



# Alaska State Legislature

## House and Senate Democratic Caucus

Official Business, State Capitol, Juneau, Alaska, 99801

March 17, 2003

Dear Governor Murkowski,

We, the Democratic members of the 23rd Alaska Legislature, write this open letter urging you to consider reducing the tariff charged on the TAPS pipeline as an alternative to the taxes you have proposed. A tariff reduction will not only significantly close the fiscal gap, it is a critical incentive for future oil and gas exploration in Alaska.

On November 27, 2002, the Regulatory Commission of Alaska determined that tariff rates charged by the owners of TAPS for shipment of oil through the pipeline had "provided the Carriers an opportunity to earn over \$9.9 billion more than the cost of providing service" since the opening of the pipeline (Petition of Tesoro Alaska Petroleum Company, Combined Orders No. 151 & 110, page 8 (Regulatory Commission of Alaska) (SP"RCA ruling"). Because TAPS has had a considerably longer useful life than originally expected, the RCA determined new cost-based rates that take this into consideration and still provide margin for the Carriers to recover a reasonable return on their investment. Calculations using these rates for the period from 1997-2000 show that the Carriers were charging the State of Alaska and other shippers of oil through TAPS a tariff that was 57% above cost-based rates. The TAPS settlement requires that the tariffs be "just and reasonable." A charge of 57% above the cost-based rate is not just and reasonable.

The RCA ruling directly applies only to the 10% of oil that is processed within the state. The other 90 percent of TAPS oil is governed by the Federal Energy Regulatory Commission (FERC) and no case has been filed before the FERC asking for a review of these rates. Because the RCA quoted extensively from FERC precedents and methodologies, there is reason to believe that the FERC would reach a conclusion similar to the RCA.

If the RCA decision applied to the FERC oil, the state would save between \$85 million and \$105 million per year. This is close to the total amount raised by the taxes and user fees you proposed in your State of the Budget speech, but does not take money from hard working Alaska families. We hope that you agree with us that the State of Alaska deserves to be charged a fair rate for transporting its oil, and we should make sure these rates are fair.

Even more important than the additional revenue, a reduction in the TAPS tariff encourages economic development in the oil industry. We believe that economic development should come before and hopefully make unnecessary any new taxes. In the January, 2003 issue of the

Petroleum News, representatives of the Alaska oil industry were polled on the most important things that government could do to encourage oil development. The result was a tie between "Lower TAPS tariff by \$1.50 per barrel" and "Reduce permitting time, complexity" (Petroleum News, Vol. 8, No. 3).

The conclusion that lowering the TAPS tariff is important to the new independent producers of oil is a logical one. Currently, an independent oil company that strikes oil on the North Slope must use a transportation system owned by competitors to bring the oil to market. The only protection the independent company has is vigorous regulatory oversight of the tariff rates. If the tariff is allowed to stay unreasonably high, competition suffers, exploration declines and the state treasury suffers.

We recognize the practical challenges in lowering this tariff. The owners of TAPS have considerable political power and will argue that changing the tariff rate structure now is unfair. The RCA opinion specifically concluded that changing the tariff calculation as of 1996 would not deprive the TAPS carriers of a reasonable rate of return (RCA ruling, page 23). The provision in the TAPS settlement agreement attempting to force the state to defend this unfair rate structure also poses a difficulty.

Working together in a bipartisan manner, we can obtain a fair tariff for the oil we hold in trust for the people of Alaska. If we succeed together, then the people win. We avoid painful new taxes, take steps to closing the fiscal gap, and we remove a major hurdle to oil development.

We look forward to working with you on this issue.

Sincerely,

Senate Minority Leader Johnny Ellis

House Minority Leader Ethan Berkowitz