownership and control of liquefied natural gas tankers, the management
12 of shipping services, and the entity or entities that would be required to
13 obtain necessary export permits or a certificate of public convenience
14 and necessity from the Federal Energy Regulatory Commission for the
15 transportation of liquefied natural gas in interstate commerce if United
16 States markets are proposed;

17 (3) commit that if the proposed project is within the jurisdiction of the
18 Federal Energy Regulatory Commission, the applicant will

19 (A) conclude, by a date certain that is not later than 36 months
20 after the date the license is issued, a binding open season that is consistent with
21 the requirements of Subpart B of 18 C.F.R. Part 157 (Open Seasons for Alaska
22 Natural Gas Transportation Projects) and 18 C.F.R. 157.30 - 157.39;

23 (B) apply for Federal Energy Regulatory Commission approval
24 to use the pre-filing procedures set out in 18 C.F.R. 157.21 by a date certain,
25 and use those procedures before filing an application for a certificate of public
26 convenience and necessity; and

27 (C) apply for a Federal Energy Regulatory Commission
28 certificate of public convenience and necessity to authorize the construction
29 and operation of the proposed project described in this section by a date
30 certain;

31 (4) commit that if the proposed project is within the jurisdiction of the

1 **Regulatory Commission of Alaska, the applicant will**

2 (A) conclude, by a date certain that is not later than 36 months
3 after the date the license is issued, a binding open season that is consistent with
4 the requirements of AS 42.06; and

5 (B) apply for a certificate of public convenience and necessity
6 to authorize the construction and operation of the proposed project by a date
7 certain;

8 (5) commit that after the first binding open season, the applicant will
9 assess the market demand for additional pipeline capacity at least every two years
10 through public non-binding solicitations or similar means;

11 (6) commit to expand the proposed project in reasonable engineering
12 increments and on commercially reasonable terms that encourage exploration and
13 development of gas resources in this state; in this paragraph

14 (A) "commercially reasonable terms" means that, subject to the
15 provisions of (7)(A) of this section, revenue from expansion contracts covers
16 the cost of the expansion and there is no impairment of the proposed project's
17 ability to recover the costs of existing facilities;

18 (B) "reasonable engineering increments" means the amount of
19 additional capacity that could be added by a pipe addition or compression
20 using a pipe size or compressor size, as applicable, that is substantially similar
21 to the original pipe size and compressor size;

22 (7) commit that the applicant

23 (A) will propose and support recovery of mainline capacity
24 expansion costs from all mainline system users through rolled-in rates if the
25 recovery of all expansion costs through rolled-in rates would increase existing
26 shippers' rates by no more than 15 percent of the initial maximum recourse
27 rates from the North Slope to the proposed project's downstream terminus; if
28 rolled-in expansion costs would increase existing shippers' rates from the
29 North Slope to the project's downstream terminus by more than 15 percent, the
30 applicant will propose and support the partial roll-in of mainline expansion
31 costs from all mainline system users to the extent that existing shippers' rates

1 would not be increased by more than 15 percent of the initial maximum
2 recourse rates from the North Slope to the proposed project's downstream
3 terminus; in this subparagraph, "initial maximum recourse rates" means
4 highest cost-based rates for any specific transportation service set by the
5 Federal Energy Regulatory Commission, the Regulatory Commission of
6 Alaska, or the National Energy Board of Canada, as appropriate, at the time of
7 the initial regulatory approval of the proposed project;

8 (B) may propose any combination of incremental or rolled-in
9 rates for recovery of costs of mainline capacity expansion that exceeds the 15
10 percent level described in (A) of this paragraph;

11 (C) agrees not to enter into negotiated rate agreements that
12 would preclude the applicant from collecting from any shipper, including
13 shippers with negotiated rate agreements, the roll-in rates that are required to
14 be proposed and supported by the applicant under (A) of this paragraph; in this
15 subparagraph, "negotiated rate agreements" means transportation service
16 agreements that are subject to rates that vary from the otherwise applicable
17 cost-based rates, or recourse rates, set out in a gas pipeline's tariff approved by
18 the Federal Energy Regulatory Commission, the Regulatory Commission of
19 Alaska, or the National Energy Board of Canada, as appropriate;

20 (8) commit to seek certificate authority from the Federal Energy
21 Regulatory Commission if the proposed project is engaged in interstate commerce, or
22 from the Regulatory Commission of Alaska if the project is not engaged in interstate
23 commerce, for any North Slope gas treatment plant that will be owned entirely or in
24 part by the applicant and, for rate-making purposes, commit to value previously used
25 assets that are part of the gas treatment plant at net book value;

26 (9) propose a percentage, to be specified in the license, that will define
27 the level of the state's matching contribution under AS 43.90.110(1)(B);

28 (10) commit that the applicant will propose and support rates for the
29 proposed project and for any North Slope gas treatment plant that the applicant may
30 own, in whole or in part, that are based on a capital structure for rate-making that
31 consists of no less than 70 percent debt;

1 (11) describe the means by which the applicant plans to manage
2 overruns in costs of the proposed project, if any, and the measures that the applicant
3 proposes to mitigate the impacts of any overruns;

4 (12) commit to provide for a minimum of five delivery points of
5 natural gas in this state;

6 (13) commit to offer firm transportation service to delivery points in
7 this state as part of the tariff regardless of whether any shippers bid successfully in a
8 binding open season for firm transportation service to delivery points in this state, and
9 commit to offer distance sensitive rates to delivery points in this state consistent with
10 18 C.F.R. 157.34(c)(8);

11 (14) commit to establish a local headquarters in this state for the
12 proposed project;

13 (15) commit to hire qualified residents from throughout this state for
14 management, engineering, construction, operations, maintenance, and other positions
15 on the proposed project and contract with businesses located in this state to the extent
16 permitted by law; and

17 (16) otherwise demonstrate that the applicant is ready and able to
18 perform the activities specified in the application, including the detailed work plan,
19 timeline, and associated budget.

20 **Sec. 43.90.150. Initial application review; additional information requests;**
21 **complete applications.** (a) The commissioners shall review each application
22 submitted under AS 43.90.130 to determine whether it is consistent with the terms of
23 the request for applications and meets the requirements of AS 43.90.140. The
24 commissioners shall reject any application that does not meet those terms and
25 requirements.

26 (b) To evaluate an application not rejected under (a) of this section, the
27 commissioners may request from an applicant additional information.

28 (c) If, within the time specified by the commissioners, an applicant fails to
29 provide the additional information requested under (b) of this section, or submits
30 additional information that is not responsive, the application will be rejected.

31 (d) For an application not rejected under (a) or (c) of this section, the

1 commissioners shall make a determination that the application, including any
2 requested additional information, is complete.

3 **Sec. 43.90.160. Proprietary information and trade secrets.** At the request of
4 the applicant, information submitted under this chapter that the applicant identifies and
5 demonstrates is proprietary or is a trade secret is confidential and not subject to public
6 disclosure under AS 40.25.

7 **Sec. 43.90.170. Application evaluation criteria.** The commissioners shall
8 evaluate all applications determined complete under AS 43.90.150 based upon

9 (1) the timing of the applicant's proposed actions specified in the
10 application;

11 (2) how the applicant plans to manage overruns in costs of the
12 proposed project;

13 (3) the extent to which the applicant will provide low transportation
14 rates, including the applicant's ability to prevent or reduce overruns in costs of the
15 proposed project and will offer tariff provisions that minimize the rate impact of
16 overruns in costs that may occur;

17 (4) the initial design capacity of the proposed project and the extent to
18 which the design can accommodate low cost expansion;

19 (5) the percentage of the state's matching contribution proposed under
20 AS 43.90.140(9);

21 (6) the reasonableness, specificity, and feasibility of the work plan,
22 timeline, and budget required by AS 43.90.140; and

23 (7) the applicant's financial resources; ability to comply with the
24 proposed performance schedule; record of performance on other projects not licensed
25 under this chapter; record of integrity and business ethics; organization; experience;
26 accounting and operational controls and technical skills, or ability to obtain them; and
27 possession of necessary equipment or ability to obtain it.

28 **Sec. 43.90.180. Notice, review, and comment.** (a) The commissioners shall
29 publish notice and provide a 60-day period for public review and comment on all
30 applications determined complete under AS 43.90.150.

31 (b) Applications received under this chapter are not public records and are not