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# Appendix E

## Federal Agreement and Grant of Right-of-Way for the Trans-Alaska Pipeline

This appendix contains a facsimile of the original Federal Agreement and Grant of Right-of-Way for the Trans-Alaska Pipeline (Federal Grant). The Federal Grant became effective on January 22, 1974, and the State Right-of-Way Lease for the Trans-Alaska Pipeline (State Lease) was executed on May 2, 1974. Both the Federal Grant and State

Lease contain technical and environmental stipulations governing the construction and operation of the Trans-Alaska Pipeline System (TAPS). This Environmental Report references the federal stipulations, which can be found in Exhibit D of the Federal Grant. (State Lease stipulations are essentially the same as those in the Federal Grant.)



Agreement and Grant of
Right-of-Way for Trans-Alaska Pipeline
between
The United States of America
and
Amerada Hess Corporation,
ARCO Pipe Line Company,
Exxon Pipeline Company,
Mobil Alaska Pipeline Company,
Phillips Petroleum Company,
Sohio Pipe Line Company, and
Union Alaska Pipeline Company

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Table with 4 columns: Section, Page, Section, Page. Lists 41 sections and exhibits with their corresponding page numbers, including Grant of Right-of-Way, Purpose of Grant, and various exhibits.



# Agreement and Grant of Right-of-Way for Trans-Alaska Pipeline

This Agreement and Grant of Right-of-Way (hereinafter referred to as the "Agreement")\* is entered into as of this 23rd day of January, 1974 (hereinafter referred to as the "Effective Date"), by the United States of America, party of the first part (hereinafter referred to as the "United States"), acting through the Secretary of the Interior, and by

Amerada Hess Corporation, a Delaware Corporation,  
 ARCO Pipe Line Company, a Delaware Corporation,  
 Exxon Pipeline Company, a Delaware Corporation,  
 Mobil Alaska Pipeline Company, a Delaware Corporation,  
 Phillips Petroleum Company, a Delaware Corporation,  
 Sohio Pipe Line Company, a Delaware Corporation, and  
 Union Alaska Pipeline Company, a California Corporation,

parties of the second part (hereinafter sometimes referred to as the "Original Permittees").

The parties have entered into this Agreement taking into consideration the national authorizations, directives, and policies expressed in applicable legislation, including Section 202 of the Trans-Alaska Pipeline Authorization Act, 87 Stat. 584, *et seq.* (1973).

It is the intent of the parties that, in the performance of this Agreement, the following principles shall apply:

- (1) In the construction (including, but not limited to, design), operation, maintenance (including but not limited to a continuing and reasonable program of preventive maintenance) and termination of the Pipeline System, Permittees

\*NOTE.—Terms having special meaning are defined in the body of this Agreement or in Exhibit D hereof. Such terms are capitalized herein.

shall employ all practicable means and measures to preserve and protect the environment, as provided in this Agreement.

- (2) The parties shall balance environmental amenities and values with economic practicalities and technical capabilities, so as to be consistent with applicable national policies. In so doing, the parties shall take into account, among other considerations, the following:
  - (a) The benefit or detriment to persons, property and the environment that may be anticipated to result from a proposed course of conduct;
  - (b) The particular environmental, technical, and economical benefits or detriments reasonably expected to flow from a proposed course of conduct;
  - (c) The effect on the energy needs of the United States, including the possible effects of a disruption of national or regional oil supply, that may result from a particular course of conduct.
- (3) Permittees shall manage, supervise and implement the construction, operation, maintenance and termination of the Pipeline System in accordance with sound engineering practice, to the extent allowed by the state of the art and the development of technology. In the exercise of these functions, Permittees consent and shall submit to such review, inspection and compliance procedures relating to construction, operation, maintenance and termination of the Pipeline System as are provided for in this Agreement and other applicable authorizations. The



parties intend that this Agreement shall not in any way derogate from, or be construed as being inconsistent with, the provisions of Section 203(d) of the Trans-Alaska Pipeline Authorization Act, 87 Stat. 585 (1973), relating to the National Environmental Policy Act, 83 Stat. 852, 42 U.S.C. § 4321 *et seq.*

In consideration of the grant hereby made, and the provisions of this Agreement, the United States and Permittees agree as follows:

**1. Grant of Right-of-Way**

A. Pursuant to the provisions of the Trans-Alaska Pipeline Authorization Act, the United States hereby grants to Permittees, in the several undivided interests specified in subsection B of this Section, for the period of limited duration prescribed in Section 7 hereof and for the purpose prescribed in subsection A of Section 2 hereof, a right-of-way (hereinafter referred to as the "Right-of-Way"), the width and location thereof being subject to the provisions of Sections 5 and 6 hereof, across, through and upon the Federal Lands (as that term is defined in Section 28 of the Mineral Leasing Act of 1920, 41 Stat. 449, as amended, 30 U.S.C. § 185 *et seq.*, including public and acquired lands, and lands withdrawn, reserved, classified, or otherwise set apart for National Forests, military purposes, power development, or other purposes) along the general route of the Pipeline, identified in the applications and accompanying alignment map and Related Facility site location drawings referred to in Exhibit A hereof.

B. The grant made hereby is of the following undivided interests in and to the Right-of-Way:

- Amerada Hess Corporation, an undivided interest of 3.00% of the whole;
- ARCO Pipe Line Company, an undivided interest of 28.08% of the whole;
- Exxon Pipeline Company, an undivided interest of 25.52% of the whole;
- Mobil Alaska Pipeline Company, an undivided interest of 8.68% of the whole;
- Phillips Petroleum Company, an undivided interest of 3.32% of the whole;
- Sohio Pipe Line Company, an undivided interest of 28.08% of the whole;
- Union Alaska Pipeline Company, an undivided interest of 3.32% of the whole.

C. There is hereby excepted from the grant hereby made all lands selected and validly tenta-

tively approved to the State of Alaska, pursuant to the Alaska Statehood Act, 72 Stat. 339, as amended, other than lands withdrawn under Section 11(a)(2) of the Alaska Native Claims Settlement Act, 85 Stat. 696, 43 USC § 1610.

D. There is hereby reserved to the United States all rights reserved, or directed to be reserved, to the United States under any applicable law or regulation of the United States or elsewhere under this Agreement.

E. The grant hereby made is subject to: (1) the provisions of this Agreement; (2) all applicable laws and regulations of the United States; (3) any valid existing rights in the lands subject to the Right-of-Way, including without limitation the valid pre-existing rights, if any, of the State of Alaska; and (4) the condition that the Right-of-Way granted hereby across Category 1(c) Lands and Category 1(d) Lands\* shall take effect upon the occurrence of one of the following events, whichever shall first occur:

- (a) The Commissioner of Natural Resources of the State of Alaska notifies the Secretary in writing that it is essential for the expeditious construction of the Pipeline System that the Right-of-Way in and to some or all of the Category 1(c) Lands or Category 1(d) Lands, or both, becomes effective;\*\* or
- (b) Category 1(d) Lands have not been tentatively approved to the State of Alaska and a valid right-of-way lease or other grant in and to those lands has not been issued by the State of Alaska, for the construction and operation of the Pipeline System, by March 10, 1974; or
- (c) The Category 1(c) Lands have not been tentatively approved to the State of Alaska and a valid right-of-way lease or other grant in and to those lands has not been issued by the State of Alaska, for the construction and operation of the Pipeline System, by June 1, 1974.

F. With respect to the Category 1(c) Lands and the Category 1(d) Lands, the grant hereby made

\*"Category 1(c) Lands" and "Category 1(d) Lands" are defined in Exhibit D hereto. These terms are derived from Paragraph 1 of Part I of the Cooperative Agreement between the State of Alaska and the Department, attached hereto as Exhibit E for informational purposes.

\*\*The Secretary has received notice from the State Commissioner of Natural Resources that the expeditious construction of the Pipeline System on the Category 1(d) Lands is essential. Therefore, the Right-of-Way across those lands is hereby effective.



is further subject to the limitation and condition that upon either valid tentative approval or valid patent of any of such lands to the State of Alaska, the existence or subsequent issuance of a valid State right-of-way lease or other grant in and to those lands terminates the Right-of-Way and other Federal authorizations, if any, and the State right-of-way lease or other grant thereupon applies in all respects to those lands.

G. Permittees agree that they will not challenge the validity of the State's right-of-way lease or other grant on the basis of the existence of the Federal Right-of-Way and other authorizations or their interest therein.

## **2. Purpose of Grant; Limitation of Use to Permittees**

A. The Right-of-Way is granted for the purpose of the construction, operation, and maintenance of one (1) Oil transportation pipeline, consisting of one (1) line of forty-eight (48)-inch diameter pipe and its Related Facilities (such pipeline and Related Facilities being herein referred to as the "Pipeline").

B. Permittees, their agents, contractors, and subcontractors (at any tier) shall not use the Right-of-Way or the land subject thereto for any other purpose and shall not locate or construct any other pipelines (including looping lines) or other improvements within the Right-of-Way without the prior written approval of the Secretary.

C. The Pipeline shall be used for only the transportation of Oil, and it shall not be used for any other purpose without the prior written approval of the Secretary.

D. Each Permittee shall not allow or suffer any Person or Business Entity, with the exception of the other Permittees under this Agreement, to use the Right-of-Way for the purpose set forth in subsection A of this Section.

E. Nothing above in subsection D of this Section is intended to: (1) excuse or preclude Permittees from complying with their obligations under Section 3 of this Agreement, or (2) preclude Permittees from employing agents, contractors, or subcontractors (at any tier) to effect construction, operation, maintenance or termination of the Pipeline System.

## **3. Transportation of Oil**

Each Permittee shall, to the extent of its interest in the Right-of-Way, and in accordance with the provisions of Section 28 of the Mineral Leasing Act of 1920, 41 Stat. 449, as amended:

- (1) Construct, operate, and maintain the the Pipeline as a common carrier;
- (2) Accept, convey, transport, or purchase, without discrimination, Oil delivered to the Pipeline without regard to whether such Oil was produced on Federal or non-Federal lands; and
- (3) Accept, convey, transport, or purchase, without discrimination, Oil produced from Federal Lands or from the resources thereon in the vicinity of the Pipeline in such proportionate amounts as the Secretary may, after a full hearing with due notice thereof to Permittees and a proper finding of facts, determine to be reasonable.

## **4. Exhibits; Incorporation of Certain Documents by Reference**

A. The Exhibits that are attached to this Agreement and that are listed below in this subsection are, by this reference, incorporated into and made a part of this Agreement as fully and effectually as if the Exhibits were set forth herein in their entirety:

- (1) List of applications and accompanying alignment map and site location drawings identifying the general route of the Pipeline, attached hereto as Exhibit A.
- (2) Requirements of the Department of Defense relating to military installations, with attached letters dated November 14, 1973, and November 23, 1973, from the Director of Real Estate, Department of the Army, Office of the Chief of Engineers, attached hereto as Exhibit B.
- (3) Requirements of the Federal Power Commission relating to power sites, attached hereto as Exhibit C.
- (4) Stipulations for the Agreement and Grant of Right-of-Way for the Trans-Alaska Pipeline, being numbered 1 through 3.11.2, inclusive, attached hereto as Exhibit D, which are sometimes referred to in this Agreement as the "Stipulations."



B. The cooperative agreement attached hereto as Exhibit E is not incorporated into, and is not intended to be made a part of, this Agreement. Said cooperative agreement is attached hereto only for informational purposes.

#### **5. Width of Right-of-Way**

The width of the Right-of-Way, in terms of surface measurement, is fifty (50) feet plus the ground occupied by the Pipeline; *provided, however*, that up to and including the date on which Permittees may file an application for modification of the Right-of-Way boundaries in accordance with subsection D of Section 6 hereof, Permittees may apply for, and the Authorized Officer may direct or authorize, increases in the width of the Right-of-Way at specified points if he finds, and records the reasons for his finding, that in his judgment a wider Right-of-Way is necessary for operation and maintenance of the Pipeline after construction, or to protect the environment or public safety.

#### **6. Location of Right-of-Way**

A. The site for each Construction Segment of the Pipeline shall be determined in accordance with the provisions of Stipulation 1.7.

B. After completion of construction of the Pipeline within a particular Mapping Segment, the Federal Lands subject to the Right-of-Way shall be the land occupied by the Pipeline and, in terms of surface measurement, twenty-five (25) feet on each side of the Pipeline measured from its outermost extremities. With respect to Related Facilities, the width shall be twenty-five (25) feet around the perimeter of the Related Facility.

C. Upon completion of construction of the Pipeline within a Mapping Segment, as well as upon the issuance of any authorization or directive that the Authorized Officer may issue in accordance with the provisions of Section 5 hereof, Permittees shall, if directed by the Authorized Officer, physically mark on the ground the proposed boundaries of the Right-of-Way at such locations and in such manner as is acceptable to the Authorized Officer.

D. At any time prior to the sixtieth (60th) day preceding the filing of the maps of survey as pro-

vided in subsection E hereof, Permittees may file an application for modification of the Right-of-Way boundaries provided that, after modification, the Right-of-Way will include the ground occupied by the Pipeline plus fifty (50) feet adjacent thereto and such additional land as authorized by the Authorized Officer pursuant to Section 5 hereof. Upon approval of such application for modification of boundaries and acceptance of the documents and maps required by subsection E hereof, the Right-of-Way shall be as delineated on said maps of survey.

E. Within three hundred and sixty (360) days after the date of Commissioning of the Pipeline (and, in the case of any addition, deletion or alteration of the Pipeline following the date of Commissioning, within one hundred and eighty (180) days after the addition, deletion or alteration has, in the judgment of the Authorized Officer, been fully completed), Permittees shall survey and provide adequate monumentation to locate and describe the Right-of-Way and shall file: (1) proof of construction of the Pipeline in accordance with the applicable regulations of the Department; (2) such documents of relinquishment of land not included in the modified Right-of-Way, if any, as may be required by the Authorized Officer; (3) appropriate references to applications in which requests were made for Right-of-Way widths greater than the normal limitations specified in Section 5 of this Agreement, and applications for modification of the Right-of-Way boundaries as provided in subsection D hereof; and (4) a map, or maps of survey, prepared in such manner as shall be required by the Authorized Officer, showing the final "as built" location of the completed Pipeline, including the final locations of all buried and above ground improvements, the centerline of the Right-of-Way, as definitely located, and, referenced to the centerline, the boundaries of the Right-of-Way, as definitely located. Each portion of the Pipeline as depicted on the said survey map or maps, and for which a Notice to Proceed, or an authorization, issued in accordance with Stipulation 1.7.4.4 altering either the route or the initially approved location along the route of the Right-of-Way, has been issued, shall be referenced to the relevant Notice to Proceed or authorization.



## 7. Duration of Right-of-Way Grant

A. The grant hereby made of the Right-of-Way shall come to an end and expire on the 22nd day of January, 2004, at noon, Washington, D.C. time, unless prior thereto it is relinquished, abandoned, or otherwise terminated pursuant to the provisions of this Agreement or of any applicable Federal law or regulation.

B. Upon the expiration of the initial or any subsequent grant of the Right-of-Way, or its earlier relinquishment, abandonment, or other termination, the provisions of this Agreement, to the extent applicable, shall continue in effect and shall be binding on the parties hereto, their successors or assigns, until they have fully performed their respective obligations and liabilities accruing before or on account of the expiration, or the prior termination, of the grant.

C. The Right-of-Way shall be renewed, subject to and in accordance with the provisions of the Trans-Alaska Pipeline Authorization Act.

D. Any subsequent conveyance, transfer or other disposition of any right, title or interest in the Federal Lands or any part thereto, burdened by and subservient to the Right-of-Way, shall, to the extent allowed by law and subject to the termination provision of subsection F of Section 1, be subject to the Right-of-Way and the provisions of this Agreement, including Permittees' right to renew the Right-of-Way under subsection C of this Section.

## 8. Use Charge for Right-of-Way

A. Permittees shall pay to the United States, annually and in advance, the fair market rental value of the Right-of-Way, as determined by the Secretary. (Such rental value is hereinafter called the "Use Charge".)

B. The initial Use Charge shall be One Hundred Five Thousand and 00/100 Dollars (\$105,000) for each calendar year. The first annual Use Charge shall be prorated to cover that portion of the calendar year 1974 which remains after the Effective Date hereof and shall be due and payable by not later than the Effective Date hereof. The Use Charge for the first full calendar year commencing after the Effective Date hereof and for each subsequent calendar year shall be due and payable by not later than the last full business day immediately preceding the first day of January of the calendar year for which the Use Charge

is payable. The Use Charge for each calendar year shall be billed to Permittees at least thirty (30) days in advance of the due date thereof. All such payments shall be delivered to the Authorized Officer and shall be accepted subject to collection.

C. The Use Charge for the seventh (7th) and for each succeeding calendar year shall be subject to adjustment from time to time in accordance with the regulations of the Department. The Secretary also may adjust retroactively the amount of the annual Use Charge for any calendar year that is based on an appraisal which is made before the Right-of-Way is, in its entirety, finally located, surveyed and monumented; any sum determined by the Secretary to be payable (by either the United States or Permittees) in connection with an adjustment, as provided for in this sentence, shall be due and payable within thirty (30) days after notice is given of the amount due.

## 9. Construction Plans and Quality Assurance Program

A. Permittees shall submit construction (including design) plans, a quality assurance program, and other related documents as deemed necessary by the Authorized Officer, for review and approval prior to his issuing Notices to Proceed.

B. The quality assurance program shall be comprehensive and designed to assure that the environmental and technical Stipulations in this Agreement will be fully complied with throughout all phases of construction, operation, maintenance and termination of the Pipeline System.

C. The following criteria shall be included in the quality assurance program, although Permittees are not limited to these criteria:

- (1) Provide adequate and appropriate means and procedures for the detection and prompt abatement of any actual or potential condition that is susceptible to abatement by Permittees which arises out of, or could affect adversely, the construction, operation, maintenance or termination of all or any part of the Pipeline System and which at any time may cause or threaten to cause: (a) a hazard to the safety of workers or to public health or safety (including but not limited to personal injury or loss of life with respect to any person or persons) or (b) serious and irreparable