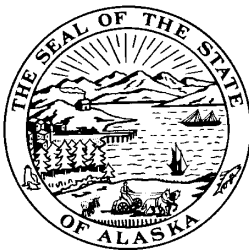


Alaska State Legislature

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July 24, 2006

The Honorable Bill Corbus, Commissioner
Department of Revenue
P.O. Box 110430
Juneau, Alaska 99811-0430

Subject: Comments on the Proposed Alaska Stranded Gas Fiscal Contract and Preliminary Findings and Determination

Dear Commissioner Corbus:

Alaskans can have a gasline that protects its citizens, benefits its communities and that meets local power needs. The fiscal contract negotiated under the Stranded Gas Development Act needs to be stronger than the one currently proposed by the administration and the three major oil corporations in Alaska (BP Exploration (Alaska Inc.), ConocoPhillips Alaska, Inc., ExxonMobil Alaska Production Inc.). A better contract can be negotiated, but requires the willingness to negotiate and stand taller to protect Alaska's interests.

The framers of Alaska's constitution were all too aware of the dangers of resource exploitation and control by outside corporations. In 1955, in his keynote address to the Alaska Constitutional Convention, E.L. "Bob" Bartlett observed that two dangers threatened the state's financial welfare and future citizens of Alaska. He stated

The first, and most obvious, danger is that of exploitation under the thin guise of development. The taking of Alaska's mineral resources without leaving some reasonable return for the support of Alaska government and the use of all the people in Alaska will mean a betrayal in the administration of the people's wealth. The second danger is that outside interests, determined to stifle any development in Alaska which might compete with their activities elsewhere, will attempt to acquire great areas of Alaska's public lands in order not to develop them until such time as, in their omnipotence and the pursuance of their own interests, they see fit.

To prevent future abuses, the framers of the constitution crafted provisions to ensure that resources would be managed in the interest of Alaska's citizens. Article VIII, Section 1, specifically states:

It is the policy of the State to encourage the settlement of its land and the development of its resources by making them available for maximum use consistent with the public interest.

The proposed Stranded Gas Development Act Fiscal Contract violates this constitutional principle in that it is not consistent with Alaska's interests; or with the interests of citizens of the other forty-nine states. The contract as written cedes almost all state authority over North Slope natural gas resources to three mega-corporations who will base development decisions on what is best for their shareholders, not what is best for Alaska or the nation. If the contract goes into effect as currently drafted, neither the state nor the federal government will have much say over when or how the resource is developed.

The proposed contract raises a number of significant concerns. While some provisions in the proposed contract, standing alone, might be acceptable in the context of a much stronger contract, taken together, they form a proposal that falls far short of protecting the interests of the state and its citizens. The legislature's experts, and former DNR officials, have made a convincing case that the contract includes many concerns, including the following:

- The state should receive fair revenue for its natural gas resource. The proposed contract gives away more than \$10 billion in future gas revenue compared to the current tax rate on gas, and not enough work has been done to assess a gas tax rate that would be fair to all parties. The rate should be no lower than current law, and work should be done to see whether economic limit factor (ELF) tax exemptions in the current law shortchange the state. Legislative consultants at Econ One estimate that at average forecasted natural gas prices, the proposed contract reduces the companies' tax payments by over \$5 billion over the life of the gasline. Former DNR officials have estimated the loss from various provisions, not including the tax rate reduction, to be over \$13 billion (Petroleum News, June 18, 2006). This is a staggering loss of future revenue, and administration presentations on the proposed tax rate failed to mention this loss. The failure of the administration to highlight this giveaway raises credibility problems with the information the administration has presented to the public and legislature.
- Giving up the state's taxing authority in favor of taking gas "in kind" vastly shortchanges the state, will cause the state to lose money on its gas resource at low gas prices, and obligates the state to pay for transport of a capacity amount of gas even if that gas is not shipped, all without a fair trade-off in the state's favor.

- Using the gasline contract to lock in the oil tax rate and structure and prevent voters from changing oil taxes is unacceptable, especially at the tax rate the administration proposes. The administration's proposed tax rate falls far short of the rate charged in most places in the world, and would generate far less revenue than if Alaska taxed at the world average.
- The contract's provisions do not give Alaskans fair access to North Slope gas for our local needs, and expressly provide that the producers do not need to sell any of their gas in Alaska. That shortchanges our communities.
- The contract's provisions also deter future gas development by making it too difficult for independent producers to transport their gas in the gasline. That will cost Alaskans jobs and revenue.
- The contract makes it too easy for producers to decide not to build a gasline. Under the contract's terms no gasline construction is required and no penalties are imposed in the first many years of the contract if the corporations do not take action to proceed with a gasline.
- The arbitration provisions, the high burden of proof on the state and the limitations on the state's ability to gather evidence to prove a breach of contract greatly favor the oil corporations, harm the state, and make it too difficult for the state to require the corporations to proceed towards the construction of a gasline.
- The proposed contract does little to reduce the danger of a conflict of interest with a gasline owned and operated by the major North Slope oil corporations. Their incentive will be to prevent competition and deter gas field development by competitors.

In short, the proposed contract makes it unlikely that a gasline will be built, or that, if one is built, it will shortchange the state, local communities, and our citizens.

After two years and \$23 million, the administration has undoubtedly collected a body of knowledge that can be used as the basis for a more balanced contract, or for a different approach entirely. In addition, reports from prior years provide valuable guidance. There is the 1998 Alaska North Slope Gas Commercialization Team Report to the Governor that was the basis for the Stranded Gas Development Act.¹ The Act itself provides the legal framework for development of a fiscal contract that will spur gasline construction while still protecting Alaska's interest. There is also a 2001 report prepared by the Alaska Highway Natural Gas Policy

¹ The commercialization team consisted of three department commissioners: Wilson Condon, Commissioner of Revenue; John Shively, Commissioner of Natural Resources; and Bruce Botelho, Attorney General.

Council Report that examined many of the issues in the proposed contract;² and a 2002 report addressing the pros and cons of state ownership in a gasline.

The administration should complete contract negotiations with independent pipeline companies willing to proceed with a gasline, and present all contract proposals to the public and the legislature for review and selection. With the benefit of previous research and the information gathered during the recent negotiations, we are confident that a new contract can be developed that will ensure Alaska and the nation maintain control over the state's natural gas resource and that a pipeline is built.

Attached are areas of specific concern and recommendations for future negotiations. These are not all the concerns with the proposed contract, and we incorporate by reference the memos and testimony to the legislature by the legislative consultants. Written submissions by the consultants can be found at <http://lba.legis.state.ak.us/>. We will also be reviewing and considering public comments as they become available.

Sincerely,

/s/

Rep. Beth Kerttula

Sen. Bettye Davis

Rep. Les Gara

Rep. Harry Crawford

Rep. Berta Gardner

Rep Max Gruenberg

Sen. Kim Elton

These comments are also submitted on behalf of:

Representative Ethan Berkowitz, Minority Leader
Representative David Guttenberg
Representative Eric Croft

Senator Johnny Ellis, Minority Leader
Senator Hollis French
Senator Donny Olson

² The Council consisted of 28 members: Al Adams, Jacob Adams, George Ahmaogak, Sr., Rhonda Boyles, Frank Brown, Charlie Cole, William Corbus, Brian Davies, Ronald Duncan, Jeffrey Feldman, Lee Gorsuch, Jerry Hood, Jim Jansen, Rosemarie Maher, Carl Marrs, Mike Navarre, Mike O'Connor, Bob Penney, Edward Rasmuson, Jack Roderick, Dave Rose, Jonathan Rubini, Jim Sampson, Ken Thompson, Peg Tileston, Grace Schaible, George Wuerch, Esther Wunnicke.