

HOUSE / SENATE FINANCE COMMITTEE MINUTES - 1967-1982 2664

General Subject: U of A - Comm. Colleges

Log #	Description
1135	Can't go year round next year with these funds. Students asking for summer programs. Appalled by the budgeting procedure of U of A.
Q	Comptroller: Increases of Arts + Sciences - Sr. College Policy decision - who told you?
A	Was not told officially
	By the Chancellor or above?
A	Chanc. indicated Central Admin.
	Cent. Admin. said said Chanc.
Q	Opinion of REM formula
A	Don't think it's going to work. Alaska is unique situation. Can't put the rural comm. colleges on same formula as larger urban ones.
Q	Comptroller: More ques.
Q	Mr. [unclear]: Where does the figures for maint. charges column go?
A	Accty. positions, occupational prgrams.
	5.5 position \$170,000
	Commun. Service Programs - \$200,000
	Labor Pool - \$100,000 (P/line Instruction)
	Counseling \$252,000 no new positions
	Equip. repair + replacement
	New Equipment \$200,000 - teaching w/ equip. found

General Subject: U of A - Comm. Colleges

Log #	Description
	'60's. Not adequate - danger of losing record in some
	~~Automotive~~ Instron. Supps. + Materials
Q	Opinion of p/tine, full/tine ratio.
A	Good ratio 70-30
	Need probably 20 full-time.
Q	Drumming: Why do you prefer full-time
A	Only get instruction from p/tine. Lack of continuity. Curriculum suffers.
Q	Corpus: Better under separate chancellors?
A	Think can exist under the Arch. U of A but do need a chancellor standing. Comm. Colleges in State should have Chancellors.
Q	How would you coordinate w/ Sr. College in the same place?
A	Commun. Colleges - transferability to Sr. Colleges and other comm. colleges. Hassles will be, whose responsibility to run various divisions - gymnasium program, etc.
14/16	End of Presentation.
	Dr. Pat O'Rourke, Dir. Kuskokwim C.C.
	Out of state until January.
	Objects strongly to budget process this year.
	Can live w/in budget probably.

General Subject: U of A - Comm. Colleges

Log #	Description
	Kuskokwim 75.6% RIM requested.
	"Change" = 494.1 maint. level item. would put up to 100% RIM.
	Position reflected under "change". Already existing to solidify - share the responsibility.
	Major problem - lack of library funding.
	Initially - told not to make library budget to be lumped into Central.
	Never rec'd. the \$.
	Current funding this year 99.7.
	Disagrees with Dr. Wilsey re. formulas.
	Thinks it is equitable & workable. Needs resolution of size of utility factor.
	Suggests striking funding for add'l. water storage.
Q	What could be done?
A	Project to connect would be about \$150,000.
Q	Where figure come from?
A	1. Central Planning Office
Q	Request - loan a copy of the detail.
A	O'Rourke stress - disappearance of comm. colleges on BRU level - real serious problems
	Dr. Dato - Spec. Consultant for HFC.
1585	End of Presentation.

PLEASE SIGN YOUR NAME, TITLE, AND AGENCY FOR THE RECORD
AND RETURN THE LIST TO THE SECRETARY. THANK YOU.

NAME	TITLE	AGENCY
Virginia del Rio	UAA Citizens Advisory Committee	
Ron Lenn	ACFT Union Rep. from Kodiak	
Jerry Smetzer	Fairbanks Chapter University of Alaska Alumni Association	
Carolyn Floyd	Director	Kodiak Community College
Lindy Spangiers	Associated Students of the University of Alaska, Fairbanks	
BOB Dempsey	A.S. U.A. Fairbanks Chapter	
Dr. J. Saniquel	ASCT Fairbanks campus	
Charles O. Ferguson	President	Union of HK
Tom WAGONER	Deputy Director	KENAI
M. S. Cook	Exec. V.P.	Univ. of Alaska
Pat O'Rourke	Director	Kodiak Chapter C.C.
Barbara Thomas	Budget Analyst	Office of the Governor

Tape #: H77-22

RECORDER LOG

Date: 2/25/77Beg. #: 1657Time: 2:00 P.M.

End #: _____

Page: 11General Subject: U of A - Community Colleges - continuation

Present: All committed members were present except
Rep. Meekins & Rep. Guy. (See attached sheet
for other persons present!)

Log #	Description
Chmn. Report:	Purpose: Continuation of testimony by Comm. Colleges Directors and begin going over budget in detail.
Presentation:	Ms. Floyd - Directors did have opportunity for input in Budget. Worry re. Library - not budgeted for comm. colleges.
	Maintenance level with "Change" Col. Items 25.6 Instruction - full-time building trades instructor
	Pilot programs computers - need p/t time instructors Approx. 65% full-time 35% part-time. Part-time are good.
	\$100,000 cler., janitorial + source of population turnover

General Subject:

U of A

Log #	Description
1736	Using Basic Ed. Instructor presently Need for upgrading of skills of operators in area. Asked for assist. from Anchorage. REA should be able to coordinate and assist in provid. instruction Criminal Justice - very good program
Q	Cowper: 1/2 time computer program instructor What was the other one?
A	Floyd: Housing construction
A	Floyd: Contractual agreement w/ C.H. for tuitions of students in C.H.
Q	Cowper: Problem with libraries?
A	Floyd: Not budgeted for. Thought libraries included in the South Central - Anchorage libraries budget per instructions from U/A - Anch. Central Admin.
Q	Rhode: # of students from Coast Guard.
A	Floyd: 1/4 to 1/5 at times.
1851	Mr. Cuth: Dir. of Mat-Su requested he make these points to the Committee. Read letter (See attached copy of letter)
Q	Huening: If Com. Colleges under REA why are libraries under another one?

General Subject:

U of A

Log #	Description
A	Corchi: Thought larger Incl. libraries would be the appropriate ones for the budget request to consolidate, etc.
	WICHE formulas not producing good results for small colleges so combined in working budget.
Q	Muenning: Incl. Comm. College funded at lowest % of libraries.
1938	Cowper: At this point we will have no more testimony - will look at the budget and begin the decision-making process.
	Major Considerations
	\$1,693,000
	Of which \$1,400,000 salaries incr. not yet distrib. Those shown for FY78 reflect figure requested last year.
	Change in Administration - Dr. Tengstrom apptd. Acting President. Mgmt. Team to be apptd. soon.
	^{Suggested} Substantial portions of monies requested by the Regents be appropriated with close legislation. Suggest B/R be given authority to do the Admin. process through the Mgmt. Team.
16	Muenning: Agree w/ Mgmt. Team Should consider if Cent. Adm. necessary.

General Subject:

U of A

Log #	Description
	Statewide admin. should be given 1290 but not requested 2690. 1290 cap should be applied to Statewide Admin. if possible.
Cowper:	Mgmt. Team should consider necessity of Statewide Admin. Should have authority to re-route the funds into needed areas.
Rhode:	Recommends meeting between Regents, Mgmt. Team & Admin. and HSC. Know duties of some and not others on responsibilities.
Cowper:	Mgmt. Team to consist of 3 Suggests Legis. intent as to accountability of money.
Dr. Ferguson:	Regents arriving Tues. for Spring Meeting. Can set up meeting with Committee. Accepted President on interim basis with full authority.
Q. Cowper:	Lines of authority.
A. Ferguson:	Questions would be appropriately answered by Mgmt. Team.
2118 Gruening:	Feel a need for guidance in the appropriation decisions
Cowper:	Mgmt. Team should be given flexibility and give them an opportunity to develop new system.

General Subject:

U of A

Log #	Description
	Vermon: Broken down into categories of community colleges, extension services, etc. where they were all lumped together before. Agenda: 1. Free Conf., less Gov's veto, plus salary increases. Everything else will have to be justified. 2. Organized Research \$6,705,000 Gen'l Fund Money Quar. what it does for Alaska - reports available now w/ that information. Q. Freeman: When do we get into Cash Flow Problem? A. Cowper: Not really part of the Budget - Already somewhat explained. - Leg. Auditors Team will be reporting back to Comm. 2213 Gruening: Would it be worthwhile to deal with the cash-flow problem w/in Budget considerations? Cowper: If they come into state funding process - Gen'l Fund monies advanced for shortages. Don't know if can be done. If shortfall, some may be recoverable. Won't know until Auditor's report.

General Subject:

U of A

Log #	Description
	Commun. Colleges lumped together in present budget. Dave Scott working on breaking down separately.
	REA includes 4 Comm. Colleges & Extension Centers.
2271	RIM Formulas - Don't seem to mean anything. Must decide whether to use that method or not.
Q.	Haugen: Regents are going to be the final authority?
A.	Cooper: Essentially, that's right. Increase of \$5.2 m. '64 gen'l funds.
	Haugen: Gen'l Fund monies don't even cover Personal Services.
	Anchorage Budget Summary
	I. Anchorage Campus
Vernon	Scott takes Bud. Reg. Analysis FY78
	1st pg. Anchorage Sr. College
	2nd pg. Anchorage Comm. College
	Summary sheet pg. 135 in Yellow Book
	1. FY77 Free Conference
	2. RP - Revised Programs including Gov's veto
	a. Salary Adjustments
	b. Net Figure
	3. Maint. Column - amt. requested by College
	4. Request Column - anything above Gov's 12% cap.

General Subject:

U of A

Log #	Description
Dafoe	Narrative detail in Yellow Book still.
Comper:	Background for figures:
	Gov. told Univ. 12% increase cap
	Figures had to be moved into maintenance or other collocations to come under limited.
H77-23 3:05	TAPE CHANGED
0000	
Dafoe	Allocations for salaries don't have to go through same review. Would need before making final decisions.
	Programs cover
	FY77 Revised Total for Univ/A Gen'l Funds
	\$57,000,000 - 12% increase brought up to \$64,000,000.
	Univ. - insurance funds spent came from special funds - draw-down from self-insured 12% not applied across the board. + perm. fund.
Comper:	Do we have picture of % increase at this level?
Dafoe:	Not at this level.
Comper:	Attempt to bolster Sr. College - Is that right
Dafoe:	\$598,000 transf. in last year for Nurses Program in Ancl.
Jerguson:	On addl 1500 Credit hours to that

General Subject:

U of A

Log #	Description
Jerguson:	Student Credit Hours added in to use for basis of computing RIM program).
	Jorn Sr. College to bring up part-time to full-time. Reflected in units going above 1290 cap.
	Ratio - p/time + full/time 50-50 in program).
Couper: 0365	Did gov's veto affect Sr. College program in Anchorage?
Jerguson:	It did. (G. Vernon provided detail info. to Rep. Couper).
	Mr. Arch explanation of monies shown in Change Column re graduate program reduction and transfer of figures.
0411	Couper: Comments re RIM formulas).
	Vernon: Provision for factoring in some arbitrary figures. Was integrity until that point.
	Mr. Arch: Attached by Post-Secondary Staff.
	Tried to use RIM formula to show what would happen if 100% funded by it.
	Change columns does show it used 100% there but not totally.
	Used as measure to show what would be if used totally.
	Couper: What would contractually be used for

General Subject: U of A

Log #	Description
	<u>under instructional</u>
	<u>Reaper: Don't know for sure - typewriters.</u>
	<u>Perkins: Libraries budgets to be broken out w/ further info.</u>
Pg. 2	<u>Anchorage Community College - Instruction</u>
Compt.	<u>Do we have records here showing what they rec'd FY76?</u>
	<u>FY77 RP - Gov's Veto</u>
	<u>Gen'l Increase, Bargaining Units</u>
	<u>Retroactive Increases - " " + p-t Instr.</u>
	<u>Transfers w/in FCC</u>
	<u>a. some moved over to academic</u>
	<u>Contract based on 60% full-time</u>
	<u>How much veto? \$390,000</u>
	<u>B.1.1 moved to academic support not really cut.</u>
	<u>(moved out of instructional)</u>
	<u>Military program - lost some funds</u>
	<u>Program separates programs.</u>
	<u>Program explanation - receipts pg. 141 Yellow Book</u>
0693	<u>Program Receipts loss + Military loss</u>
	<u>Actual receipts + expenditures</u>
Super:	<u>looks like small increase for growing prgm.</u>
	<u>from gen'l fund. What was the basis for decision.</u>

General Subject: U of A

Log #	Description
	Scott: felt lower div. prgms. would expand w/in the 4-yr. prgm. instead of 2 yr. prgm.
Q. 0769	Couper: Courses in Comm. College + Sr. College overlapping.
A.	Ferguson: ^{felt} has been a problem. Programs development must go to correct full-time part-time ratio.
Q.	Couper: Are they supposed to have same courses?
A	Ferguson: No, problem needs attention. 4-yr. backtrack can be supported w/in Comm. College system 4-yr. has been open-door policy instead of maintaining own programs.
Q. 0874	Couper: Should not have to pay for duplication Comment by Arch. Federation of Faculty Members re productivity comparison.
0915	Ferguson: Been operating under program control. Systems growth making it impossible to control.
	Student Info. System will be implemented July 1. Will enable cross-check. Central indexing will hopefully reduce problems.

General Subject: U of A

Log #	Description
0972	Buchholdt question regarding reasons for choosing the community college program instead of 4 yr. program.
A.	Faculty members Acc: Explanation.
1034	
Pg. 3	Mat. Sci. Instruction
	Appears transfers
Scott	Major: loss of program receipts from Borough.
Jerguson	Explanation of program funding by Boroughs and Community Schools
Comper	Who coordinates Community Schools program - ing + funding?
Jerguson	Usually coordinated locally
	Fees for non-credit - \$10 per course
	Inst. Pd. \$1500 per contact hour.
	Supposed to be funded by City-Borr.
	No formal mechanism for coordinating
1115	Jerguson: Recommends community colleges manage + coordinate programs with comm. schools
1152	Anchorage Research + Professional Centers - p. 4
1202	Defoe - prior funding
1223	Anchorage Public Service - p. 5
	Prep program based on revenue from govt. That's being dropped.

General Subject: U of A

Log #	Description
1251	Reimbursement is to student and he pays fee.
1266	Anchorage Academic Support - p. 6, library, performing arts.
1291	Duties of a dean - academic leader of that campus (ACC). New positions.
1333	892.6 includes all academic personnel.
1372	Breakout of new staff - request for revised list of staffing.
1389	Cowper - It looks like new positions were added and library services decreased.
1410	Buckholdt - What's a Dean of Health Svcs? Scott - expansion of nurses training and health occupation program - 25 nurses from AMU are part of that program. 22 instructors came from AMU.
1458	Swanson - It appears that these people were kept on so they wouldn't be out of a job.
1518	Academic Support - ACC - p. 7
1531	Academic support for senior college vs. that for junior college.
1592	Academic Support - Matson - p. 8 Basically library support.

General Subject: U of A

Log #	Description
1592	Anchorage Student Svcs. - p. 9 Student affairs programs - bookstore, food service Previously called Auxiliary Svcs. Positions are paid for in program receipts.
1662	Staff could be full time. Counseling addition at Matson campus. Asking for 10 full time equivalents.
1714	Hiring students for maintenance.
1754	New student center. 10 positions could go there or be in old center. With \$990,000 it could be finished in Spring of '78.
1779	Anchorage Institutional Support - p. 11
1802	COLA and income receipts increases
1869	Debt Service - fees dedicated to payment. Combination of chancellor's office, computer, etc. Total veto was 151.6
1902	Swanson - what happens to money when they don't fill a position for several months.
1941	Scott - We have been underfunded in the past for the kind of service required by the buildings we have.
1955	Institutional Support Matson p. 12
1963	Student Loans, Scholarships p. 13
2043	Hanger - Ques: type of loans. Scott: a.c. ~~scholarships~~ work study funds - federal funds. Meeting adjourned at 4:40.



MATANUSKA-SUSITNA COMMUNITY COLLEGE FEB 24 1977

OF THE
UNIVERSITY OF ALASKA, ANCHORAGE

P.O. BOX 899
PALMER, ALASKA 99545

PHONE 745-4256
745-4257

February 21, 1977

TO: Maurice P. Arth, Executive Vice President, University of Alaska

FROM: Alvin S. Okeson, Director *Alvin S. Okeson*
745-4256

SUBJECT: Final Argument, FY78 Budget

The following information is submitted in reply to your telephone request of February 21, 1977.

The three areas we consider critical to the maintenance of existing services and programs within the Matanuska-Susitna Community College are as follows:

1. Add one permanent full time teacher/counselor as a new position. At present a major portion of the director and assistant directors' time is involved with student counseling and assistance. Expanding enrollments have drastically reduced the time available for administrative functions. Unless assistance is provided, either student or administrative service must suffer.

In Memo.

2. Authorize the funding necessary to install and maintain a computer terminal for one year. This would include one additional permanent full time clerical position to monitor the terminal during the evening and weekends. Providing access to the terminal during these periods will enable the college to share costs with other potential users in the Matanuska-Susitna Borough.

*\$30 for position
\$20-25 for equipment
-buty for maintenance*

3. Add one permanent full time teacher equivalency. We are presently experiencing an increasing number of full time students as the population of our service area expands. This expansion is expected to accelerate during the summer, as capital relocation activity continues. This position would be used to either expand our half time English teacher to full time and add a half time vocational teacher or add a full time vocational teacher as demand warrants.

*In Memo.
of Change*

Any assistance would be deeply appreciated.

*Attachment - log Record
HFE mtg. 2/25/77*

201-A

STATE OF ALASKA - COMPONENT-BUDGET SUMMARY

Category: University of Alaska
Agency: University of Alaska

Program: Anchorage
Sub-Program: INSTRUCTION-4 YR FG

EXPENDITURES & FUNDING	FY 77-FCC	FY 77-RP	FY 77-Sup.	FY 77 REVISED	MAINTENANCE	REQUEST	GOVERNOR	FINANCE COMMITTEE
01 PERSONAL SERVICES	2319.2	566.6		2,885.8	3,434.7	3,871.6	3,434.7	
02 TRAVEL	44.7	22.5		67.2	70.5	78.0	70.5	
03 CONTRACTUAL	201.5	55.4		256.9	136.4	141.2	136.4	
04 COMMODITIES	25.6	6.8		32.4	65.5	72.1	65.5	
05 EQUIPMENT	52.2	19.2		71.4	33.9	61.0	33.9	
06 LANDS/BLDGS.								
07 GRANTS, CLAIMS								
08 MISCELLANEOUS	24.2	0.5		24.7	5.8	5.8	5.8	
** TOTAL EXPEND.	2,667.4	671.0		3,338.4	3,746.8	4,229.7	3,746.8	
10 FEDERAL RECEIPTS	227.0	(227.0)		-				
11 GEN. FUND-MATCH								
12 GENERAL FUND	1,841.5	671.0		2,512.5	3,030.8	3,486.7	3,030.8	
13 PROG. RECEIPTS	102.5			102.5	2.0	2.0	2.0	
14 OTHER FUNDS - Fees	496.4	227.0		723.4	714.0	741.0	714.0	
18 MAN MONTHS								
						Assumes 500.0 of Change Column for ACC		

Refer to Page 137

STATE OF ALASKA - COMPONENT-BUDGET SUMMARY

Category: University of Alaska
Agency: University of Alaska

Program: Anchorage
Sub-Program: Instruction - ACC

X

EXPENDITURES & FUNDING	FY 77-FCC	FY 77-RP	FY 77-Sup.	FY 77 REVISED	MAINTENANCE	REQUEST	GOVERNOR	FINANCE COMMITTEE
01 PERSONAL SERVICES	7,237.9	(1,661.0)		5,576.9	5,744.2	6,244.2	5,744.2	
02 TRAVEL	144.4	(104.0)		40.4	41.7	41.7	41.7	
03 CONTRACTUAL	189.4	(54.6)		134.8	160.3	160.3	160.3	
04 COMMODITIES	340.7	(184.3)		156.4	180.2	180.2	180.2	
05 EQUIPMENT	181.4	(63.7)		117.7	132.5	132.5	132.5	
06 LANDS/BLDGs.								
07 GRANTS, CLAIMS								
08 MISCELLANEOUS	180.1	(62.6)		117.5	83.7	83.7	83.7	
** TOTAL EXPEND.	8,273.9	(2,130.2)		6,143.7	6,342.6	6,842.6	6,342.6	
10 FEDERAL RECEIPTS	553.5	(290.4)		263.1	250.0	250.0	250.0	
11 GEN. FUND-MATCH								
12 GENERAL FUND	5,908.4	(1,146.0)		4,762.4	4,835.9	5,335.9	4,835.9	
13 PROG. RECEIPTS	99.0	(98.0)		1.0				
14 OTHER FUNDS <i>fees</i>	1,713.0	(595.8)		1,117.2	1,256.7	1,256.7	1,256.7	
18 MAN MONTHS								
						Assumes 5 cc. of Change Column for ACC		

Refer to Page 137

201-C

STATE OF ALASKA - COMPONENT-BUDGET SUMMARY

Category: University of Alaska
Agency: University of Alaska

Program: Anchorage
Sub-Program: Instruction - mat su

X

EXPENDITURES & FUNDING	FY 77-FCC	FY 77-RP	FY 77-Sup.	FY 77 REVISED	MAINTENANCE	REQUEST	GOVERNOR	FINANCE COMMITTEE
01 PERSONAL SERVICES	332.9	(17.9)		315.0	332.8	353.6	339.8	
02 TRAVEL	5.9	(5.3)		0.6	0.6	1.4	0.6	
03 CONTRACTUAL	3.4	(3.0)		0.4	0.4	1.2	0.4	
04 COMMODITIES	7.5	(6.5)		1.0	13.0	16.0	13.0	
05 EQUIPMENT	8.5	(8.5)						
06 LANDS/BLDGs.								
07 GRANTS, CLAIMS								
08 MISCELLANEOUS	0.8	(0.8)						
** TOTAL EXPEND.	359.0	(42.0)		317.0	353.8	372.2	353.8	
10 FEDERAL RECEIPTS								
11 GEN. FUND-MATCH								
12 GENERAL FUND	267.8	19.2		287.0	323.8	342.2	323.8	
13 PROG. RECEIPTS	61.2	(61.2)						
14 OTHER FUNDS <i>of fees</i>	30.0			30.0	30.0	30.0	30.0	
18 MAN MONTHS								

Refer to Page 137

201-0

STATE OF ALASKA - COMPONENT-BUDGET SUMMARY

Category: University of Alaska
Agency: University of Alaska

Program: Anchorage
Sub-Program: RESEARCH & PROF. CENTERS

X

EXPENDITURES & FUNDING	FY 77-FCC	FY 77-RP	FY 77-Sup.	FY 77 REVISED	MAINTENANCE	REQUEST	GOVERNOR	FINANCE COMMITTEE
01 PERSONAL SERVICES	335.8	150.4		486.2	342.4	388.7	342.4	
02 TRAVEL	71.9	(29.8)		42.1	5.0	5.0	5.0	
03 CONTRACTUAL	79.3	(16.1)		63.2	13.6	13.6	13.6	
04 COMMODITIES	5.4	12.3		17.7	16.6	16.6	16.6	
05 EQUIPMENT	16.8	(9.8)		2.0		2.2		
06 LANDS/BLDGS.								
07 GRANTS, CLAIMS								
08 MISCELLANEOUS	41.5	(13.7)		27.8	10.8	10.8	10.8	
** TOTAL EXPEND.	545.7	93.3		639.0	388.4	437.4	388.4	
10 FEDERAL RECEIPTS	380.6	91.6		472.2	199.0	199.0	199.0	
11 GEN. FUND-MATCH	10.0			10.0	20.0	20.0	20.0	
12 GENERAL FUND	150.1	6.7		156.8	162.4	218.4	162.4	
13 PROG. RECEIPTS	5.0	(5.0)		-				
14 OTHER FUNDS								
18 MAN MONTHS								

Refer to Page 141

STATE OF ALASKA - COMPONENT-BUDGET SUMMARY

Category: University of Alaska
Agency: University of Alaska

Program: Anchorage
Sub-Program: Public Service

EXPENDITURES & FUNDING	FY 77-FCC	FY 77-RP	FY 77-Sup.	FY 77 REVISED	MAINTENANCE	REQUEST	GOVERNOR	FINANCE COMMITTEE
01 PERSONAL SERVICES	---	186.7	---	186.7	218.2	218.2	218.2	---
02 TRAVEL	---	2.9	---	2.9	3.0	3.0	3.0	---
03 CONTRACTUAL	---	18.4	---	18.4	18.9	18.9	18.9	---
04 COMMODITIES	---	10.8	---	10.8	11.1	11.1	11.1	---
05 EQUIPMENT	---	---	---	---	---	---	---	---
06 LANDS/BLDGS.	---	---	---	---	---	---	---	---
07 GRANTS, CLAIMS	---	---	---	---	---	---	---	---
08 MISCELLANEOUS	---	4.0	---	4.0	4.1	4.1	4.1	---
** TOTAL EXPEND.	---	222.8	---	222.8	255.3	255.3	255.3	---
10 FEDERAL RECEIPTS	---	30.0	---	30.0	30.0	30.0	30.0	---
11 GEN. FUND-MATCH	---	---	---	---	---	---	---	---
12 GENERAL FUND	---	188.8	---	188.8	221.3	221.3	221.3	---
13 PROG. RECEIPTS	---	4.0	---	4.0	4.0	4.0	4.0	---
14 OTHER FUNDS	---	---	---	---	---	---	---	---
18 MAN MONTHS	---	---	---	---	---	---	---	---

Refer to Page 145

STATE OF ALASKA - COMPONENT-BUDGET SUMMARY

Category: University of Alaska
Agency: University of Alaska

Program: Anchorage
Sub-Program: Academic Support - 4th & 6th

EXPENDITURES & FUNDING	FY 77-FCC	FY 77-RP	FY 77-Sup.	FY 77 REVISED	MAINTENANCE	REQUEST	GOVERNOR	FINANCE COMMITTEE
01 PERSONAL SERVICES	677.6	207.3		884.9	892.6	1,196.2	892.6	
02 TRAVEL	13.9	3.0		16.9	18.9	18.9	18.9	
03 CONTRACTUAL	84.2	8.0		92.2	460.8	460.8	460.8	
04 COMMODITIES	37.4	8.1		45.5	31.2	31.2	31.2	
05 EQUIPMENT	252.0	(2.6)		249.4	174.9	323.8	174.9	
06 LANDS/BLDGs.								
07 GRANTS, CLAIMS								
08 MISCELLANEOUS	122.2	(112.0)		10.2	-	-	-	
** TOTAL EXPEND.	1,187.3	111.8		1,299.1	1,578.4	2,030.9	1,578.4	
10 FEDERAL RECEIPTS					1.0	1.0	1.0	
11 GEN. FUND-MATCH								
12 GENERAL FUND	1,118.3	111.8		1,230.1	1,511.4	1,963.9	1,511.4	
13 PROG. RECEIPTS	60.0			60.0	66.0	66.0	66.0	
14 OTHER FUNDS - Fees	9.0			9.0				
18 MAN MONTHS								

Refer to Page 149

201-6

STATE OF ALASKA - COMPONENT-BUDGET SUMMARY

Category: University of Alaska
Agency: University of Alaska

Program: Anchorage
Sub-Program: Academic Support - ACC

EXPENDITURES & FUNDING	FY 77-FCC	FY 77-RP	FY 77-Sup.	FY 77 REVISED	MAINTENANCE	REQUEST	GOVERNOR	FINANCE COMMITTEE
01 PERSONAL SERVICES	-----	952.8	-----	952.5	962.7	962.7	962.7	-----
02 TRAVEL	-----	28.5	-----	28.5	30.0	30.0	30.0	-----
03 CONTRACTUAL	-----	36.2	-----	36.2	54.2	54.2	54.2	-----
04 COMMODITIES	-----	41.5	-----	41.5	43.9	43.9	43.9	-----
05 EQUIPMENT	-----	44.1	-----	44.1	42.4	42.4	42.4	-----
06 LANDS/BLOGS.	-----		-----					-----
07 GRANTS, CLAIMS	-----		-----					-----
08 MISCELLANEOUS	-----	1.5	-----	1.5	7.5	7.5	7.5	-----
** TOTAL EXPEND.	-----	1,104.6	-----	1,104.6	1,140.7	1,140.7	1,140.7	-----
10 FEDERAL RECEIPTS	-----		-----					-----
11 GEN. FUND-MATCH	-----		-----					-----
12 GENERAL FUND	-----	1,104.6	-----	1,104.6	1,140.7	1,140.7	1,140.7	-----
13 PROG. RECEIPTS	-----		-----					-----
14 OTHER FUNDS	-----		-----					-----
18 MAN MONTHS	-----		-----					-----

Refer to Page 149

201-H

STATE OF ALASKA - COMPONENT-BUDGET SUMMARY

Category: University of Alaska
Agency: University of Alaska

Program: Anchorage
Sub-Program: Academic Support - Mat Su

EXPENDITURES & FUNDING	FY 77-FCC	FY 77-RP	FY 77-Sup.	FY 77 REVISED	MAINTENANCE	REQUEST	GOVERNOR	FINANCE COMMITTEE
01 PERSONAL SERVICES	42.3	2.4		44.7	48.5	48.5	46.5	
02 TRAVEL	0.6			0.6	0.6	0.6	0.6	
03 CONTRACTUAL	2.5			2.5	2.6	2.6	2.6	
04 COMMODITIES	0.4			0.4	0.4	0.4	0.4	
05 EQUIPMENT	18.5			18.5	17.5	17.5	17.5	
06 LANDS/BLDGS.								
07 GRANTS, CLAIMS								
08 MISCELLANEOUS	0.3			0.3	0.3	0.3	0.3	
** TOTAL EXPEND.	64.6	2.4		67.0	69.9	69.9	69.9	
10 FEDERAL RECEIPTS								
11 GEN. FUND-MATCH								
12 GENERAL FUND	64.6	2.4		67.0	69.9	69.9	69.9	
13 PROG. RECEIPTS								
14 OTHER FUNDS								
18 MAN MONTHS								

Refer to Page 150

201-I

STATE OF ALASKA - COMPONENT-BUDGET SUMMARY

Category: University of Alaska
Agency: University of Alaska

Program: Anchorage
Sub-Program: Student Services

X

EXPENDITURES & FUNDING	FY 77-FCC	FY 77-RP	FY 77-Sup.	FY 77 REVISED	MAINTENANCE	REQUEST	GOVERNOR	FINANCE COMMITTEE
01 PERSONAL SERVICES	909.3	97.0		1,006.3	1,308.1	1,308.1	1,308.1	
02 TRAVEL	50.2			50.2	60.6	60.6	60.6	
03 CONTRACTUAL	574			574	60.5	60.5	60.5	
04 COMMODITIES	864.5			864.5	1024.2	1024.2	1024.2	
05 EQUIPMENT	20.6			20.6	18.9	18.9	18.9	
06 LANDS/BLDGS.								
07 GRANTS, CLAIMS								
08 MISCELLANEOUS	79.9			79.9	42.4	42.4	42.4	
** TOTAL EXPEND.	1,981.9	97.0		2,078.9	2,515.7	2,515.7	2,515.7	
10 FEDERAL RECEIPTS	15.0			15.0	40.6	40.6	40.6	
11 GEN. FUND-MATCH					27.7	27.7	27.7	
12 GENERAL FUND	624.1	97.0		721.1	841.4	841.4	841.4	
13 PROG. RECEIPTS	1,330.0			1,330.0	1,606.0	1,606.0	1,606.0	
14 OTHER FUNDS- Fees	12.8			12.8				
16 MAN MONTHS								

Refer to Page 153

201-7

STATE OF ALASKA - COMPONENT-BUDGET SUMMARY

Category: University of Alaska
Agency: University of Alaska

Program: Anchorage
Sub-Program: Student Services - mat su

X

EXPENDITURES & FUNDING	FY 77-FCC	FY 77-RP	FY 77-Sup.	FY 77 REVISED	MAINTENANCE	REQUEST	GOVERNOR	FINANCE COMMITTEE
01 PERSONAL SERVICES	-----	-----	-----	-----	25.9	25.9	25.9	-----
02 TRAVEL	-----	-----	-----	-----	-----	-----	-----	-----
03 CONTRACTUAL	-----	-----	-----	-----	1.0	1.0	1.0	-----
04 COMMODITIES	-----	6.5	-----	6.5	7.9	7.9	7.9	-----
05 EQUIPMENT	-----	-----	-----	-----	-----	-----	-----	-----
06 LANDS/BLDGS.	-----	-----	-----	-----	-----	-----	-----	-----
07 GRANTS, CLAIMS	-----	-----	-----	-----	-----	-----	-----	-----
08 MISCELLANEOUS	-----	-----	-----	-----	-----	-----	-----	-----
** TOTAL EXPEND.	<u>-----</u>	<u>6.5</u>	<u>-----</u>	<u>6.5</u>	<u>34.8</u>	<u>34.8</u>	<u>34.8</u>	<u>-----</u>
10 FEDERAL RECEIPTS	-----	-----	-----	-----	-----	-----	-----	-----
11 GEN. FUND-MATCH	-----	-----	-----	-----	-----	-----	-----	-----
12 GENERAL FUND	-----	6.5	-----	6.5	27.7	27.7	27.7	-----
13 PROG. RECEIPTS	-----	-----	-----	-----	7.1	7.1	7.1	-----
14 OTHER FUNDS	-----	-----	-----	-----	-----	-----	-----	-----
18 MAN MONTHS	-----	-----	-----	-----	-----	-----	-----	-----

Refer to Page 153

201-K

STATE OF ALASKA - COMPONENT-BUDGET SUMMARY

Category: University of Alaska
Agency: University of Alaska

Program: Anchorage
Sub-Program: Institutional Support

EXPENDITURES & FUNDING	FY 77-FCC	FY 77-RP	FY 77-Sup.	FY 77 REVISED	MAINTENANCE	REQUEST	GOVERNOR	FINANCE COMMITTEE
01 PERSONAL SERVICES	2467.8	681.9		3149.7	3412.1	3773.1	3412.1	
02 TRAVEL	40.8			40.8	35.4	35.9	35.4	
03 CONTRACTUAL	576.2	208.7		784.9	779.5	789.0	779.5	
04 COMMODITIES	287.3	(10.3)		277.0	424.3	425.3	424.3	
05 EQUIPMENT	49.0	(4.5)		44.5	96.2	97.3	96.2	
06 LANDS/BLDG.								
07 GRANTS, CLAIMS								
08 MISCELLANEOUS	492.3	106.6		98.9	896.3	896.3	896.3	
** TOTAL EXPEND.	3913.4	982.4		4895.8	5643.8	6016.9	5643.8	
10 FEDERAL RECEIPTS	23.2	(16.4)		6.8	4.2	4.2	4.2	
11 GEN. FUND-MATCH								
12 GENERAL FUND	3758.5	140.7		3899.2	4677.2	5050.3	4677.2	
13 PROG. RECEIPTS	8.0	348.1		356.1	263.2	263.2	263.2	
14 OTHER FUNDS-Fees	123.7	510.0		633.7	699.2	699.2	699.2	
18 MAN MONTHS								

Refer to Page 157

STATE OF ALASKA - COMPONENT-BUDGET SUMMARY

Category: University of Alaska
Agency: University of Alaska

Program: Anchorage
Sub-Program: Institutional Support - Mats

EXPENDITURES & FUNDING	FY 77-FCC	FY 77-RP	FY 77-Sup.	FY 77 REVISED	MAINTENANCE	REQUEST	GOVERNOR	FINANCE COMMITTEE
01 PERSONAL SERVICES	122.2	14.5		136.7	141.5	141.5	141.5	
02 TRAVEL	3.5			3.5	2.5	2.5	2.5	
03 CONTRACTUAL	38.1			38.1	37.5	37.5	37.5	
04 COMMODITIES	9.6			9.6	8.8	8.8	8.8	
05 EQUIPMENT	4.4			4.4	4.5	4.5	4.5	
06 LANDS/BLDGS.								
07 GRANTS, CLAIMS								
08 MISCELLANEOUS	8.7			8.7	8.9	8.9	8.9	
** TOTAL EXPEND.	186.5	14.5		201.0	203.7	203.7	203.7	
10 FEDERAL RECEIPTS								
11 GEN. FUND-MATCH								
12 GENERAL FUND	184.5	14.5		199.0	203.7	203.7	203.7	
13 PROG. RECEIPTS	2.0			2.0				
14 OTHER FUNDS								
18 MAN MONTHS								

Refer to Page 158

W-102

STATE OF ALASKA - COMPONENT-BUDGET SUMMARY

Category: University of Alaska
Agency: University of Alaska

Program: Anchorage
Sub-Program: Student Loans, Scholarship

X

EXPENDITURES & FUNDING	FY 77-FCC	FY 77-RP	FY 77-Sup.	FY 77 REVISED	MAINTENANCE	REQUEST	GOVERNOR	FINANCE COMMITTEE
01 PERSONAL SERVICES	299.7	(299.7)						
02 TRAVEL								
03 CONTRACTUAL								
04 COMMODITIES								
05 EQUIPMENT								
06 LANDS/BLDGs.								
07 GRANTS, CLAIMS								
08 MISCELLANEOUS	1,450.4	(352.4)		1,098.0	1,025.0	1,025.0	1,025.0	
** TOTAL EXPEND.	1,750.1	(652.1)		1,098.0	1,025.0	1,025.0	1,025.0	
10 FEDERAL RECEIPTS	1,709.1	(611.1)		1,098.0	4,025.0	1,025.0	1,025.0	
11 GEN. FUND-MATCH								
12 GENERAL FUND								
13 PROG. RECEIPTS								
14 OTHER FUNDS	41.0	(41.0)		-				
18 MAN MONTHS								

Refer to Page 161

N-102

HOUSE FINANCE COMMITTEE
Monday, February 28, 1977
1:15 p.m.

All Committee members were present with the exception of Rep. Buchholdt. Also present were Rep. Bill Miles, Robert L. Hartig, Lobbyist, Tenneco-Alaska; Michael C. Holland, Mgr., El Paso Alaska Co.; Pat Conheady, Liaison, Department of Natural Resources; Pat Starratt, Spec. Asst., Department of Natural Resources; John Van Dyck, Vice Pres., Gas Supply Lobbyist, So. Nat. Gas Co.; Joseph R. Henri, Lobbyist, El Paso Alaska. (See attached list for other persons present.)

Present

Chairman Cowper opened the meeting at 1:15 p.m. The Committee was informed that Morris Thompson, who was scheduled to speak, had not yet arrived in Juneau due to flight delays he was not responsible for. A vote was taken and it was decided by the Committee members to postpone the meeting until 4:00 p.m. at which time they would hear Mr. Thompson. Meeting recessed at 1:25 p.m.

Recessed

Chairman Cowper reopened the meeting at 4:00 p.m. and introduced Morris Thompson, Vice President, Alcan Pipeline Co.

*Reopened
Meeting*

Presentation of Mr. Thompson: Reference to statement to Senate and the Gas Contract Hearings and to a letter from Senator Huber to the President of the Senate recommending the overland route.

*Presentation
of Morris
Thompson,
V.Pres.,
Alcan Pipeline Co.*

Mr. Thompson read a prepared statement, a copy of which is attached, and apologized for his arrival delay and thanked the Committee members for waiting.

Question: Rep. Cowper asked if the State switches its support to the Alcan line would the Alcan Pipeline Co. be precluded from buying gas and Mr. Thompson replied that when the State decided to go the El Paso System, they were precluded from bidding on the gas because only bidders who agreed to support the El Paso route were considered.

*Questions &
Answers re
Position of
Alcan Pipeline Co.
Re Gas
Contracts*

Question: Rep. Cowper asked if traditionally the gas pipeline companies buy gas at the start of the pipeline and sell at the other end and Mr. Thompson said that all gas companies today are attempting to secure reserves and that they buy the gas to transfer to their companies in the lower 48 states.

Question: Rep. Cowper asked a question regarding tariff situations and Mr. Thompson responded that he did not understand the question and commented that most gas companies make their profit in the transportation of the gas.

Question: Rep. Cowper - "You buy it at one end and sell it at the other?" "You could have 7/8 of the gas up there?" Answer: Mr. Thompson - "The rest of the producers haven't sold their gas." Cowper - "Don't they have to sell it to you?" Answer: Thompson - "Producers at one time did have their gas committed; but a recent decision due to protest was that those contracts would have to be withdrawn." Cowper - "You are making a charge for the transportation of the gas for all that which you don't actually buy? Is that a common practice?" Answer: Thompson said that that is right and it is a common practice. Cowper - "Then you are a common carrier?" Answer: Thompson - "Yes."

*Continued - Q&A
Re Gas Contracts*

Chairman Cowper asked if there were other questions for Mr. Thompson. There being none, he thanked Mr. Thompson for his presentation and asked if anyone present felt he should receive equal time to represent his interests. No one came forward in response.

Chairman Cowper informed the Committee of his intention to take a vote on the Resolutions and report them out of Committee at the end of the meeting.

Discussion of SCR 3, SCR 4, and SCR 5

*Discussion of
SCR 3, SCR 4
and SCR 5*

Rep. Gruening proposed that the Committee adopt an amendment to SCR 3, SCR 4 and SCR 5 as proposed by Senator Huber, a copy of which is attached and made a part of these Minutes.

Chmn. Cowper asked if the Committee members wished to discuss the proposal before entertaining a motion. Rep. Gruening explained that the reason for the amendment proposal had been defined by Mr. Thompson in his presentation and that it would be consistent with the State's position that Alcan should be given the same consideration as Tenneco. He said that one of the main faults seems to be that there is no minimum standard for lobbying of the proposed contracts.

*Amendment
Proposal*

Rep. Freeman asked what the practical, procedural effect of adoption of such an amendment would be on the bills. Rep. Cowper said it is his opinion that the State would be requested to renegotiate the contracts and rewrite them. Rep. Gruening said that he didn't think it would be as time-consuming as it sounds and that it is his opinion that it would be a very short process.

Rep. Rhode asked if the Committee might request the Attorney General to come in and give an opinion on the proposed amendment. Chmn. Cowper said that that could be done and that they could hear further testimony as well, but that it would delay the resolutions just that much longer.

Rep. Haugen said that it was his understanding that the Administration had requested that the Committee's consideration be expedited and expressed his opinion that more delay would cause more confusion.

Further discussion regarding proposed amendment and consideration of further testimony and pros and cons of the same.

Chairman Cowper asked the Committee if they were ready to entertain a motion to amend SCR 3, 4 and 5 as proposed by Rep. Cruening. A vote was taken on a motion as above proposed to amend SCR 3, 4 and 5. Said motion failed.

*Motion to
Amend Failed*

Rep. Freeman made a motion that SCR 3 be reported out of Committee. Said motion passed and SCR 3 was reported out with individual recommendations.

*SCR 3 Reported
Out of Comm.*

A motion was made to report out SCR 4. Said motion was put to a vote and passed and SCR 4 was reported out with individual recommendations.

*SCR 4 Reported
Out of Comm.*

A motion was made to report out SCR 5. Said motion was put to a vote and passed and SCR 5 was reported out with individual recommendations.

*SCR 5 Reported
Out of Comm.*

Chmn. Cowper asked all the members present to sign the Committee Reports for SCR 3, 4 and 5 before leaving and adjourned the meeting at 4:38 p.m.

Adjourned

----- (Before recess - 1:15 p.m.)
Tape #H77-24 & Tape #H77-23
Log Beg. #0000 Log Beg. #2044
Log End. #0947 Log End. #2195

2/28/77

1:15 - 8.

3/ -

4:00 - -

PLEASE SIGN YOUR NAME, TITLE, AND AGENCY FOR THE RECORD
AND RETURN THE LIST TO THE SECRETARY. THANK YOU.

NAME	TITLE	AGENCY
Robert L. Hartig	Lobbyist	Tenneco-Alaska
Michael C. Hoggan	Mer	El Paso Alaska Co.
PAT CONHEADY	LIAISON	D.N.R.
Conni Barlow	AA.	Senate Pres.
Chuck Kerschulte	regate	Southeast Engine
Mike Doerner		AP
Shelma Thompson	Visitor	
Pat Harratt	Spec. Asst.	D.N.R.
John Dan Dyck	V.P. Gas Supply Lobbyist	So. Nat. Gas Co.
R.S. Bratt	Lobbyist	"
Tom McGinnis	Lobbyist	
T. C. Randall	AA.	LEG.
Josephine Hume	Lobbyist	El Paso Alaska

Testimony - Alcan Pipeline Co.

Before House Finance Committee

February 28, 1977

Morris Thompson, Vice President

We feel this committee and the full house should seriously consider the following issues. The contracts presently before you sell all of Alaska's Royalty Gas to three companies in exchange for an unspecified amount of political support for the El Paso Pipeline System. While it may be difficult to quantify political support, we believe that the contracts can be immensely improved if the switching provision of paragraph 11.4 is changed to provide that the contracts are terminated if the Governor of Alaska decides to support a project other than the El Paso Pipeline System.

As the contracts are now written, if the Governor decides to support another system and if the buyers elect to also support this system, the buyers rights under the contracts continue. Realistically, the only reason the Governor will switch is if the El Paso route is obviously going to fail, and if the

El Paso route is going to fail, it is because the political support of the buyers that the State is purchasing with its valuable royalty gas has been unsuccessful. If the contracts were terminated when the Governor decided to switch, there would be a tremendous incentive for the buyers to give their immediate all-out support to the El Paso Project. As the contracts are now written, the buyers can sit back after their contracts are approved, knowing that if the Governor decides to support another route, they can retain the State's gas by merely giving notice that they will support the new route.

The policy of the State is to sell some of its gas to the company the State endorses to build the pipeline system. This policy should apply equally to us if it is decided by the Governor to endorse our line. Originally we felt precluded from bidding on the State's gas because a condition of bidding was support of the El Paso System. The existing terms of the contracts which allow the buyers to retain the State's gas if

they support the Governor's switch, preclude our company from receiving royalty gas even if the State endorses our line.

To stay consistent with the State's policy in this matter, the El Paso contract should be terminated if the State switches its support to our line. This will give us an opportunity to bid on the State's gas if the State decides to support our system.

FEBRUARY 25, 1977

PAGE 1

Attachment to
HFC Meeting
2/28/77

MR. PRESIDENT:

HAVING BEEN CHASTISED BY THE CHAIR AND SOME OF MY COLLEAGUES FOR BEING DILATORY DURING THE DEBATE AND FLOOR ACTION ON SCR #4 YESTERDAY, IT IS WITH GREAT RELUCTANCE AND A HEAVY HEART THAT I ENTER INTO THIS DEBATE TODAY. I HAVE CAUSED THE TESTIMONY WHICH I PRESENTED YESTERDAY ALONG WITH A FEW EXHIBITS TO BE PLACED ON EACH DESK. I HOPE MY FELLOW SENATORS WILL RECONSIDER THIS INFORMATION ALONG WITH THE LEGAL OPINION WHICH I HAVE OBTAINED FROM LEGISLATIVE COUNCIL. I HAVE ALSO OBTAINED A COPY OF THE LEGAL OPINION BY A FIRM WITH OUTSTANDING CREDENTIALS IN THE ENERGY FIELD AND THE ONLY ONE TO DATE WHICH HAS ACCOMPLISHED A STUDY ON THIS PHASE OF THE ENERGY ACT, CHAPMAN, GADSBY, HANNAH AND DUFF. (INCLUDED)

I AM SURE OPEN MINDED SENATORS WILL FIND THAT MR. LA ROCCA'S NEWS RELEASES WERE CORRECT, AS WAS MY PRESENTATION TO THIS BODY. I HOPE THAT SOME OF YOU HAVE ACCEPTED MY INVITATION TO EXAMINE THE OVER 50 POUNDS OF MATERIAL PILED ON THE DIVIDER OF MY DESK SINCE YESTERDAY. OF COURSE, WE STILL HAVE NO TRANSCRIPT OR EXHIBITS FOR CONSIDERATION.

IN ANSWER TO SENATOR RADAR:

MR. PRESIDENT: IN LIGHT OF FEA LAW ALREADY ON THE BOOKS, AS LONG AS WE HAVE NO CONTRACT AND CAN BUILD AN INDUSTRY TO USE OUR GAS, WE ARE NOT LIKELY TO HAVE IT STOLEN FROM US OUTRIGHT, BY THE FEDERAL GOVERNMENT. THESE PARTICULAR CONTRACTS, NOT CONTRACTS IN GENERAL, ARE THE WEAK LINK WHICH WILL CAUSE THE LOSS OF USE OF ALL OUR GAS IN ALASKA; EVEN THOUGH IT IS TO THE BEST INTEREST OF THE

FEBRUARY 25, 1977

PAGE 2

LOWER 48 STATES BY PROVIDING FAR MORE ENERGY TO THEM. MR. PRESIDENT, INTELLIGENT CONTRACTS COULD BE DRAFTED TO DO WHAT SENATOR RADAR SAYS BUT THESE CONTRACTS ARE DEFECTIVE. SENATOR RADAR'S CRYSTAL BALL CAN'T TELL HIM WHAT'S GOING TO HAPPEN IN THE NEXT 5 TO 8 YEARS BEFORE GAS FLOWS.

REFERRING TO SCR #3 DURING DEBATE SENATOR HUBER SAID:

MR. PRESIDENT, I DO FEEL THAT I OWE AN APOLOGY TO SOME OF THE MEMBERS OF THIS BODY FOR CALLING THE SENATE AND HOLDING THIS MATTER OVER UNTIL THIS MORNING. I WOULD NOT HAVE DONE SO IF I HAD KNOWN AT 4 P.M. THAT WHICH I LEARNED BY 7 P.M. YESTERDAY; WHICH WAS, THAT THESE ILL CONCEIVED AND HASTILY DRAWN CONTRACTS WERE LOCKED IN SINCE THE FIRST OF THE WEEK BY A BOUND CAUCUS INSPIRED FROM THE THIRD FLOOR AS WELL AS THE ORGANIZATION FOR THE MISMANAGEMENT OF ALASKA'S RESOURCES. WHEN ONE COMPARES THE STATESMANSHIP BEING DISPLAYED BY THE LEADERSHIP OF THE OTHER HOUSE IN THE HANDLING OF THESE CONTRACTS WITH THE POLITICS OF THE LEADERSHIP OF THIS BODY, IT MAKES ME THANKFUL FOR NOT BEING A PART OF THAT FARCE. MR. PRESIDENT, I PRAY THAT ALL THE CITIZENS OF ALASKA WILL FOCUS ON THIS ADMINISTRATION AND LEADERSHIP REGARDING ITS ACTIONS IN THIS MOST IMPORTANT MATTER AS WELL AS OTHERS, USING A STRONG MAGNIFYING GLASS.

OSCAR L. CHAPMAN
WILLIAM R. DUFF
NORMAN S. PAUL
PAUL A. LENZINI
GENE PERRY BOND
JAMES S. HOSTETLER
HENRY J. STAUDINGER
W. N. HARRELL SMITH
LAWRENCE I. ABRAMS
ALBERT D. STURTEVANT
CHARLES S. FAX
CARL W. ULRICH
JOEL L. GREENE

LAW OFFICES
CHAPMAN, GADSBY, HANNAH AND DUFF

1700 PENNSYLVANIA AVENUE, N.W.

WASHINGTON, D. C. 20006

TELEPHONE (202) 223-9100

CABLE ADDRESS

"CHAGAD"

February 9, 1977

COUNSEL
PAUL F. HANNAH
MICHAEL V. DiSALLE

ASSOCIATED FIRM
GADSBY AND HANNAH
140 FEDERAL STREET
BOSTON, MASSACHUSETTS 02110

Mr. George H. Shipley
Director and Consultant
Alaska Petroleum Company
Five Greenway Plaza East
Houston, Texas 77046

Re: Application of the Mandatory Petroleum Allocation
Regulations of the Federal Energy Administration
to the Sale of Royalty Crude Oil by the State of
Alaska

Dear Mr. Shipley:

At the request of Clinton B. Fawcett, Esq., we have prepared and enclose herewith a letter dated February 9, 1977, expressing our opinion regarding the application of the Mandatory Petroleum Allocation Regulations, 10 C.F.R. Part 211, of the Federal Energy Administration to the sale of royalty crude oil by the State of Alaska.

As set forth more fully in our letter, we conclude that the State of Alaska is subject to the provisions of 10 C.F.R. §211.63 in the same manner as other royalty owners. We further conclude that, whether the State of Alaska first receives its royalty in kind or in value, a change in crude oil purchasers or the election to receive in kind rather than in value is permitted only upon compliance with the provisions of paragraph (d) of Section 211.63, which provides for the termination of supplier/purchaser relationships under specific prescribed conditions.

Mr. George H. Shipley
Page Two

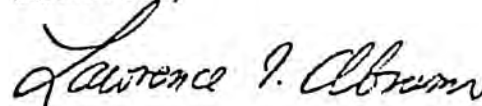
February 9, 1977

Also enclosed for your information and easy reference are copies of the following documents:

- (1) FEA Interpretation dated May 17, 1974 to Signal Oil and Gas Company;
- (2) FEA Interpretation dated December 12, 1975 to J & W Refining, Inc.;
- (3) FEA Remedial Order dated October 31, 1975 and Supplemental Order dated March 2, 1976 to the State Lands Commission of the State of California;
- (4) FEA Decision and Order in Colorado State Board of Land Commissioners, Case No. FEA-0974 (January 26, 1977); and
- (5) FEA Decision and Order in United States Geological Survey, Case No. FEA-0850 (January 26, 1977).

We shall be happy to discuss this matter with you and provide any additional information requested.

Sincerely,



Lawrence I. Abrams

LIA:jl
enclosures

cc: Clinton B. Fawcett, Esq.

OSCAR L. CHAPMAN
WILLIAM R. DUFF
NORMAN S. PAUL
PAUL A. LENZINI
GENE PERRY BOND
JAMES S. HOSTETLER
HENRY J. STAUDINGER
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CABLE ADDRESS

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COUNSEL
PAUL F. HANNAH
MICHAEL V. DISALLE

ASSOCIATED FIRM
GADSBY AND HANNAH
140 FEDERAL STREET
BOSTON, MASSACHUSETTS 02110

February 9, 1977

Mr. George H. Shipley
Director and Consultant
Alaska Petroleum Company
Five Greenway Plaza East
Houston, Texas 77046

Re: Application of the Mandatory Petroleum Allocation
Regulations of the Federal Energy Administration
to the Sale of Royalty Crude Oil by the State of
Alaska

Dear Mr. Shipley:

You have requested our opinion regarding the application of the Mandatory Petroleum Allocation Regulations, 10 C.F.R. Part 211, of the Federal Energy Administration (FEA) to the sale of royalty crude oil by the State of Alaska. It is our understanding that the State of Alaska, as lessor, is entitled to receive its royalty either in kind or in value with respect to crude oil produced from State oil and gas leases in the Prudhoe Bay Basin. Production from these leases is currently scheduled to commence in September 1977. This letter will address the following specific issues:

(1) Whether the sale of royalty crude oil by the State of Alaska is subject to the provisions of the Mandatory Petroleum Allocation Regulations, 10 C.F.R. Part 211;

(2) Whether the State of Alaska is subject to the regulation on domestic crude oil supplier/purchaser relationships, 10 C.F.R. §211.63, with respect to the sale of royalty crude oil; and

(3) Whether the State of Alaska under the provisions of 10 C.F.R. §211.63 can elect to receive royalty in kind once having received its royalty in value.

As set forth more fully hereinafter, we conclude that the State of Alaska is subject to the provisions of 10 C.F.R. §211.63 in the same manner as other royalty owners. We further conclude that, whether the State of Alaska first receives its royalty in kind or in value, a change in crude oil purchasers or the election to receive in kind rather than in value is permitted only upon compliance with the provisions of paragraph (d) of Section 211.63, which provides for the termination of supplier/purchaser relationships under specific prescribed conditions. Our reasons for these conclusions are detailed below.

I

The sale of royalty crude oil by the State of Alaska is subject to the provisions of the Mandatory Petroleum Allocation Regulations.

Section 4(a) of the Emergency Petroleum Allocation Act of 1973, as amended, provides:

(a) Not later than fifteen days after November 27, 1973, the President shall promulgate a regulation providing for the mandatory allocation of crude oil, residual fuel oil, and each refined petroleum product, in amounts specified in (or determined in a manner prescribed by) and at prices specified in (or determined in a manner prescribed by) such regulation. Subject to subsection (d) of this section, such regulation shall take effect not later than fifteen days after its promulgation. Such regulations shall apply to all crude oil, residual fuel oil, and refined petroleum products produced in or imported into the United States. 15 U.S.C.A. §753(a) (1976). (Emphasis added)

There are no provisions in the Emergency Petroleum Allocation Act of 1973 (P.L. 93-159) or in any subsequent amendments thereto (P.L. 93-511; P.L. 94-99; P.L. 94-123; P.L. 94-163; and P.L. 94-385) which provide an exemption for State and local governments from the regulation promulgated pursuant to Section 4(a) of the Act.

On January 14, 1974 the Federal Energy Office (now the Federal Energy Administration) issued the Mandatory Petroleum Allocation Regulations, 10 C.F.R. Part 211, 39 Fed. Reg. 1924, 1932 (January 15, 1974). These regulations, as amended, are still in effect as of this date.

10 C.F.R. §211.1(a) states:

This part applies to the mandatory allocation of crude oil, residual fuel oil and refined petroleum products produced in or imported into the United States.

10 C.F.R. §211.51 provides definitions for the following terms:

"State" means each of the 50 states, The District of Columbia, Puerto Rico, possessions and territories of the United States, other than the Panama Canal Zone.

"Supplier" means any firm or any part or subsidiary of any firm other than the Department of Defense which presently, during the base period, or during any period between the base period and the present supplies, sells, transfers or otherwise furnishes (as by consignment) any allocated product or crude oil to wholesale purchasers or end-users, including, but not limited to, refiners, natural gas processing plants or fractionating plants, importers, resellers, jobbers, and retailers.

"Firm" means any association, company, corporation, estate, individual, joint-venture, partnership, or sole proprietorship or any other entity however organized including charitable, educational, or other eleemosynary institutions, and the Federal Government including corporations, departments, Federal agencies, and other instrumentalities, and State and local governments.

One of the principal purposes of the Emergency Petroleum Allocation Act was to provide for:

. . . equitable distribution of crude oil, residual fuel oil, and refined petroleum products at equitable prices among all regions and areas of the United States and sectors of the petroleum industry, including independent refiners, small refiners, non-branded independent marketers, branded independent marketers, and among all users. 15 U.S.C.A. §753(b)(1)(F) (1976).

Accordingly, neither Congress in the enabling legislation nor the Federal Energy Administration in the allocation regulations has provided any exemption for State and local governments. The allocation regulations treat a State or local government like any other private firm, extending the same rights and imposing the same obligations thereunder. Therefore, the sale of royalty crude oil by the State of Alaska is governed by the same rules and regulations applicable to the sale of crude oil by any firm and is thus fully subject to the provisions of the Mandatory Petroleum Allocation Regulations.

II

The State of Alaska is subject to the regulation on domestic crude oil supplier/purchaser relationships with respect to the sale of royalty crude oil.

The allocation of crude oil produced in the United States, unless otherwise exempted is subject to the regulation set forth in 10 C.F.R. §21.63 governing domestic crude oil supplier/purchaser relationships. Section 21.63(a) states:

Scope. This section provides for the allocation of crude oil produced in the United States other than crude oil which is the subject of (1) purchases and sales made to comply with §21.65 of this subpart; (2) sales of crude oil made pursuant to Parts 225 and 225a, Chapter II of Title 30 of the Code of Federal Regulations; (3) the first sale of crude oil under 10 U.S.C. 7430(b), as amended by §201 of the Naval Petroleum Reserves Production Act of 1976; and (4) the first sale of any domestic crude oil produced and sold from a property from which domestic crude oil was not produced and sold prior to January 1, 1976.

The general rule regarding the establishment and maintenance of a supplier/purchaser relationship is set forth in Section 21.63(b)(1) and (2) which state:

General rule. (1) All supplier/purchaser relationships in effect under contracts for sales, purchases and exchanges of domestic crude oil on January 1, 1976 shall remain in effect for the duration of this program; provided, however, that any such supplier/purchaser relationship to which this section is applicable may be terminated as provided in paragraph (d) of this section.

(2) Once any first sale, purchase or exchange of domestic crude oil is made which is exempt from this rule pursuant to paragraph (a)(4) of this section, or once the sale, purchase or exchange of any domestic crude oil that has at any time been the subject of a supplier/purchaser relationship under subparagraph (1) of this paragraph (b) is made in accordance with this section to a firm that was not the purchaser thereof on January 1, 1976, or has not continued to purchase that crude oil without interruption since December 31, 1975, a supplier/purchaser relationship between the seller and purchaser shall be established thereafter under this section as though it had been in effect on January 1, 1976.

Since the subject state royalty crude oil was not produced and sold prior to January 1, 1976, under the provisions of Section 211.63(b)(2) once the first sale, purchase or exchange of the state royalty crude oil is made, a supplier/purchaser relationship between the supplier and purchaser is established thereafter as though it had been in effect on January 1, 1976. Under the provisions of Section 211.63(b)(1) the supplier/purchaser relationship thus established remains in effect for the duration of the program and may only be terminated under the specific and limited provisions set forth in Section 211.63(d) unless otherwise ordered by the Federal Energy Administration through the granting of an application for exception.

Section 211.63(d) sets forth the conditions for termination of supplier/purchaser relationships. None of the provisions provide for unilateral termination by the supplier. The provisions which would be relevant to termination of the supplier/purchaser relationship by the State of Alaska are Section 211.63(d)(1)(i) and (iii) which state:

→ (d) Termination of supplier/purchaser relationships.

(1) Any supplier/purchaser relationship established under paragraph (b) of this section may be terminated as follows:

(i) at the option of the purchaser, as evidenced by its written consent thereto together with notice of the termination date given to the producer, provided all subsequent purchasers of the crude oil involved have consented to such termination in writing;

* * *

(iii) by a producer (as defined in Part 212 of this chapter), if the present purchaser as to any old, new or stripper well lease crude oil (as defined in §§212.72 and 212.74 of Part 212 of this chapter) refuses, within a fifteen day period after receipt of written notice as to that offer from the producer, to meet any bona fide written offer made by another purchaser to purchase such crude oil at a lawful price above the price paid by the present purchaser.

In addition, Section 211.63(d)(iv) provides that a supplier/purchaser relationship may be terminated by a producer or reseller as to a reseller purchasing from it provided that certain complex and express conditions are satisfied. For the purpose of this rule a "producer" means "a firm or that part of a firm which produces crude oil or natural gas, or any firm which owns crude oil or natural gas when it is produced." 10 C.F.R. §212.31. If the State of Alaska owns the royalty crude oil when it is produced, it is a "producer" for purposes of Section 211.63(d). Consequently, the State of Alaska would be subject to the same rules applicable to a "producer" for the purposes of terminating a supplier/purchaser relationship.

The application of Section 211.63 to sales of state royalty crude oil have been considered by the FEA in a number of situations. In each case the applicability of Section 211.63 to sales of state royalty crude oil was either upheld or unchallenged. For example, in California State Lands Commission, 2 FEA ¶80, 507 (January 17, 1975), the FEA upheld an interpretation issued May 17, 1974 by the Deputy General Counsel to Signal Oil and Gas Company that under the provisions of Section 211.63 Signal Oil, a firm which on December 1, 1973 was receiving the royalty share of crude oil produced under the terms of a lease in effect with the State of California, was entitled to continue to receive that crude oil despite the fact that on November 29, 1973 the State had signed a new contract with two other companies who were to receive the crude oil involved as of May 1, 1974.

In another case, California State Lands Commission, 3 FEA ¶80,598 (March 12, 1976), the FEA upheld a Remedial Order issued to the California State Lands Commission on October 31, 1975 which found that the Commission had violated Section 211.63 by selling state royalty crude oil to U.S. Oil and Refining Co. at a time when its supplier/purchaser relationship for the crude oil involved was still in effect with Atlantic Richfield Co. who still desired to purchase the crude oil. In its decision the FEA made reference to the retroactive repeal of the exemption of price controls on the sale of crude oil and refined petroleum products by state and local governments which was sustained in California v. Simon, 504 F.2d. 430 (T.E.C.A. 1974), cert. denied, 419 U.S. 1021 (1974). The FEA decision stated in part:

... In this connection it should be noted that in promulgating the retroactive repeal the FEA clearly indicated that it was taking such action not only to prevent immediate price dislocations as suggested by the Commission, but also in order to prevent dislocations in the national distribution system by eliminating the opportunity and incentive for governmental entities to alter existing supplier/purchaser relationships with respect to royalty oil. See Notice, 39 Fed. Reg. 7176 (February 25, 1974). ... California State Lands Commission at p. 80,869.

In Vaughey and Vaughey Oil Producers, 4 FEA ¶83,072 (August 27, 1976), the FEA granted exception relief to Vaughey and Vaughey Oil Producers which permitted them to sell 100 percent of the crude oil produced from the Lawry Bombing Range Field located in Arapahoe County, Colorado, for the benefit of the working interest owners at upper tier ceiling prices. On November 10, 1976, the Colorado Board of Land Commissioners, as royalty interest owner, filed an Appeal which, if granted, would have permitted Colorado to share in the additional revenues generated as a result of the relief granted to the working interest owners in the August 27 Order. In Colorado State Board of Land Commissioners, 4 FEA ¶ (January 26, 1977), the FEA considered and rejected the Appeal by the State. The decision notes that Colorado as a royalty

interest owner is a producer of crude oil and thus subject to the price regulations which govern the first sale of domestic crude oil. FEA dismissed Colorado's contention that the Vaughey decision unlawfully impairs contractual obligations under the terms of the lease which provided that Colorado is entitled to 1/8 of the gross proceeds derived from the sale of all crude oil produced at those wells as a royalty. According to FEA's reading of the lease, Colorado's royalty payment was based upon a fraction of production, not revenue. The decision goes on to state:

... In enacting the Emergency Petroleum Allocation Act of 1973 (EPAA), as amended, the Congress expressly recognized that the Regulations which the FEA promulgates and the determinations which it issues to achieve the statutory objectives will on occasion abrogate certain prior private contractual arrangements. See H.R. Conference Rep. No. 628, 93rd Congress, 1st Sess. 24 (1973), Fed. Energy Guidelines, Par. 10,610, p. 10,619-9. The authority of the FEA to preempt private contracts in order to effectuate provisions of the EPAA has in fact been specifically sustained by the federal courts. See Basin, Inc. v. Federal Energy Administration, 534 F.2d. (324,326) (TECA 1976); Condor Operating Co. v. Sawhill, 514 F.2d. 351 (TECA), cert. denied, 421 U.S. 976 (1975); Citronelle-Mobile Gathering v. Gulf Oil Corp., 420 F. Supp. 162 (S.D. Ala. 1976); Trans World Airlines, Inc. v. Federal Energy Office, 380 F. Supp. 560 (D.D.C. 1974) affirmed, 520 F.2d 1339 (TECA 1975).

The FEA also rejected arguments by Colorado that the Vaughey Decision was invalid because of alleged statutory and constitutional conflicts. The Decision states:

We are also unpersuaded by the Board's further contentions that the Vaughey Decision is invalid because of alleged conflicts with a provision of the Constitution of Colorado and with a federal statute granting that State certain lands. Of course, to the extent that the Colorado Constitution necessarily conflicts with federal law, federal law would prevail. U.S. Const. art. 6. However, we perceive no real conflict between the Vaughey Decision and Article IX, Section 10 of the Constitution of Colorado which provides only that in making provision for the disposition of state lands, the Board shall "secure the maximum possible amount therefor." Nor do we perceive any conflict between the Vaughey Decision and Colorado's enabling act in which Congress, at Section 7, merely granted the State certain lands to be used for the support of common schools.

The Board further contends that the Vaughey Decision "appears to interfere with rights left to the State under article X of the United States Constitution." No authority has been cited by the Board for this proposition, nor has the Board described the nature of the supposed tenth amendment rights upon which the Decision allegedly encroaches. That contention must therefore be rejected. We note, however, that the relevant FEA statutory provisions were enacted by the Congress pursuant to the authority delegated to it under Article I of the Federal Constitution, viz. the commerce, general welfare and common defense clauses of Article I Section 8. See Federal Energy Administration Act of 1974 (P.L. 93-275, May 7, 1974), Section 2(a); Emergency Petroleum Allocation Act of 1973 (P.L. 93-159, November 27, 1973), Section 2(a)(3). Since these Acts were passed pursuant to powers delegated to Congress by Article I of the Constitution, they cannot also have been reserved to the states in the tenth amendment.

As further support that Section 211.63 is applicable to government royalty crude oil, FEA has consistently held that Section 211.63 is applicable to federal royalty crude oil. In Ruling 1974-22, the FEA stated:

Ruling: The mandatory allocation regulations in Part 211 provide no exemption for the Federal government. Therefore, the Department of the Interior is fully subject to all the provisions in that Part. Section 211.63(a) provides that "all supplier/purchaser relationships in effect under contracts for sales, purchases, and exchanges of domestic crude oil on December 1, 1973, shall remain in effect for the duration of this program. . . ." 39 Fed. Reg. 25228 (July 9, 1974).

In Mohawk Petroleum Corporation, Inc. v. Department of the Navy, 521 F.2d 1394 (T.E.C.A. 1975), the Temporary Emergency Court of Appeals confirmed that the Department of the Navy was subject to Section 211.63 with respect to sales of crude oil from the Elk Hills Petroleum Reserve. In that decision the court noted:

We are unable to fault, and are not sure whether the Department of the Navy now faults, the administrative determination of the President's delegatee that the power which Congress had conferred upon the President to regulate the sale of "all" crude oil includes some power to regulate sales by federal agencies. Indeed, this court recently held that FEA had validly subjected oil produced by the State of California to the emergency federal price controls by rescinding an earlier administrative exception

that had exempted transactions of States and municipalities from regulation. California v. Simon, T.E.C.A. 1974, 504 F.2d 430. If a federal statute empowering the President to control "all" domestic oil covers oil produced by other sovereignties, a fortiori, it covers oil produced by the federal government over which Congress and the President exercise supreme and direct legislative and executive power. 521 F.2d at 1395.

Subsequent to the TECA opinion cited above, Congress passed the Naval Petroleum Reserves Production Act of 1976 (P.L. No. 94-258) which among other things provided that the mandatory petroleum allocation and price regulations did not apply to the first sale of U.S. owned petroleum by the Secretary of the Navy from the naval reserves. Thus, Congress chose to provide only a limited and very specific exemption for the federal government on sales of crude oil.

In J & W Refining Co., 3 FEA ¶80,602 (March 19, 1976) the FEA confirmed an interpretation of the General Counsel that sales of crude oil by the U.S. Geological Survey were subject to the provisions of Section 211.63. The FEA concluded that under the circumstances of the case, Shell Oil Co. had not consented to a termination or waiver of its supplier/purchaser relationship with USGS because it had delivered the royalty oil to J & W Refining Co. in compliance with a USGS directive.

In a more recent decision, United States Geological Survey, 4 FEA ¶ (January 26, 1977), the FEA denied USGS the right, as a royalty owner, to share in the additional income which had been given to the working interest owners as a result of granting an application for exception in M.J. Mitchell, 3 FEA ¶83,146 (April 2, 1976). In denying the contention of USGS that such action unlawfully impaired the contractual obligations in the lease, the USGS decision states:

... It has been firmly established that the FEA has the authority to preempt the terms of any contract which prevents the effectuation of the policy objectives set forth by the Congress in the Emergency Petroleum Allocation Act of 1973, as amended, (EPAA, Pub. L. 93-159) and subsequent legislation. Trans World Airlines v. F.E.O., 2 CCH Fed. Energy Guidelines Par. 26,004 (DDC 1974), aff'd, 2 CCH Fed. Energy Guidelines Par. 26,006 (TECA 1975). Even if these leases had in fact been abrogated by the manner in which exception relief was granted in these cases, then the applicable statutes sustain the FEA action. ...

Furthermore, in response to the assertion by USGS that the exception relief granted in the prior Decision contravenes the Oil and Gas Operating Regulations (30 C.F.R. Part 221) promulgated by the Secretary of Interior, under the authority of the Mineral Leasing Act of 1920 (30 U.S.C. §181 et seq.) the USGS Decision states:

We are unpersuaded by the USGS's argument. The Mineral Leasing Act itself fails to define the value of production, and, in fact, permits payment in kind by the lessee by allocating 12 1/2 percent of the total amount of production from a particular lease to the USGS. Although the Department of the Interior Regulations concerning royalties owed to the United States, as set forth in 30 CFR, Section 221.47, provide for the payment of not less than 12 1/2 percent of the gross proceeds from a lease as the royalty payment, these regulations can be superseded by an FEA determination that the Federal interest will be furthered by requiring the royalty payment to the USGS to be limited by the pricing provisions of the EPAA while the working interest share is sold at higher price levels. The FEA has made this determination in the present case. . . .

FEA's position is clear and consistent. Section 211.63 is equally applicable to federal, state and local governments as it is to private firms. The Courts have upheld FEA's removal of the exemption of State and local governments from price regulations, California v. Simon, supra, thus subjecting them to the same regulations as private firms. With respect to Section 211.63 itself, the Temporary Emergency Court of Appeals has held that Section 211.63 is constitutional and a rational exercise of the powers that had been delegated to FEA. Condor Operating Co. v. Sawhill, 514 F.2d 351 (TECA 1975).

However, it should be noted that on October 22, 1976, Judge Suttle of the U.S. District Court for the Western District of Texas held that Section 211.63 violated the congressional mandate that competitiveness in petroleum marketing be encouraged. The Court held that Section 211.63 amounted to a total denial of access to crude oil by new firms and was generally arbitrary and an abuse of FEA's discretion. The Court declared that Section 211.63 as it now exists is invalid, unlawful, null and void. Basin, Inc. v. FEA, No. SA-75-CA-250 (W.D. Tex. 1976). On November 3, 1976 the District Court's Order was stayed pending appeal by the Temporary Emergency Court of Appeal. Basin, Inc. v. FEA, No. 5-21 (TECA 1976). Briefs have been filed and oral argument was heard on January 21, 1977.

III

If the State of Alaska receives its royalty in value, it will be precluded from receiving its royalty in kind under the provisions of Section 211.63 unless the supplier/purchaser relationship for the crude oil involved is terminated pursuant to the provisions of paragraph (d) of Section 211.63

If the State of Alaska as lessor elects to receive its royalty in value, as is its option under the oil and gas lease, the lessee (producer or working interest owner) is required to pay the State the field market price or value at the well of all royalty oil produced and saved and removed or sold from said land. State of Alaska Competitive Oil and Gas Lease, paragraphs 11 and 14. Consequently, the royalty crude oil will either be removed and refined by or for the account of the lessee or sold or exchanged to a third party by the lessee.

See
Page Five

As discussed previously, once the first sale, purchase or exchange of this royalty crude oil is made, a supplier/purchaser relationship between the supplier and the purchaser of the crude oil involved will be established under Section 211.63. At the outset, we note the question of whether the payment by the lessee to the State for royalty in value constitutes a "first sale" under the FEA allocation regulations. As background, it should be noted that the terms "first sale" and "producer" have not been defined under the allocation regulations. Under the price regulations, however, "first sale" means "the first transfer for value by the producer or royalty owner." 10 C.F.R. §212.72. "Producer" means "a firm or that part of a firm which produces crude oil or natural gas, or any firm which owns crude oil or natural gas when it is produced." 10 C.F.R. §212.31.

If FEA were to apply the same definitions of "first sale" and "producer" set forth in the price regulations to the allocation regulations, we believe that the receipt of payments for royalty in value would constitute a first sale only if the State of Alaska "owns" the royalty crude oil when it is produced. It is not entirely clear whether the State owns the crude oil when it is produced in the instant case and we need not attempt in this letter to examine the intricacies of Alaskan oil and gas law to determine the same, since a supplier/purchaser relationship under Section 211.63 will attach to the crude oil involved in either case.

FEA has held that a supplier/purchaser relationship under Section 211.63 existed between the lessor (State of California) and the lessee (Signal Oil and Gas Company) where on December 1, 1973 the State was receiving its royalty in value. California State Lands Commission, 2 FEA ¶80,507 (January 17, 1975). Therefore, it can be expected that the FEA would take the position that the payment of royalty in value constitutes a sale - actual or imputed - under the allocation regulations with respect to the royalty crude oil sufficient to establish a supplier/purchaser relationship under Section 211.63 between the

lessor (State of Alaska) and lessee (producer). To the extent that the payment of royalty in value constitutes a sale - actual or imputed - the State of Alaska will be precluded from receiving its royalty in kind at a subsequent date unless the supplier/purchaser relationship for the crude oil involved is terminated pursuant to the provisions of paragraph (d) of Section 211.63.

On the other hand if the payment of royalty in value does not constitute a sale under the allocation regulations, then the crude oil would be owned by the lessee when it is produced. Accordingly, the sale of the royalty crude oil by the lessee would constitute a first sale and a supplier/purchaser relationship would be established between the lessee and the third party purchaser under the provisions of Section 211.63. This relationship, once established, cannot be terminated except in accordance with the provisions of paragraph (d) of Section 211.63. Furthermore, if there are successive sales or exchanges of the royalty crude oil to additional firms, each successive sale or exchange establishes a supplier/purchaser relationship between the parties concerned. Under the provision of paragraph (d)(1)(i) of Section 211.63 the consent of each subsequent purchaser of the royalty crude oil is required in order to terminate the initial supplier/purchaser relationship.

A more difficult question arises where the lessee removes the crude oil from the lease and refines the crude oil itself or has the crude oil refined for its account by another refiner. It is possible that under this situation there has never been a sale, and hence, no first sale. To the extent that the lessee transfers the crude oil to affiliated entities for refining, FEA would most likely impute a sale as it has under the price regulations for transfers between affiliated entities. Even if FEA does not impute a sale, it will undoubtedly impose a supplier/purchaser relationship between the affiliated entities since FEA intends that there be a supplier/purchaser relationship in effect with respect to all crude oil sales. See 10 C.F.R. §211.1(a). Since it is the purpose of Section 211.63 to maintain the flow of crude oil in the same manner as on the freeze date, it is unlikely that FEA would permit a royalty owner to interfere with the obligations of a supplier or the rights of a purchaser under Section 211.63, even if FEA had to resort to the fiction of imputing a "first sale" in order to maintain the flow of crude oil as on the freeze date. Permitting royalty owners to redirect the sale of crude oil from producer-refiners who were receiving the crude oil involved on the freeze date would likely be deemed contrary to and inconsistent with the mandatory crude oil allocation program. If permitted, it could provide a disruptive and non-beneficial exception to the allocation program.

The FEA Decisions and Orders in the California State Lands Commission cases, supra, the Colorado State Board of Land Commissioners, supra, and the U.S. Geological Survey, supra, clearly hold that state, as well as federal governmental bodies, cannot redirect the sale of royalty crude oil unless the supplier/purchaser relationship in effect for the crude oil involved is terminated in accordance with paragraph (d) of Section 211.63. Since the State cannot redirect the sale of the royalty crude oil to a new purchaser, likewise it would

not be permitted to redirect the crude oil to itself for consumption or resale. We therefore conclude that as long as the purchaser who has a valid supplier/purchaser relationship in effect under Section 211.63 continues to purchase the royalty crude oil involved, the State of Alaska is legally precluded from receiving its royalty in kind until such time as the supplier/purchaser relationship is terminated, notwithstanding any terms of the lease or state statutes or regulations providing to the contrary.

IV

As a final matter, it should be noted that this letter does not address the question of whether the State of Alaska may, by contract, require the purchaser (and subsequent purchasers) of the royalty crude oil to consent to the termination of the supplier/purchaser relationship upon the request of the State. Whether such a contract provision is feasible or enforceable, in light of the intent underlying Section 211.63, is beyond the scope of this letter.

CONCLUSION

It is therefore our opinion that:

- (1) The sale of royalty crude oil by either the State of Alaska or by the producer is subject to the provisions of the Mandatory Petroleum Allocation Regulations, 10 C.F.R. Part 211;
- (2) The sale of royalty crude oil by either the State of Alaska or by the producer constitutes the sale of crude oil by a supplier subject to the regulation on domestic crude oil supplier/purchaser relationships, 10 C.F.R. §211.63; and
- (3) If the State of Alaska receives its royalty in value, it will be legally precluded from receiving its royalty in kind under the provisions of 10 C.F.R. §211.63 unless the supplier/purchaser relationships established for the crude oil involved are terminated pursuant to the provisions of paragraph (d) of Section 211.63.

Sincerely,

Chapman, Gadsby, Hannah
and Duff

By Lawrence I. Abrams
Lawrence I. Abrams

LIA/mas

STATE OF ALASKA THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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

MEMORANDUM

February 25, 1977

SUBJECT: Effect of Federal Energy Administration regulations on royalty gas sale contracts.

TO: Senator Huber

FROM: Randolph Berry, Revisor of Statutes

The following questions have been presented for answer:

- (1) What was the basis for the mandatory continuation by the Federal Energy Administrator of the "Tesoro" contract beyond its contractual expiration date?
- (2) Would the same result occur had the issue been withdrawal of royalty gas under the provisions of the royalty gas sale contracts?

The answers to these questions must of necessity be somewhat brief as the time limits involved preclude an in-depth and detailed analysis.

The answer to the first question is found in the Federal Energy Administration regulations promulgated under the Emergency Petroleum Allocation Act of 1973.

Section 4(c)(1) of that Act provides for the establishment, by regulation, of a mandatory allocation program which would continue to allocate to a wholesale purchaser of crude oil and of petroleum products amounts not less than the amounts sold or otherwise supplied to that purchaser during the corresponding period of 1973.

The regulations issued under this section to carry out the mandatory petroleum allocation program are contained in 10 CFR, Part 211. Section 211.9(a)(2) of those regulations provide that supplier/wholesale purchaser relationships covered by the regulations shall be maintained for the duration of the mandatory petroleum allocation program, and may be terminated only with the express written approval of the FEA, or with the mutual consent of both parties.

As the contract providing for the sale of the state's royalty oil to Tesoro created a supplier/wholesale purchaser relationship

covered by the allocation regulations, that relationship could not be terminated without the above conditions being met.

In answer to question (2), the Emergency Petroleum Allocation Act and the mandatory petroleum allocation regulations apply only to crude oil, residual fuel oil, and refined petroleum products produced in or imported into the United States. They do not apply to natural gas other than natural gas liquids. Consequently, under the present wording and coverage of that Act and the regulations under it, Sections 3.3 and 3.4 of the proposed royalty sale contracts relating to reduction of royalty gas deliveries by the state would not be affected. However, the regulatory tools which are provided in the petroleum allocation program would, if the coverage of the allocation Act were extended to cover natural gas, produce the same result as that obtained in the "Tesoro" contract.

The temporary Emergency Natural Gas Act of 1977 does not go to the extent of providing for mandatory allocation of natural gas. It does, however, contain a provision which would be relevant to the above question if the mandatory allocation program were extended to natural gas -- Section 9 of the Act provides that it is a defense in a breach of contract action that the Act constituting the breach was taken for the purpose of complying with an order issued under the Act and negates certain types of contract provision which would inhibit the effectiveness of the Act.

In view of the relatively rapid changes in federal energy legislation and the current interest in that area brought about by the events this winter, I would not feel confident to speculate about the likelihood of either the mandatory gas allocation or of the continued exemption of gas from mandatory allocation.

RB:vc

EMERGENCY PETROLEUM ALLOCATION ACT OF 1973

Section 4. MANDATORY ALLOCATION.

7

means the effective date specified in section 402(b) of the Energy Policy and Conservation Act.

(3) The President in promulgating the regulation under subsection (a) shall give consideration to allocating crude oil, residual fuel oil, and refined petroleum products in a manner which results in making available crude oil, residual fuel oil, or refined petroleum products to any person whose use of fuels other than crude oil, residual fuel oil, and refined petroleum products has been curtailed by, or pursuant to a plan filed in compliance with, a rule or order of a Federal or State agency, or where such person's supply of such other fuels is unobtainable by reason of an abandonment of service permitted or ordered by a Federal or State agency.

(c)(1) To the extent practicable and consistent with the objectives of subsection (b), the mandatory allocation program established under the regulation under subsection (a) shall be so structured as to result in the allocation, during each period during which the regulation applies, of each refined petroleum product to each branded independent marketer, each nonbranded independent marketer, each small refiner and each independent refiner, and of crude oil to each small refiner and each independent refiner, in an amount not less than the amount sold or otherwise supplied to such marketer or refiner during the corresponding period of 1972, adjusted to provide—

(A) in the case of refined petroleum products, a pro rata reduction in the amount allocated to each person engaged in the marketing or distribution of a refined petroleum product if the aggregate amount of such product produced in and imported into the United States is less than the aggregate amount produced and imported in calendar year 1972; and

(B) in the case of crude oil, a pro rata reduction in the amount of crude oil allocated to each refiner if the aggregate amount produced in and imported into the United States is less than the aggregate amount produced and imported in calendar year 1972.

(2)(A) The President shall report to the Congress monthly, beginning not later than January 1, 1974, with respect to any change after calendar year 1972 in—

(i) the aggregate share of nonbranded independent marketers,
(ii) the aggregate share of branded independent marketers,

and

(iii) the aggregate share of other persons engaged in the marketing or distributing of refined petroleum products, of the national market or the regional market in any refined petroleum product (as such regional markets shall be determined by the President).

(B) If allocation of any increase of the amount of any refined petroleum product produced in or imported into the United States in excess of the amount produced or imported in calendar year 1972 contributes to a significant increase in any market share described in clause (i), (ii), or (iii) of subparagraph (A), the President shall by order require an equitable adjustment in allocations of such product under the regulation under subsection (a).

(3) The President shall, by order, require such adjustments in the allocations of crude oil, residual fuel oil, and refined petroleum products established under the regulation under subsection (a) as may reasonably be necessary (A) to accomplish the objectives of subsection

Source: 33 FR 35511, Oct. 1, 1974, unless otherwise noted.

§ 211.1 Scope.

[39 FR 35511, Oct. 1, 1974, as amended at 59 FR 44406, Dec. 24, 1994]

Unless otherwise specified in Subparts D through K of this part, the general provisions set forth in this subpart apply to the mandatory allocation of all allocated products.

(a) *Supplier/wholesale purchaser relationship.* (1) Each supplier of an allocated product shall supply all wholesale purchaser-resellers and all wholesale purchaser-consumers which purchased or obtained that allocated product from that supplier during the base period as specified in Subparts D through K of this part.

§ 211.10 Supplier's method of allocation.

(a) *General.* (1) Suppliers of allocated products shall allocate all of their allocable supply in accordance with the provisions of this section unless otherwise specified in Subparts D through K of this part. Each supplier shall determine

is allocation provisions of tion. Suppl wholesale pl graph (c) c end-users w allocate the ance with t (d) of this : cation for paragraph with allocat (1.0) must provisions c tion, while fractions in accordance paragraph which sell which are more than the applic paragraph

(2) For plier in the parent and solidated directly or

(b) Allo shall dete prior to n plier's all riod which for an all to its all which is of this se by its su of distri paragraph pliers sha tions for justment in their shall onl tion for tent per permitte FEA. Su tributor pendent the IFEA with Sul ter, for cation f allocatio cable on of the p

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legislative history of what the language was intended to do.

I hope the record indicates that those of us on the minority side who are concerned about trying to solve the problem at this moment, have not in any way either slowed down or tried to confuse this legislation.

I would hope that we would go ahead and pass this rule and pass the conference report.

Mr. DELANEY. Mr. Speaker, I yield 1 minute to the chairman of the Committee on Interstate and Foreign Commerce, the gentleman from West Virginia (Mr. STAGGERS).

(Mr. STAGGERS asked and was given permission to revise and extend his remarks.)

Mr. STAGGERS. Mr. Speaker, I would like to agree with the gentleman from Ohio who just spoke that we have an emergency in this land. There has been a lot of effort directed toward trying to lead us off of what we are trying to do.

We have an emergency we need to solve. I should like to say categorically now for the record that any gas ordered to be allocated will be paid back either in kind or with the monetary compensation. We are not trying to take any intrastate gas, or regulate it, and the Members cannot point to any place in the record where the bill does. Every individual in this House knows that we must do something or we will be called a do-nothing Congress, and then they ought to turn us all out. There are many people who are sick and do not have heat and who are disabled. We need to do something now, and I think that we ought to vote the rule up now and vote out the bill. I think every Member of the House knows that, and I think if they do not vote that way, there will be something the matter with their thinking.

Mr. DELANEY. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. DINGELL).

(Mr. DINGELL asked and was given permission to revise and extend his remarks.)

Mr. DINGELL. Mr. Speaker, this is the front page of the Washington Post: "Gas Crisis May Close Factories Until April."

People are out of work, and there are real dangers that pipelines are not going to have enough gas to distribute to the home heating users at the other end of the pipeline.

The real question before us now is, Are we going to move on legislation which helps the President and the Nation meet the natural gas crisis? That is what is before us. Whether or not some gas might be jurisdictional, or whether or not some might come under the allocation provision is not really important. What is important is do we meet the needs of the people in Ohio or elsewhere for warm homes, and to keep houses and hospitals going? That is the question.

Vote for the rule; vote for the conference report; and let us move ahead.

Mr. DELANEY. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. MOORE. Mr. Speaker, I demand a recorded vote.

A recorded vote was refused.

So the resolution was agreed to.

A motion to reconsider was laid on the table.

EMERGENCY NATURAL GAS ACT OF 1977

Mr. STAGGERS submitted the following conference report and statement on the Senate bill (S. 474) to authorize the President of the United States to order emergency deliveries and transportation of natural gas to deal with existing or imminent shortages by providing assistance in meeting requirements for high-priority uses; to provide authority for short-term emergency purchases of natural gas; and for other purposes:

CONFERENCE REPORT (H. REPT. 95-7)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 474) to authorize the President of the United States to order emergency deliveries and transportation of natural gas to deal with existing or imminent shortages by providing assistance in meeting requirements for high-priority uses; to provide authority for short-term emergency purchases of natural gas; and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

"That this Act may be cited as the 'Emergency Natural Gas Act of 1977'."

"DEFINITIONS"

"Sec. 2. As used in this Act:

"(1) The term 'high-priority use' means—

(A) use of natural gas in a residence;

(B) use of natural gas in a commercial establishment in amounts of less than 50 Mcf on a peak day; or

(C) any other use of natural gas the termination of which the President determines would endanger life, health, or maintenance of physical property.

(2) The term "interstate pipeline" means any natural-gas company, as defined in section 2(4) of the Natural Gas Act, which is engaged in the transportation by pipeline of natural gas.

(3) The term "intrastate pipeline" means any person (other than an interstate pipeline) engaged in the transportation by pipeline of natural gas.

(4) The term "interstate natural gas" means natural gas (other than natural gas transported pursuant to a transportation certificate issued under 18 C.F.R. 2.79) transported by an interstate pipeline in a facility which is certificated under the Natural Gas Act or which would be required to be so certificated but for section 1(c) of such Act.

(5) The term "local distribution company" means any person (including a governmental entity) which receives natural gas for local distribution and resale to natural gas users.

(6) The term "antitrust laws" means the Sherman Act (15 U.S.C. 1 et seq.), the Clayton Act (15 U.S.C. 12, 13, 14-19, 20, 21, 22-27), the Federal Trade Commission Act (15 U.S.C. 41 et seq.), sections 73 and 74 of

the Wilson Tariff Act (15 U.S.C. 8-9), and the Act of June 19, 1938, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a), and similar State laws.

(7) The term "State" means any State of the United States and the District of Columbia.

PRESIDENTIAL DECLARATION

SEC. 3. The President may declare a natural gas emergency if he finds that a severe natural gas shortage endangering the supply of natural gas for high-priority uses exists or is imminent in the United States or in any region thereof and that the exercise of his authorities under section 4 is reasonably necessary, having exhausted other remedies to the maximum extent practicable, to assist in meeting requirements for such uses. Such emergency shall be terminated when the President finds that such shortages no longer exist and are no longer imminent.

EMERGENCY DELIVERIES AND TRANSPORTATION OF NATURAL GAS

SEC. 4. (a) (1) If the President finds it necessary to assist in meeting the requirements for high-priority uses of natural gas (including short-term storage replenishment or injection for protection of high-priority uses), on the basis of a notification by the Governor of any State pursuant to subsection (c) or on the basis of other information available to the President, the President may, during a natural gas emergency declared under section 3, by order, require—

(A) any interstate pipeline to make emergency deliveries of, or to transport, interstate natural gas to any other interstate pipeline or to any local distribution company served by an interstate pipeline for purposes of meeting such requirements;

(B) any intrastate pipeline to transport interstate natural gas from any interstate pipeline to another interstate pipeline or to any local distribution company served by an interstate pipeline for purposes of meeting such requirements; or

(C) the construction and operation by any pipeline of any facilities necessary to effect such deliveries or transportation.

No such delivery or transportation may continue after April 30, 1977, or after the President terminates the emergency declared under section 3, whichever is earlier.

(2) No order may be issued under this subsection unless the President determines that such order will not—

(A) create for the interstate pipeline delivering interstate natural gas a supply shortage which will cause such pipeline to be unable to meet the requirements for high-priority uses served, directly or indirectly, by such pipeline;

(B) result in a disproportionate share of deliveries or curtailments of natural gas experienced by such interstate pipeline when compared to deliveries and resulting curtailments which are experienced as a result of orders applicable to other interstate pipelines (as determined by the President); and

(C) require transportation of natural gas by any pipeline in excess of its available transportation capacity.

(3) In issuing such order the President shall also consider the relative availability of alternative fuel to users of the interstate pipeline ordered to make deliveries pursuant to this section.

(b) Compliance by any pipeline with an order issued under subsection (a) shall not subject such pipeline to regulation under the Natural Gas Act (15 U.S.C. 717 et seq.) or to regulation as a common carrier under any provision of State or Federal law. No action required to be taken under an order issued under subsection (a) shall be subject to any provision of the Natural Gas Act and any such order shall supersede any provision of a certification, or other requirement, un-

der the Natural Gas Act which is inconsistent with such order.

(c)(1) The Governor of any State may notify the President of any finding by such Governor that a shortage of natural gas within such State, endangering the supply of natural gas for high-priority uses, exists or is imminent and that the State, and agencies and instrumentalities thereof, have exercised their authority to the fullest extent practicable and reasonable under the circumstances to overcome such shortage.

(2) The Governor shall submit, together with any notification under paragraph (1), information upon which he has based his finding under such paragraph, including—

(A) volumes of natural gas required to meet the requirements for high-priority uses in such State;

(B) information received from persons in the business of producing, selling, transporting, or delivering natural gas in such State as to the volumes of natural gas available in such State; and

(C) such other information as the Governor determines appropriate to apprise the President of emergency deliveries and transportation of interstate natural gas needed in such State.

(d) The President may request that representatives of interstate pipelines, intrastate pipelines, local distribution companies, and other persons meet and provide assistance to the President in carrying out his authority under this section.

(e)(1) In order to obtain information to carry out his authority under this Act, the President may—

(A) sign and issue subpoenas for the attendance and testimony of witnesses and the production of books, records, papers, and other documents;

(B) require any person, by general or special order, to submit answers in writing to interrogatories, requests for reports or for other information, and such answers shall be made within such reasonable period, and under oath or otherwise, as the President may determine; and

(C) secure, upon request, any information from any Federal department or executive agency.

(2) The appropriate United States district court may, upon petition of the Attorney General at the request of the President, in the case of refusal to obey a subpoena or order of the President issued under this subsection, issue an order requiring compliance therewith, and any failure to obey an order of the court may be punished by the court as a contempt thereof.

(f)(1) If the parties to any order issued under subsection (a) fail to agree upon the terms of compensation for deliveries (which may include compensation in kind) or transportation required pursuant to such order, the President, after a hearing held either before or after such order takes effect, shall, by supplemental order, prescribe the amount of compensation (which may include compensation in kind) to be paid for such deliveries or transportation and for any other expenses incurred in delivering or transporting such gas.

(2) If, for the purpose of a supplemental order pursuant to paragraph (1), the party making emergency deliveries pursuant to subsection (a)—

(A) indicates a preference for compensation in kind, the President shall direct that compensation in kind be provided by August 1, 1977, to the maximum extent practicable,

(B) indicates a preference for compensation, or the President determines pursuant to paragraph (A) of this subsection that any action thereof cannot practicably be compensated in kind, the President shall calculate the amount of compensation for deliv-

eries of natural gas, based upon the amount required to make the interstate pipeline delivering such natural gas and its local distribution companies whole for loss of sales resulting therefrom; including the actual amount paid by such interstate pipeline or any of its local distribution companies for the volumes of natural gas or higher cost gas such as synthetic natural gas which were needed to replace natural gas delivered pursuant to an order under subsection (a); and for transportation, storage, and other expenses, based upon reasonable costs, as determined by the President.

(g) In order to effect the purposes of this Act, the President shall monitor the operation of any order made pursuant to this section to assure that natural gas delivered pursuant to this section is applied to high-priority uses only.

ANTITRUST PROTECTIONS

SEC. 5. (a) There shall be available as a defense for any person to civil or criminal action brought for violation of the antitrust laws (or any similar law of any State) with respect to any action taken or meeting held pursuant to a request or order of the President under section 4 (a) or (d) of this Act, if—

(1) such action was taken or meeting held solely for the purpose of complying with the President's request or order;

(2) such action was not taken for the purpose of injuring competition; and

(3) such person complied with the requirements of subsection (b) of this section.

Persons interposing the defense provided by this subsection shall have the burden of proof, except that the burden shall be on the person against whom the defense is asserted with respect to whether the actions were taken for the purpose of injuring competition.

(b) A meeting held pursuant to a request by the President under section 4(d) or pursuant to an order under section 4(a) complies with the requirements of subsection (a) if—

(1) there is present at such meeting a full-time Federal employee designated for such purposes by the Attorney General;

(2) a full and complete record of such meeting is taken and deposited, together with any agreements resulting therefrom, with the Attorney General, who shall make it available for public inspection and copying;

(3) the Attorney General and the Federal Trade Commission have the opportunity to participate from the beginning in the development and carrying out of agreements and actions under sections 4(a) and 4(d), in order to propose any alternative which would avoid or overcome, to the greatest extent practicable, possible anticompetitive effects while achieving substantially the purposes of this Act; and

(4) such other procedures as may be specified in such request or order are complied with.

EMERGENCY PURCHASES

SEC. 6. (a) The President may authorize any interstate pipeline or local distribution company served by an interstate pipeline (or class or category of such pipelines or companies) to contract, upon such terms and conditions as the President determines to be appropriate (including provisions respecting fair and equitable prices), for emergency supplies of natural gas for delivery before August 1, 1977—

(1) from any producer of natural gas (other than a producer who is affiliated with the purchaser as determined by the President) if (A) such natural gas is not produced from the Outer Continental Shelf and (B) the sale or transportation of such gas

was not, immediately before the date on which such contract was entered into, certificated under the Natural Gas Act; or

(2) from any intrastate pipeline, local distribution company, or other person (other than an interstate pipeline or a producer of natural gas).

The President may not authorize any emergency purchase contract under this subsection for emergency supplies of natural gas for sale and delivery from any intrastate pipeline which is operating under court supervision as of January 1, 1977, unless the court approves.

(b)(1) The provisions of the Natural Gas Act shall not apply—

(A) to any sale of natural gas to an interstate pipeline or local distribution company under the authority of subsection (a) or to any transportation by an intrastate pipeline in connection with any such sale; or

(B) to any natural gas company (within the meaning of the Natural Gas Act) solely by reason of any such sale or transportation.

(2) In exercising its authority under the Natural Gas Act, the Federal Power Commission shall not disallow, in whole or in part, recovery by any interstate pipeline, through the rates and charges made, demanded, or received by such pipeline, the amounts actually paid by it for natural gas purchased, transported, or other costs incurred pursuant to subsection (a).

(c)(1) The President may, by order, require any pipeline to transport such natural gas, and to construct and operate such facilities for transportation of natural gas, as may be necessary to carry out contracts authorized under subsection (a). The costs of any such required construction shall be paid by the party receiving such natural gas. No such order shall require any pipeline to transport any natural gas in excess of such pipeline's available capacity.

(2) Compliance by any pipeline with any order under this subsection shall not subject such pipeline to regulation under the Natural Gas Act or to regulation as a common carrier under any provision of State law.

(d) As used in this section, the term "Outer Continental Shelf" has the same meaning as such term has under section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331).

ADJUSTMENT IN CHARGES FOR LOCAL DISTRIBUTION COMPANIES

SEC. 7. Compensation received by an interstate pipeline pursuant to section 4 in excess of the amount such pipeline would have charged its local distribution companies shall be credited to such local distribution companies in proportion to their share of any natural gas not delivered together with credits necessary to make whole any local distribution company which replaced such natural gas with higher cost gas such as synthetic natural gas as prescribed in section 4(f)(2)(B). Compensation paid by an interstate pipeline for deliveries or emergency purchases of natural gas pursuant to section 4 or section 6 shall be charged to such interstate pipeline's local distribution companies in proportion to their share of such natural gas deliveries or purchases.

RELATIONSHIP TO NATURAL GAS ACT

SEC. 8. Except as expressly provided in this Act, nothing contained in this Act shall be interpreted to change, modify, or otherwise affect rules, regulations, or other regulatory requirements or procedures of the Federal Power Commission pursuant to the provisions of the Natural Gas Act.

EFFECT OF CERTAIN CONTRACTUAL OBLIGATIONS

SEC. 9. (a) There shall be available as a defense to any action brought for breach of contract under Federal or State law arising out of any act or omission that such act was

taken or that such omission occurred for purposes of complying with any order issued under section 4(a).

(b) Any contractual provision—

(1) prohibiting the sale or commingling of natural gas subject to such contract with natural gas subject to the provisions of the Natural Gas Act, or

(2) terminating any obligation under any such contract as a result of such sale or commingling.

is hereby declared against public policy and unenforceable with respect to such natural gas if an order under section 4(a) or an authorization under section 6(a) applies to the delivery, transportation, or contract for supplies of such natural gas.

(c) The amounts and prices of any natural gas purchases pursuant to an order under section 4(a), an authorization under section 6(a), or a contract entered into pursuant to 18 C.F.R. 2.68 after the date of the enactment of this Act and before August 1, 1977, shall not be taken into account for purposes of any contractual provision which determines the price of any natural gas (or terminates the contract for the sale of natural gas) on the basis of sales of other natural gas.

ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW

Sec. 10. (a) Subchapter II of chapter 5 of title 5 of the United States Code (other than sections 554, 556, and 557 thereof) shall apply to orders and other actions under this Act.

(b) Except with respect to enforcement of orders or subpoenas under section 4(e), the Temporary Emergency Court of Appeals, established pursuant to section 211(b) of the Economic Stabilization Act of 1970, as amended, shall have exclusive original jurisdiction to review all cases and controversies under this Act, including any order issued, or other action taken, under this Act. The Temporary Emergency Court of Appeals shall have exclusive jurisdiction of all appeals from the district courts of the United States in cases and controversies arising under section 4(e) of this Act; such appeals shall be taken by the filing of a notice of appeal with the Temporary Emergency Court of Appeals within thirty days of the entry of judgment by the district court.

(c) Prior to a final judgment, no court shall have jurisdiction to grant any injunctive relief to stay or defer the implementation of any order issued, or action taken, by the President under this Act.

ENFORCEMENT

Sec. 11. (a) Any person who violates an order or supplemental order issued under section 4 or an order under section 6(c) shall be subject to a civil penalty of not more than \$25,000 for each violation of such order. Each day of violation shall constitute a separate offense.

(b) Any person who willfully violates an order or supplemental order issued under section 4 or an order under section 6(c) shall be fined not more than \$50,000 for each violation of such order. Each day of violation shall constitute a separate violation.

(c) Whenever it appears to the President that any individual or organization has engaged, is engaged, or is about to engage in acts or practices constituting a violation of any order issued under section 4(a), any supplemental order issued under section 4(f), or any order under section 6(c); the President may request the Attorney General to bring a civil action to enjoin such acts or practices and, upon showing, a temporary restraining order or preliminary or permanent injunction shall be granted without bond. In any such action, the court may also issue mandatory injunctions commanding any person to comply with any such order or supplemental order.

REPORTING

Sec. 12. (a) In issuing any order under section 4(a) or granting any authorization under section 6, the President shall require that the prices and volumes of natural gas delivered, transported, or contracted for pursuant to such order or authorization shall be reported to him on a weekly basis and such reports shall be made available to the Congress.

(b) The President shall report to Congress not later than October 1, 1977, respecting his actions under this Act.

DELEGATION OF AUTHORITIES

Sec. 13. The President may delegate all or any portion of the authority granted to him under this Act to such executive agencies (within the meaning of 5 U.S.C. 105) or officers of the United States as he determines appropriate, and may authorize such redelegation as may be appropriate. Except with respect to section 552 of title 5 of the United States Code, any officer or executive agency of the United States to which authority is delegated or redelegated under this Act shall be subject only to such procedural requirements respecting the exercise of such authority as the President would be subject to if such authority were not so delegated.

PREEMPTION OF INCONSISTENT STATE OR LOCAL ACTION

Sec. 14. Any order issued pursuant to this Act shall preempt any provision of any program for the allocation, emergency delivery, transportation, or purchase of natural gas established by any State or local government if such program is in conflict with any such order.

And the House agrees to the same.

HARLEY O. STAGGERS,
JOHN D. DRINGELL,
BOB ECKHARDT,
PHILIP R. SHARP,
ANTHONY TONY MOFFETT,
JAMES T. BROTHILL,
CLARENCE J. BROWN.

Managers on the Part of the House.

ADLAI E. STEVENSON, III,
ERNEST P. HOLLINGS,
J. BENNETT JOHNSTON,
JAMES B. PEARSON,
TED STEVENS.

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 474) to authorize the President of the United States to order emergency deliveries and transportation of natural gas to deal with existing or imminent shortages by providing assistance in meeting requirements for high-priority uses; to provide authority for short-term emergency purchases of natural gas; and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendments struck out all of the Senate bill after the enacting clause and inserted a substitute text, and the Senate disagreed to the House amendment.

The committee of conference recommends that the Senate recede from the disagreement to the amendment of the House, with an amendment which is a substitute for both the text of the Senate bill and the House amendment to the text of the Senate bill.

The text of the conference substitute is the same as the text of the Senate bill with four changes described below.

Section 2(2) of the Senate bill defines the term "interstate pipeline" as any person en-

gaged in the transportation of interstate natural gas.

The conference substitute adopts the House language which defines the term "interstate pipeline" as any natural gas company, as defined in section 2(8) of the Natural Gas Act, which is engaged in the transportation by pipeline of natural gas.

Section 2(4) of the Senate bill defines "interstate natural gas" as natural gas which, but for this Act, is subject to the Natural Gas Act.

Section 2(3) of the conference substitute adopts the House language which defines "interstate natural gas" as natural gas (other than natural gas transported pursuant to a transportation certificate issued under 18 C.F.R. 2.79) transported by an interstate pipeline in a facility certificated under the Natural Gas Act and adds at the end of the House language the following: "or which would be required to be so certificated but for section 1(c) of such Act".

Section 9(c) of the Senate bill provides that the amounts and prices of any natural gas purchased pursuant to an order under section 4(a) or an authorization under section 6(a) will not be taken into account for purposes of any contractual provision which determines the price of any natural gas (or terminates the contract for the sale of natural gas) on the basis of sales of other natural gas.

Section 9(c) of the conference substitute closely follows the Senate bill and the House amendment and provides that the amounts and prices of any natural gas purchases pursuant to an order under section 4(a), an authorization under section 6(a), or a contract entered into pursuant to 18 C.F.R. 2.68 after the date of enactment of this Act and before August 1, 1977, shall not be taken into account for purposes of any contractual provision which determines the price of any natural gas (or terminates the contract for the sale of natural gas) on the basis of sales of other natural gas.

Section 10 of the bill was modified to insure that criminal prosecutions under the Act are heard in the district courts as opposed to the Temporary Emergency Court of Appeals by the addition of the word "civil" before the words "cases and controversies" in section 10.

The House conference receded from the House position on the Eckhardt amendment, which appeared in section 6(a) and (d)(1) of the House amendment (relating to reasonable prices), on the basis of the representations made by Dr. Schlesinger in his letter of January 31, 1977, to Senator Stevenson. The letter reads as follows:

THE WHITE HOUSE,

Washington, D.C., January 31, 1977.

HON. ADLAI E. STEVENSON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STEVENSON: This is in response to your inquiry about the implementation of the "Fair and Equitable" price standard in Section VI of S474, the Emergency Natural Gas Act of 1977.

It is our intention to provide price certainty so that once a specific transaction has been authorized by the President, there would be no risk of a price roll-back for that transaction.

We believe a fair amount of flexibility is desirable to assure the maximum flow of natural gas to areas of shortage. Toward that end, we would expect to establish a threshold level, such as, for example, the price at which natural gas has recently been sold in interstate commerce at which sales would be authorized by general rule and not subject to roll-back. Sales above that level might be subject to specific review. In any event, there would be no roll-back of the price for a

MR. PRESIDENT I THINK IT IS PERTINENT TO REVIEW SOME OF THE FACTS SURROUNDING THE NATURAL GAS SALES CONTRACTS. THEY WILL NOT BE IN ORDER OF IMPORTANCE AND ALL BUT ONE MAY BE AVAILABLE IN THE MOUNTAINS OF TESTIMONY WHICH HAS ACCUMILATED ON THE SUBJECT.

METHYL FUEL

PAGE 1.

- FACT - ENERGY EQUIVALENT OF NATURAL GAS TO OIL IS ABOUT 7 - 1.
- FACT - ALL 3 ENERGY DELIVERY SYSTEMS NOW PROPOSED WITHOUT GOVERNMENT OR USER SUBSIDY WILL NEED TO MARKET ALASKA GAS AT \$4-\$5 PER MCF OR EVEN HIGHER THIS CORRESPONDS TO \$28 - \$35 A BBL FOR OIL.
- FACT - THE EL PASO LINE IS THE MOST EXPENSIVE OF THE 3.
- FACT - THE LIQUEFACTION OF NATURAL GAS IS ONE OF THE LEAST LABOR INTENSIVE PETROLEUM ASSOCIATED INDUSTRIES.
- FACT - SOME OF THE OPEC NATIONS HAVE REFUSED TO ENTER INTO LNG CONTRACTS FOR THE REASON THAT THEY RECEIVED SO LITTLE VALUE FROM SUCH A SYSTEM THAT THEY WOULD SOONER FLARE UNTIL A PROPER PETRO-CHEMICAL INDUSTRY WAS FEASIBLE.
- FACT - ALASKA'S TOTAL NORTH SLOPE NATURAL GAS RESERVES AMOUNT TO LESS THAN A ONE YEAR SUPPLY FOR THE LOWER 48 AT PRESENT CONSUMPTION LEVELS.
- FACT - ALASKA'S NORTH SLOPE GAS MARRIED TO OUR PRESENTLY UNMARKETABLE AND ECONOMICALLY UNFEASIBLE COAL RESERVES WOULD SUPPLY NOT ONLY A PETRO-CHEMICAL INDUSTRY TO ALASKA BUT INCREASE OUR CRITICAL ENERGY SUPPLY TO THE LOWER 48 BY A FACTOR OF 6, *AND MORE.*
- FACT - THIS MEANS TO THE LOWER 48 STATES, HUNGRY BURNERS, A 6 YEAR ENERGY SUPPLY INSTEAD OF ONE YEAR. HOW BETTER COULD WE USE OUR NORTH SLOPE NATURAL GAS TO ALLEVIATE THE ENERGY SHORTAGE.
- FACT - THE ANSWER IS ECONOMICALLY FEASIBLE METHYL FUEL; A MAJORITY OF WHICH IS AN ALCOHOL, CH_3OH , WHICH BURNS CLEANER THAN NATURAL GAS. THIS SUBSTANCE CAN BE MANUFACTURED FROM NATURAL GAS OR MORE EFFICIENTLY FROM ^ASYNERGESTIC MARRIAGE OF OUR ECONOMICALLY UNFEASIBLE NATURAL GAS TO OUR ECONOMICALLY UNFEASIBLE COAL, METHYL FUEL CAN EVEN BE RECONVERTED TO VASTLY MORE NATURAL GAS THAN THE ORIGINAL GAS QUANTITIES INVOLVED.
- FACT - THE OFFERS OF INDUSTRY, SHOWING THE INTEREST TO BUILD SUCH FACILITIES ARE BEFORE THE ADMINISTRATION AND HAVE BEEN FOR OVER A YEAR.
- FACT - THE ADMINISTRATION REJECTED ALL OFFERS FOR OUR GAS IF THEY DID NOT CONTAIN AN OFFER TO SUPPORT THE ECONOMICALLY UNFEASIBLE EL PASO GAS LINE.
- FACT - SUCH ORGANIZATIONS AS WESTINGHOUSE ELECTRIC, SIGNAL BURMAH,

OIL COMPANY, AND WENTWORTH BROTHERS OF CINCINNATI CANNOT EVEN GET ANSWERS TO THEIR LETTERS FROM THE ADMINISTRATION.

FACT - THE INFORMATION SUPPLIED TO THE SENATE SPECIAL COMMITTEE BY SOME OF THESE ORGANIZATIONS IS NOT AVAILABLE FOR OUR CONSIDERATION UNTIL THE TRANSCRIPT IS READY.

FACT - THE IRREVOCABLE COMMITMENT OF OUR NATURAL GAS FROM THE NORTH SLOPE FOREVER FORCLOSES THE ABILITY OF THE STATE OF ALASKA TO USE THIS RESOURCE TO ESTABLISH A METHYL FUEL INDUSTRY OR ANY OTHER PETRO-CHEMICAL INDUSTRY BASED ON THE METHANE ETHANE FRACTIONS IN THE NORTH SLOPE GAS AS WELL AS A LARGE PORTION OF THE NATURAL GAS LIQUIDS.

FACT - THE CONTRACTS COMMIT 100% OF OUR DAILY NORTH SLOPE GAS PRODUCTION RESERVING NOTHING FOR PRESENT AND FUTURE USE. ERRONEOUSLY ADMITTING THERE IS NO USE IN ALASKA AT THE TIME OF THE START OF FLOW OF GAS FOR ANY OF IT. DO YOU BELIEVE WE WILL BE ALLOWED TO DEVELOPE A FUTURE USE AT THE EXPENSE OF COLD STOVES IN GEORGIA OR ELSEWHERE WHEN CURRENT FEA LAW HAS THE JURISDICTION TO FORBID SUCH CONTRACT PROVISIONS.

FACT - THIS HOUSE HAS RESPONDED TO THE MILITARISTIC TACTICS OF THE ORGANIZATION FOR THE MISMANAGEMENT OF ALASKA'S RESOURCES. TO THE EXTENT OF PASSING THESE APPROVALS BEFORE EVEN HAVING THE FULL RECORD OF THE HEARINGS AND THE EXHIBITS AVAILABLE MUCH LESS HAVING READ THEM.

FACT - HASTE MAKES WASTE.

FACT - THE FEDERAL ENERGY ADMINISTRATION HAS THE POWER TO REQUIRE THE FULL DELIVERY OF OIL AND GAS UNDER ANY EXISTING CONTRACT WITHOUT DIMINISHMENT.

FACT - THE 3 COMPANIES EL PASO, TENNECO, AND SOUTHERN COULD AFFORD TO GAMBLE THEY HAD A PAT HAND OF 5 ACES INCLUDING THE JOKER WHICH THE FEA DEALT TO THEM FROM THE BOTTOM OF THE DECK.

FACT - ONCE ALASKA'S ROYALTY SHARE OF EITHER OIL OR GAS IS CONTRACTED THIS ALREADY EXISTING FEA LAW WILL NOT ALLOW DIMINISHMENT WITH OR WITHOUT CONTRACT. UNLESS A SURPLUS OF NATURAL GAS EXISTS WE WILL NOT BE ALLOWED TO DEVELOPE A NEED FOR ANY OF OUR NATURAL GAS.

- FACT - THIS LAW HAS BEEN INVOKED AGAINST ALASKA AND 2 DAYS AGO THE ALASKA OIL & GAS ADVISORY BOARD ACKNOWLEDGED OUR HELPLESSNESS AND EXTENDED THE NOTORIOUS TESORO CONTRACT ON A YEARLY BASIS.
- FACT - IT DIDN'T MAKE ONE BIT OF DIFFERENCE WHETHER THEY EXTENDED IT OR NOT THE FULL COMMITMENT CONTINUES AND WILL BE INVOKED IN LIKE MANNER BY THE FEA IF WE TRY TO WITHDRAW OUR GAS.
- FACT - ONCE THESE CONTRACTS ARE FINALIZED ALASKA'S GAS INCLUDING OUR ROYALTY SHARE ARE FOREVER LOST TO THIS STATE.
- FACT - YOU CAN KISS GOOD-BYE THE OVER 350 MILLION CUF PER DAY NEEDED AFTER 1985 IN YOUR COMMUNITY FOR HEAT AND POWER MR. PRESIDENT.
- FACT - I CAN KISS GOOD-BYE THE CHANCE FOR MY COMMUNITY TO USE THE OVER 150 MCF A DAY NEEDED FOR POWER AND HEAT IN MY COMMUNITY TODAY.
- FACT - ALL OF ALASKA CAN KISS GOOD-BYE THEIR DREAMS TO USE THE NATURAL GAS RESOURCE OF PRUDHOE BAY TO MAKE ALASKA A BETTER PLACE TO LIVE, WORK, AND RAISE OUR FAMILIES.
- FACT - EL PASO, TENNECO & SOUTHERN WILL HAVE AN EDGE ON THEIR COMPETITORS; THEIR VAST INVESTMENT WILL NOT BECOME WORTHLESS AS SOON AS THEIR COMPETITORS WILL.
- FACT - THE INITIATIVE WITH OVER 9000 NAMES ON IT WILL BE TOO LATE TO PROTECT OUR FUTURE USE OF GAS IN THIS STATE IF WE PASS THESE CONTRACTS NOW. FOR A NEW LAW PASSED AFTER A CONTRACT IS IN EXISTENCE IS LIKE LOCKING THE BARN DOOR AFTER THE HORSES ARE STOLEN.

Mr. PRESIDENT, THESE CONTRACTS AND FULL COMMITMENT OF 100% OF THE DAILY PRODUCTION OF OUR NATURAL GAS WILL BE FOREVER LOST TO THE PEOPLE OF THE STATE OF ALASKA. THESE CONTRACTS ONCE IN FORCE WILL BE EVEN MORE IRREVOCABLE THAN WAS YOUR MANDATORY BOROUGH LAW AND FAR MORE DAMAGING. Mr. PRESIDENT, I ASK OF YOU PLEASE REVIEW THE FACTS, COME DOWN OFF YOUR PODIUM AND USE YOUR BRILLIANT ORATOY POWER TO HELP THIS FARMER BOY PROTECT OUR CHILDRENS SHARE OF ALASKA'S ENERGY.

FELLOW LEGISLATORS, I ASK OF YOU, TAKE ANOTHER LOOK, RECONSIDER THIS COMPLICATED SUBJECT AND CAST A NO VOTE TODAY. AT LEAST VOTE NO ON THIS ONE CONTRACT, THE EL PASO CONTRACT, WHICH IS NOT NEEDED IN ORDER TO CONVINCE EL PASO TO FIGHT FOR THE ALL ALASKA ROUTE AND DOES LEAVE US WITH A LITTLE NORTH SLOPE GAS $3 \frac{1}{4}$ % FOR OUR OWN USE. SENATORS THIS LAW WHICH MAY BE SUMMARILY USED AT ANY TIME BY FEA IS NOT ONE OF THE THINGS THAT MIGHT HAPPEN MAYBE OR IF OR BUT. IT IS HERE IN EXISTENCE TODAY AND WAS INVOKED AGAINST US JUST THIS WEEK IN REGARDS TO OUR ROYALTY OIL. TODAY THE OIL. TOMORROW THE GAS.

SURELY ALASKANS ARE ENTITLED TO THIS CONSIDERATION. IT IS COLDER AND DARKER HERE THAN ANYWHERE ELSE IN AMERICA.

ROYALTY OIL - ONE
LA ROCCA

UNLESS THE STATE OF ALASKA SEIZES PHYSICAL CONTROL OF ITS MASSIVE VOLUMES OF NORTH SLOPE ROYALTY OIL THE MOMENT IT'S PRODUCED, IT WILL LOSE THE RIGHT TO TAKE THE CRUDE FOR RESALE OR IN-STATE USE LATER, (ACCORDING TO A PRESTIGIOUS) WASHINGTON, D.C. LAW FIRM WHICH HAS STUDIED THE QUESTION.

THE STATE'S OIL AND GAS LEASES CONTAIN PROVISIONS GIVING THE STATE THE RIGHT TO TAKE ITS 12 1/2 PERCENT ROYALTY SHARE OF OIL PRODUCTION IN-KIND, RATHER THAN IN CASH VALUE, AT ANY TIME. BUT AN OBSCURE FEDERAL ENERGY ADMINISTRATION RULE NEGATES THE LEASE PROVISION AND ONCE THE OIL STARTS TO FLOW BARS THE STATE FROM LATER TAKING THE OIL IN-KIND FOR RESALE OR ITS OWN USE WITHOUT THE CONSENT OF THE PRODUCER OR ANY FIRM WHICH MAY HAVE CONTRACTED TO PURCHASE THE CRUDE FROM THE PURCHASER.

THE RESTRICTION STEMS FROM THE FEDERAL EMERGENCY PETROLEUM ALLOCATION ACT WHICH CONGRESS ENACTED AT THE HEIGHT OF THE ARAB OIL EMBARGO IN 1973. THE ACT'S SWEEPING SIGNIFICANCE IN CONNECTION WITH THE STATE'S ROYALTY OIL FIRST CAME TO LIGHT JUST TWO DAYS AGO WHEN KINY/KICY/BCN REVEALED THAT THE STATE HAD NO CHOICE UNDER THE REGULATIONS BUT TO EXTEND INDEFINITELY AN EIGHT-YEAR-OLD CONTRACT ALLOWING THE TESORO PETROLEUM CORP. TO PURCHASE ALL OF THE STATE'S ROYALTY SHARE OF COOK INLET CRUDE PRODUCTION TOTALLING NEARLY 20,000 BARRELS PER DAY.

UNDER THE FEA REGULATIONS, ONCE A CONTRACTUAL RELATIONSHIP HAS BEEN ESTABLISHED BETWEEN AN OIL SUPPLIER AND PURCHASER, THE CONTRACT CAN BE TERMINATED ONLY WITH THE CONSENT OF THE PURCHASER.

*ROYALTY OIL - TWO
LA ROCCA

IN SHORT, IF THE STATE TAKES IN VALUE ANY OR ALL OF ITS ROYALTY SHARE OF NORTH SLOPE CRUDE - EXPECTED TO EXCEED 150,000 BARRELS PER DAY AT PEAK PRODUCTION - IT WILL BE PRECLUDED FROM TAKING IT IN-KIND UNTIL THE CONTRACTUAL RELATIONSHIP BETWEEN THE PRODUCERS OF THE OIL AND ANY PURCHASERS HAS BEEN FORMALLY TERMINATED AT THE INITIATIVE OF THE PURCHASERS.

SINCE NO PURCHASER IN TODAY'S WORLD MARKET IS LIKELY TO RELINQUISH VOLUNTARILY ANY CRUDE SUPPLIES, THE STATE WOULD LOSE ITS RIGHT TO TAKE ITS ROYALTY OIL IN-KIND SO LONG AS THE FEDERAL MANDATORY PETROLEUM ALLOCATION REGULATIONS ENDURE.

THE LEGAL IMPLICATIONS OF THE FEA REGULATIONS IN CONNECTION WITH THE STATE'S NORTH SLOPE ROYALTY CRUDE WERE OUTLINED IN A LETTER FROM A WASHINGTON, D.C. LAW FIRM, CHAPMAN, GADSBY, HANNAH AND DUFF, TO GEORGE SHIPLEY. SHIPLEY IS AN EXECUTIVE OF THE ALASKA PETROLEUM COMPANY, A HOUSTON FIRM WHICH IS SEEKING TO PURCHASE ALL OF THE STATE'S PRUDHOE BAY ROYALTY OIL.

Royalty Board - One

1a rocca

Federal mandates have locked the state into an extension of the eight-year-old contract requiring the state to continue to sell all of its royalty oil from Cook Inlet production to the Tesoro Corporation's refinery at North Kenai indefinitely, bcn/kicy/kiny has learned.

The contract, which started January, 1970, and expires next January, has poured an average of 20,000 barrels of oil per day into Tesoro's refinery over the eight-year contract period.

The Tesoro contract is up for review at a meeting of the State Royalty Oil and Gas Board scheduled for Tuesday here in Juneau.

But spokesman said that the state has no choice but to extend the contract under the Federal Mandatory Crude Allocation Program, which forbids crude suppliers from unilaterally halting their sales to crude purchases.

The implications of the federal program in connection with Alaska's enormous volumes of pending North Slope royalty oil have "opened up a real can of worms," the spokesman told bcn/kiny/kicy, and that subject will be discussed at length at Tuesday's board meeting by State Commissioner of Natural Resources, Guy Martin, he said.

It implies, among other things, that the federal government could invoke similar powers effectively precluding in-state use of Alaska's North Slope royalty oil. Use of its North Slope gas could be similarly jeopardized if threats to repeal a recent federal law allowing the state to withdraw its royalty gas from one of the proposed North Slope gas pipelines should materialize. The Cook Inlet royalty oil sale contract was secretly negotiated in 1968 during the Hickel administration, and its disclosure precipitated a series of sensational events. These included, legislative committee hearings which forced the state's

Royalty Board - two
la rocca

then-Commissioner of Natural Resources, Tom Kelly, to testify under subpoena, the first time the legislative subpoena power had been invoked in the state's history.

The hearings revealed, among other things, that the purchaser of the royalty crude, an oilman from Texas, had negotiated the contract on behalf of a paper corporation, which then sold the royalty oil rights to Tesoro at a multi-million dollar profit.

this is jl, rpgtg for bcn/kicy/kiny

A M E N D M E N T

Offered in the SENATE

BY HUBER

TO: SENATE CONCURRENT RESOLUTION NO. 4

Page 1, line 29: After "approved" insert the following:

"on the condition that the contract be modified to provide that in the event that seller elects to terminate the contract in accordance with the provisions set out therein, buyer agrees not to use federal regulatory intervention to continue the contract in force, and that in the event that buyer breaches this provision and the contract is prevented from being terminated in accordance with the provisions through federal regulatory intervention, that buyer agrees to pay to seller as liquidated damages the amount of \$1,000,000,000."

A M E N D M E N T

Offered in the SENATE

BY HUBER

TO: SENATE CONCURRENT RESOLUTION NO. 3

Page 1, line 29: After "approved" insert the following:

"on the condition that the contract be modified to provide that in the event that seller elects to terminate the contract in accordance with the provisions set out therein, buyer agrees not to use federal regulatory intervention to continue the contract in force, and that in the event that buyer breaches this provision and the contract is prevented from being terminated in accordance with the provisions through federal regulatory intervention, that buyer agrees to pay to seller as liquidated damages the amount of \$²~~1~~,000,000,000."

A M E N D M E N T

Offered in the SENATE

BY HUBER

TO: SENATE CONCURRENT RESOLUTION NO. 5

Page 1, line 29: After "approved" insert the following:

"on the condition that the contract be modified to provide that in the event that seller elects to terminate the contract in accordance with the provisions set out therein, buyer agrees not to use federal regulatory intervention to continue the contract in force, and that in the event that buyer breaches this provision and the contract is prevented from being terminated in accordance with the provisions through federal regulatory intervention, that buyer agrees to pay to seller as liquidated damages the amount of \$1,000,000,000."

ALL-ALASKA DEVELOPMENT GAS LINE COMMITTEE

Be it enacted by the People of the State of Alaska that the natural gas from the North Slope of Alaska, which belongs to the people of Alaska, shall be transported entirely upon and within the terrestrial territory of the State of Alaska until such transportation system is terminated at tidewater south of the 62nd Parallel.

Sec. 1. It is hereby declared to be the public policy of Alaska that the North Slope natural gas, which belongs to the people of Alaska, shall be utilized within the State to the maximum degree, which the people may elect.

Sec. 2. The Executive and Legislative branches of the government of the State of Alaska may not sell, convey, assign, set aside or encumber, in any manner, the natural gas which belongs to the citizens of Alaska; unless such sale, conveyance, assignment or encumbrance of natural gas be to an individual corporation, association, partnership or other entity, by a terrestrial transportation system entirely within the State of Alaska until such transportation system is terminated at tidewater south of the 62nd Parallel.

SPONSORS	NAME	MAILING ADDRESS	VOTING PRECINCT DISTRICT
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Signature: _____

Print Name: _____

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HOUSE FINANCE COMMITTEE

March 2, 1977

3:45 p.m.

Reps. Cowper, Swanson, Freeman, Rhode, Haugen, Schaeffer, Meekins and Buchholdt were present. Reps. Rudd, Specking, and Seversen were also present. Others present were: Commissioner Lee McAnerney, Department of Community and Regional Affairs; Reed Stoops, Coordinator, Division of Community and Rural Development; Commissioner Sterling Gallagher, Department of Revenue; Kent Dawson, Special Assistant to the Governor; and Milt Barker, Fiscal Analyst, Legislative Finance Division.

Present

The first bill to be considered was HB 107, "A special appropriation to the City of Eagle for restoration of Wickersham Court House; and providing for an effective date." Rep. Swanson, sponsor of the bill, said that if we accept this \$5,000 donation they will match it with an equal amount on a 50-50 basis. That would complete the restoration of the Wickersham Court House. Rep. Cowper questioned whether the legislature could appropriate directly to the City of Eagle. Rep. Swanson explained that Eagle was a first class city and could receive an appropriation.

HB 107

Rep. Swanson moved and asked unanimous consent to report out HB 107. There was no objection; it was so ordered. The committee report was circulated, and HB 107 was reported out with a unanimous "do pass" recommendation.

*Reported out
"DO PASS"*

The next bill before the Committee was HB 151, "A supplemental appropriation of \$75.0 to Fish and Game to purchase real property known as the Rabbit Creek Rifle Range within Potter Point State Game Refuge." Rep. Rudd, sponsor of the bill, was present to testify. Rep. Rudd explained that this had been before the Committee in prior years. It was put into the budget by the legislature but vetoed by the Governor after the session last year. He has said that he recognizes the concern and expected that action would be taken in the coming year. He has said he would not veto a bill with the Rabbit Creek Rifle Range in it as long as other rifle ranges weren't tacked on. This is a proper state function. The rifle range is within the boundaries of the Potter Marsh state game refuge. It is the hope of the Division of Game and the Division of Parks that sometime we will find in Anchorage another site for a rifle range. That probably won't happen for 10 years or so. It's the only rifle range that can be used by the many hundreds of shooters in the Anchorage area. It's supported by the shooters of Anchorage. Recently they had a dinner for proceeds for the range.

HB 151

(Rep. Duncan arrived at 3:50 p.m.)

Rep. Rudd continued saying that the total price of the rifle range will be about \$150,000. The \$75,000 appropriation will be matched by a similar sum which is going to be used by the Division of Parks to purchase the rifle range.

Rep. Rudd continued saying the rifle range provides the only access to the Potter Marsh game refuge. If it falls into private hands a large part of the refuge will not be available to the public. It's currently owned by the federal government.

HB 151

Rep. Freeman wondered why the state should have to buy the range from the federal government.

Rep. Rhode asked about the objections to the noise of the rifle range. Rep. Rudd answered that the noise is minimal. Rep. Rhode pointed out that no one but Anchorage people will benefit from this. Rep. Rudd agreed that that was essentially true.

(Rep. Gruening arrived at 3:55.)

Rep. Freeman suggested that the state make a request of the federal government to transfer the range to the state.

Rep. Buchholdt said she had constituents who didn't want the range.

Rep. Cowper said he felt the Committee should hold action on HB 151 until hearing from Mr. Rausch. He thanked Rep. Rudd for attending.

Action
deferred

The next bill to come before the Committee was HB 215, "An Act making a supplemental appropriation to the Department of Community and Regional Affairs for the day care assistance program; and providing for an effective date." Rep. Duncan reported that a proposed Finance Committee Substitute had been drafted.

HB 215

Rep. Duncan said his subcommittee had tried to pin down the accounting. Fairbanks indicated that contrary to what was in the bill he could get by with \$80,000. Anchorage would have to remain at \$80,000. Juneau indicated that \$34,000 was sufficient. Kodiak said \$25,000 would be all they would need. The appropriation was reduced to \$219,000.

Rep. Duncan said the subcommittee had found in meeting with H & SS on Title XX money that they do have sufficient money so we can appropriate those day care funds to C & RA for funding of this supplemental. This would eliminate any general funding. Rep. Duncan said the subcommittee proposed funding at the levels the communities said they needed.

Rep. Freeman had a question as to why the communities ran out of money. Rep. Cowper explained that this was a new program and it was the intent of the Finance Committee last year that everyone would be treated the same way. There was more need and use than anticipated. Rep. Duncan added that in Juneau there's a waiting list now.

Mr. Stoop was asked to report. He explained that there were problems with the funding of the program. We have been getting conflicting advice from Washington as to what federal licensing requirements have to be complied with. Title XX would have to be amended. We would have to be sure the centers had not changed their adult/child ratios since December of 1975. We would also have to get an accounting of general fund vs. Title XX funds.

3-2-77

Mr. Stoop continued saying that we are limited to spending Title XX funds for AFDC. By the time legislation could go through and the Title XX plan could be amended there would be three months or less left in the fiscal year. It might be possible to spend more Title XX funds next year. Mr. Barker clarified that the support would not be limited to AFDC children. It could go to a family with income up to 80% of the state median income. It would require amending the state's plan now, but Mr. Granato says they are planning an amendment.

HB 275

Rep. Haugen asked if this meant that those that got the appropriation would have to meet the federal standards. Mr. Barker said that was true. Rep. Haugen asked if the day care centers would have to be upgraded to meet the standards. Mr. Barker answered that that was not for certain. Mr. Stoop explained that there had been a temporary waiver against the new regulations so that until 1978 we can avoid compliance with the federal regulations other than adult/child ratio.

Rep. Haugen asked what was the criteria for making the allotment to each area. Mr. Stoop explained that the original allocation was based on the number of licensed slots. Rep. Haugen expressed concern about the third party vendors in some cases.

Rep. Duncan moved and asked unanimous consent that Finance Committee Substitute for HB 215 be reported out. Rep. Rhode objected asking if there would be any action taken on the suggestion that an audit be performed. Rep. Cowper replied that speaking as a member of the Budget and Audit Committee he felt it was a good suggestion. Rep. Rhode withdrew his objection. There was no further objection, so Finance CS for HB 215 was reported out. The committee report was circulated with the majority signing "do pass" and Reps. Freeman, Rhode, and Haugen signing "no rec".

Finance CS
for HB 215
reported out
"DO PASS"

The next bill to come before the Committee was HB 226, "An Act making a supplemental appropriation to the Office of the Governor pipeline coordinator's office; and providing for an effective date." Rep. Specking was present to speak on the bill.

HB 226

Rep. Specking explained that the request was for \$45,000 which is to represent the state's share of a tanker simulation study. This is for a continuation of a study done in the Netherlands. A tanker workshop was held in Juneau, and the consensus was that there was a great value to continuation of the study in the problems in Valdez Narrows. \$45,000 is a modest amount of insurance to convince the public that we don't have a problem. Rep. Specking said he personally thought we would find that tankers can be safely operated. There will be tests run with water in the tanker.

Rep. Rhode asked who was furnishing the tanker. Rep. Specking answered that the state was not paying for it. There's a sharing arrangement with the Coast Guard paying \$70,000, the state paying \$45,000, and the industry paying \$70,000.

Rep. Freeman moved and asked unanimous consent that HB 226 be reported out. There was no objection; it was so ordered. The committee report was circulated, and HB 226 was reported out with a unanimous "do pass" recommendation.

Reported out
"DO PASS"

The next bill to come before the Committee was HB 51, "An Act relating to veterans' loans." Commissioner Gallagher was present to speak on the bill.

HB 51

Comm. Gallagher said the state has 60% of the real estate market. Our estimates of what the program will do next year is it will increase \$30,000,000 at the present level to an illiquid general fund balance of \$120,000,000. Commissioner Gallagher said he supported the bill but not for \$75,000. \$67,250 for a single family dwelling is a better figure. That's the designation of the Federal Mortgage Administration on a low to moderate income home. By going to \$75,000 we would open the general fund to more than we can afford to tie up. The multiple dwelling figure is probably appropriate in that this would probably only stretch to duplexes.

Rep. Buchholdt asked how many loans were outstanding. Comm. Gallagher replied that there were over 2,000 loans overall. Rep. Buchholdt asked why the business loans were so few. Comm. Gallagher replied that people generally go to a commercial bank. Rep. Buchholdt asked if it was possible to apply for the maximum for more than one kind of loan. Comm. Gallagher said it was only possible to have one loan at a time.

Rep. Meekins asked if there was any differential for different parts of the state. Comm. Gallagher replied that this was a flat figure.

Rep. Cowper called attention to the fiscal note prepared by the Division of Veterans Affairs. It claims they will need 9 new people to administer this program. The fiscal note runs \$25,000 this year and \$182,000 next year increasing to beyond that as years go by.

*Difference
in fiscal
notes*

Comm. Gallagher said as an independent observer of the Veterans' Loan Program that currently Revenue is charging 1/2 of 1% for servicing. The banks charge 3/8% for servicing, but they get their money in front end off of fees. It's appropriate that the percentage be lowered. The front end fees would be cheaper to the state and cheaper in the long run. Rep. Cowper said he didn't know; they would need all these extra people to administer the loans. Commissioner Gallagher said that at least in the servicing section they are understaffed. Rep. Cowper said the Commerce Committee had put out a revised fiscal note for "0". The analysis says that 16 positions have been added in the last two years and so this bill should not cause any new positions. Comm. Gallagher said he would resent it if the legislature ignored his fiscal note if he was in charge of the program.

Rep. Cowper said the Committee would have to consider whether to accept the Division of Veterans Affairs fiscal note or that of the Commerce Committee. He said he would personally sign the bill "do not pass" if the Veterans Affairs fiscal note is accepted.

Rep. Swanson moved to report out CS for HB 51 with a "0" fiscal note. Rep. Buchholdt objected.

HB 51

Rep. Gruening asked what the Governor's position was on the bill. Comm. Gallagher said the administration was in favor of the bill but only for a single family dwelling at \$67,250.

Rep. Cowper objected to the motion because of the liquidity problem. Rep. Haugen felt the Committee should work this out and get an understanding of the total problem. Rep. Cowper suggested that a subcommittee come up with recommendations as to the maximum amounts of the loans and take a look at staffing patterns to see if positions are needed. Rep. Swanson withdrew his motion.

Action
deferred

Rep. Cowper appointed a subcommittee of Meekins, Swanson, and Haugen to come up with a recommendation to the Committee early next week.

Subcommittee
appointed

The next bill before the Committee was HB 166, "An Act making a supplemental appropriation to the Department of Community and Regional Affairs; and providing for an effective date." Comm. McAnerney was present to speak on the bill.

HB 166

Comm. McAnerney explained that during the previous year C & RA had been the pass through to Alaska Legal Services. The Governor vetoed their funding through error. Alaska Legal Services is trying a great number of innovative things in communications. They are going to try to cut down cost by use of paralegals throughout the state. Rep. Buchholdt said she thought they were getting funds from the federal government and didn't need any more money. Comm. McAnerney said that had changed.

Rep. Buchholdt asked if Legal Services was asking for funds in FY 78. Comm. McAnerney answered that their funding sources are being upped federally. Rep. Cowper explained that originally their funding was federal and foundation. During the Republican administration the funding was cut off as much as it could be in spite of opposition. Rep. Cowper said he believed funding would be restored during the democratic administration. The legislature approved \$240,000 for FY 77 and the Governor vetoed it by mistake. He is now supporting a supplemental. Mr. Dawson said there was confusion as to how much money they really desired. The last we heard was \$65,000. Rep. Cowper commented that it makes it easy on the Governor when he vetoes legislative programs and then asks for supplementals to cover it up.

Motion to
report out
HB 166
Failed

Rep. Meekins moved and asked unanimous consent to report out HB 166. There was objection. The motion failed 5-4.

(Tape changed to H 77-25.)

The next bill before the Committee was HB 269, "An Act making a special appropriation to the Department of Public Works for the enlargement of Nornek Lake at Naknek; effective date." Rep. Seversen was present to speak on the bill.

HB 269

Rep. Seversen reported that by raising the level of one lake it would actually make the two lakes there into one. There's a problem there because there are no runway towers and two planes could take off at the same time. There's a real danger of collision. Rep. Cowper said he had seen that problem. If the wind isn't blowing right, you can't necessarily get out of there. It's unsafe and sooner or later there will be a collision. HB 269

Rep. Swanson asked in taking out the #3 area (see file) how many feet would be excavated. Rep. Seversen answered that the area was about 100 feet wide. The terrain is mostly sand and clay.

Rep. Cowper asked where the figure of \$150,000 came from. Rep. Seversen answered that that's what the borough thought it could be done for. Rep. Cowper said he was under the impression that there was some kind of statement from the borough or the Department of Public Works that they had an estimate already on it. Rep. Seversen replied that there was no such statement. Rep. Cowper suggested holding this over until the Department of Public Works was contacted for better figures. However, the project is needed. Rep. Swanson commented that the going rate would be about \$81,000 to do the whole job.

Rep. Cowper said he felt this bill should be considered at the same time as the one for a study for the public dock at Naknek. Action
deferred

The next bill for consideration was HB 203, "An Act relating to pay differentials between state employees residing inside and outside the state." Rep. Cowper noted that there's no fiscal note on the bill. Rep. Freeman said he didn't think you could come up with one. The idea behind this is to encourage the ferry employees to live in Alaska. The hope would be that in the future the only people that would get a salary increase would be those people living in Alaska. Eventually it would amount to the difference in the cost of living between Seattle and Alaska. HB 203

Rep. Freeman requested that action on the bill be deferred until Rep. Gardiner could be present to answer the questions of the Committee. That was agreeable to the Committee. Action
deferred

The meeting was adjourned at 5:30.

Tape H 77-24 #0947
to Tape H 77-25 #0437