

00105



United States Department of the Interior

FISH AND WILDLIFE SERVICE
1021 E. Tudor Rd
Anchorage, Alaska 99503-6199

02 AUG 26 09:52

IN REPLY REFER TO:

AFES/FHC/AFWFO/FFWFO

AUG 19 2002

Memorandum

To: State Director - Bureau of Land Management

From: Regional Director - Region 7 *D. R. Ball*

Subject: Comments on the Draft EIS for the Trans-Alaska Pipeline System
Right-of-Way Renewal (EC 02/0038)

These comments are in response to the publication of the Draft Environmental Impact Statement for the Trans-Alaska Pipeline System (TAPS) Right-of-Way Renewal (Draft EIS). Please refer to our earlier correspondence regarding this project, dated September 28, 2001, October 17, 2001 (Scoping Comments), and June 18, 2002 (Endangered Species Act Consultation).

General Comments

In general, we believe the Draft EIS is thorough and well written. Given our responsibilities for fish and wildlife resources, particularly those outlined under the Fish and Wildlife Coordination Act, the Migratory Bird Treaty Act, and Section 404 of the Clean Water Act, we offer the following comments for your consideration.

105-1

There are three major issues relative to the Service's trust resources that should be addressed in renewal of the TAPS right-of-way: 1) maintaining the integrity of the pipeline itself in transporting oil without leaks, spills, breaks or other problems; 2) protection of Prince William Sound from tankers' introduction of invasive aquatic species, which may be in ballast waters taken on elsewhere; and 3) ensuring fish passage at all 3,200 crossings of fish streams by the pipeline, associated facilities, and access roads.

105-2

Due to the age of the pipeline increased maintenance will likely be required. We appreciate the millions of dollars Alyeska has spent, and plans to spend to protect pipeline integrity. We support these efforts and believe it is essential that the right-of-way reauthorization include requirements for rigorous, systematic checkups, detailed maintenance plans including implementation, and a schedule of environmental monitoring of the pipeline and Valdez Terminal.

105-3

As mentioned in our October 17, 2001, memorandum, the Service believes the greatest single risk posed by operation and maintenance of the TAPS on fish and wildlife is the increasing probability of a major oil spill. The Service requests further explanation in the Final EIS of the additional steps to be taken to prevent and minimize the potential impacts of spills from TAPS infrastructure as it ages. The Draft EIS does an effective job of describing existing mitigation measures, including leak detection systems, but does not discuss any operating measures that could be taken to further protect the line from underground or above ground leaks or to detect particularly small, chronic leaks. One approach could be to use hydrocarbon sensors that would detect extremely small leaks, similar to the system in place for the Northstar pipeline. We understand that existing TAPS leak detection systems will not detect chronic, low-level leaks of a few hundred barrels per day. If such leaks occur underground and near sensitive habitats such as streams, the spill could cause considerable damage before detection.

105-4

As documented in the Draft EIS, fishery resources along the TAPS and associated infrastructure are significant in number and diversity. Twenty nine species of fish are known to occur or could occur in the streams, rivers, and waterbodies near the TAPS right-of-way; both anadromous and resident fish streams crossed by the pipeline and its support infrastructure and activities have been well documented (e.g., BLM 1987 a and b, as cited in the Draft EIS). We appreciate the efforts Alyeska has made in recent years to implement a more rigorous surveillance and monitoring system to ensure integrity of fish crossings along the TAPS corridor. We recommend that the TAPS renewal Draft EIS describe the existing procedures related to monitoring fish passage: 1) current cross-training and close coordination of Alyeska field personnel and agency biologists associated with the Joint Pipeline Office; and 2) continued annual inspections of fish crossings, and followup processes, which include ensuring that work orders for culvert corrections and improvements resulting from those inspections are fully implemented in a timely manner.

105-5

Specific Comments

Volume 1

Page ES-1, Last Paragraph: Port Valdez is not completely ice free during the winter. This section should describe the frequency of icing since the beginning of TAPS operation and analyze potential frequency of icing and its effects on tanker traffic and Valdez terminal operations.

105-6

Page 2-11, Table 2-1, TAPS ROW Renewal DEIS Summary of Direct and Indirect Effects: The Physical Marine Environment section of this table needs to summarize the environmental impacts associated with the discharge of untreated and treated oily ballast water into marine waters. These impacts include the introduction of non-indigenous aquatic species and hydrocarbons into Port Valdez.

105-7

Volume 2

Page 4.1-20, Paragraph 3: We support and encourage the use of innovative stream control methods such as the Rosgen technique to avoid the placement of larger structures such dikes or revetments.

105-8

Page 4.2-3, Section 4.2.2.2: This section needs to include information on the impacts associated with discharge of oily ballast water after it is treated. Although much of the oil is removed at the Ballast Water Treatment Facility, the treated water still contains crude oil residues that are released into Port Valdez and may have impacts on the marine environment. Recent studies (Payne et al. 2001) indicate that polynuclear aromatic hydrocarbons (PAH) and saturated hydrocarbons (SHC) have accumulated in the intertidal mussels within Port Valdez and have also been found in the water column and sediments. When the study was conducted, the PAH and SHC levels were low and not considered to be harmful. However, we believe long-term monitoring studies should continue to evaluate potential impacts over time and cumulative effects. We also support additional monitoring studies, as suggested by (Payne et al. 2001), such as investigating the seasonal transport of concentrated oil contaminants in surface microlayers that have the potential for photoenhanced toxicity.

105-9

105-10

In addition, this section should describe potential impacts associated with the introduction of non-indigenous aquatic species caused by the intake of water from ports outside Alaska and released into Alaska waters via untreated ballast discharge from oil tankers. It should also include a discussion on how the treatment of oily ballast water from non-segregated tanks likely eliminates survival of exotic species, whereas untreated discharge of water from segregated ballast tanks introduces exotic species into the marine environment.

105-11

Due to the large volume (17 million metric tons per year) of untreated ballast water discharged from tankers into Port Valdez, the transport of non-indigenous species into Alaska waters is of major concern. The non-indigenous species that are transferred from ports outside of Alaska may prey upon or compete/outcompete with native species and may cause significant ecological impacts. Fourteen non-indigenous species were identified in the ballast water from oil tankers that arrived in Port Valdez and have a high potential of initial survival in the salinity-temperature conditions of Prince William Sound (Hines and Ruiz 2000). Since oil tankers continually repeat the discharge of ballast waters from the same non-Alaskan ports into Port Valdez, the potential ability for non-indigenous aquatic species to become established in Prince William Sound is of particular concern.

We appreciate the cooperation from Alyeska Pipeline Service Company for previous exotic species in tanker ballast water studies we have been involved in, and encourage continued coordination with them to investigate measures that will prevent introduction and potential establishment of exotic species in the marine environment.

105-12

Page 4.2-3, Section 4.2.2.3: The need for gravel/rock mining and the potential impacts to aquatic systems is mentioned in this section, but no discussion follows of potential means to minimize or avoid these impacts. Projected gravel needs, potential new and used material sources, and impacts on fish and wildlife need to be addressed. A cooperative effort to restore abandoned material sites to useful habitat could be pursued by Alyeska, in conjunction with BLM and other resource agencies. Such measures should be investigated and described in the Final EIS.

105-13

Page 4.2-11, Paragraph 2: To help prevent exotic aquatic species from entering Port Valdez via tankers, we recommend investigating and implementing a management plan (i.e., at-sea ballast water exchange) or a system to treat non-oily ballast water before it is released into marine waters.

105-14

If you have any questions please call Mary Lynn Nation, Fisheries and Habitat Conservation, at (907) 786-3519.

References

- Hines, A.H. and G.M. Ruiz (eds). 2000. Biological invasions of cold-water coastal ecosystems: ballast-mediated introductions in Port Valdez/Prince William Sound, Alaska. 2000. Final report to Regional Citizen's Advisory Council of Prince William Sound, 13 pp.
- Payne, J.R., W.B. Driskell, M.G. Barron, and D.C. Lees. 2001. Assessing transport and exposure pathways and potential petroleum toxicity to marine resources in Port Valdez, Alaska. Prepared for the Prince William Sound Regional Citizens' Advisory Council Long Term Monitoring Program. 72 pp.

Responses for Document 00105

- 00105-001:** Thank you for your comment.
- 00105-002:** To the degree possible, integrity of the pipeline to transport oil without spills, etc., under the Proposed Action, is accomplished through JPO oversight and a variety of design features and operational controls as addressed in Section 4.1.1, 4.1.2 and 4.1.3 of the EIS. However, even with these features in place the possibility of oil spills cannot be fully removed. For this reason there are also spill prevention and response measures that are included as part of the proposed action and that are presented in Section 4.1.4 of the FEIS. The potential impacts associated with spills of various probabilities and magnitudes are presented in Section 4.4 of the FEIS.
- The issue of the potential introduction of invasive aquatic species into Prince William Sound via tanker ballast water is discussed in the analysis of cumulative impacts in Section 4.7.7.2.1. It is recognized in that section that tanker traffic associated with the oil transport from the pipeline will add to the potential for introducing such organisms into Prince William Sound and that ballast water treatment would reduce the potential for such an impact.
- Maintaining fish passage at points where TAPS crosses streams and rivers is also addressed in the FEIS. Federal Grant Stipulation 2.5.1 identifies a number of requirements and controls that must be met relative to fish passage (see Section 4.1.3.3, Table 4.1-2). Potential impacts of the Proposed Action on fish passage are discussed in Section 4.3.16.2. Briefly, this section identifies that while temporary impediments to fish passage may occur in some streams as a result of the presence and operation of TAPS, long-term effects on fish populations are not anticipated. One factor in drawing this conclusion is the variety of measures that are in place to evaluate stream crossings, identify obstructions to fish passage, and address such obstructions.
- 00105-003:** It is correct that the effects of aging have the potential to impact the integrity and reliability of any mechanical system. However, age alone does not dictate reliability or performance. Myriad factors can impact system performance. For example, the manner in which mechanical systems are operated and maintained can greatly influence their long-term integrity, reliability, and performance.
- Existing right-of-way requirements and TAPAA provide the BLM with sufficient authority to oversee TAPS operations and to impose strict and enforceable requirements on APSC. Utilizing its oversight authority, the JPO ensures that APSC's operating and maintenance procedures take all potential impacting factors into account and are sufficient and appropriate to maintain TAPS integrity. The JPO also has the authority to direct APSC to undertake changes, repairs, or upgrades when that is not the case. Under the reliability centered maintenance (RCM) program, all TAPS subsystems are being carefully evaluated for the consequences of their failure and will have maintenance regimens or remanufacture, overhaul, or replacement schedules established that preclude such failures from occurring, if they would have an adverse impact on public safety or the environment.
- 00105-004:** As described in Section 4.1.2.9 of the EIS, APSC has three different leak detection systems in place: 1) Deviation Alarms, 2) Line Volume Balance (LVB) and 3) Transient Volume Balance (TVB). The leak detection systems for the TAPS can detect leaks down to 0.12% of rated capacity or approximately 100 barrels per hour. Leaks from above ground sections of TAPS can be detected by surveillance as small as 1 gallon per day. A 1 gallon per minute leak below ground can be assumed to be detected and located within 3 months. Section 4.4 of the EIS discusses the spill scenarios considered and the estimated impacts from these scenarios. The scenarios range from high frequency/low consequence events to low frequency/high consequence occurrences. One of the scenarios considered along the pipeline is a leak due to corrosion related damage that could occur either above or below ground. Up to 10,000 bbl of oil was assumed to spill and the spill duration was assumed to be prolonged (on the order of days).

- 00105-005:** Section 4.3.16.2 has been modified to more clearly identify that current operations include training, coordination between agency biologists and APSC field personnel, annual inspections of fish crossings to identify potential obstructions, and follow-up procedures to ensure that obstructions are removed and improvements are made in a timely fashion
- 00105-006:** Tanker operations, regulations, and spill analysis all used historic information to evaluate the effects of weather on operations of the terminal and the tanker fleet. While ice is not mentioned explicitly, adverse weather conditions are discussed. The text was changed to reflect the fact that Port Valdez does have icing.
- 00105-007:** Under the proposed action, oily (non-segregated) ballast water from tankers is required to be treated in the Ballast Water Treatment Facility (BWTF), as identified in Section 4.1.2.7. Potential impacts of BWTF operations on fish resources, including introduction of nonindigenous organisms) is presented in Section 4.3.16.1 of the EIS. As identified in that section, it has been observed that oily ballast water contains very few viable organisms. Following treatment of the oily ballast water in the BWTF, it is considered unlikely that nonindigenous organisms would be introduced via the BWTF. Of greater concern, is the potential for introduction of nonindigenous organisms via non-oily (i.e., segregated) ballast water that gets exchanged for water in Prince William Sound. The possibility of the introduction of nonindigenous organisms via untreated segregated tanker ballast water is addressed as part of the analysis of cumulative effects in section 4.7.7.2.1. A reference to this section has been added to the discussion in Section 4.3.16.1.
- 00105-008:** Thank you for your comment.
- 00105-009:** The Alyeska Annual Data Report for June 2000-May 2001, filed with the EPA and ADEC pursuant to Part III.B.6 of NPDES Permit No. AD-002324-8, shows the effluent from the BWTF did not exceed the specific limits established in the Permit. The effluent limits in the Permit are established by the EPA, and certified by the ADEC, at levels expected to prevent adverse effects on receiving waters. See Appendix C, Section C.
- While we recognize that the PWS RCAC has recommended that NPDES permit levels for the BWTF be reduced, the EIS correctly identifies that BWTF discharges are below current NPDES permit limits and that concentrations of total PAHs in sediments are below the sediment quality guidelines for marine sediments. The methods used by Feder and Shaw (2000) to detect total PAH concentrations in sediment were sufficiently sensitive to allow comparison to the sediment quality guidelines. This does not mean that there is not some accumulation of PAHs in sediments surrounding the BWTF diffuser near the VMT, just that those levels do not exceed the current sediment quality guidelines for protecting aquatic organisms. Section 4.3.16.1 provides data and analyses of the impacts of PAHs discharged to PWS.
- 00105-010:** Text has been added to Section 4.4.10 that mentions photoenhanced toxicity of some PAHs when exposed to sunlight and provides additional citations.
- 00105-011:** The possibility of introducing nonindigenous organisms via untreated segregated tanker ballast water is addressed as part of the analysis of cumulative effects in Section 4.7.7.2.1.
- 00105-012:** Thank you for your comment.

- 00105-013:** Projected gravel needs under the proposed action are identified in Section 4.3.4 and it is estimated that less than 100,000 cubic yards of material per year would be required. This section also identifies that most of the required material would be obtained from the 69 operational material sites now being utilized and recognizes that some additional materials sites might need to be developed. Development of additional sites would be evaluated separately under NEPA and under state and federal permit processes. Potential effects of gravel mining in streambeds on fish resources is addressed in Section 4.3.16.1, including the potential for utilization of some gravel excavation sites as overwintering habitat for fish.
- 00105-014:** Section 4.7.7.2.1 recognizes that tanker traffic associated with the oil transport from the pipeline will add to the potential for introducing such organisms into Prince William Sound and that ballast water treatment would reduce the potential for such an impact.

00106

NVN
Native Village of Nuiqsut
 P.O. Box 89169, Nuiqsut Alaska 99789
 PHONE (907) 480-3010 FAX (907) 480-3011 EMAIL tanvn@astacalaska.net

August 23, 2002

Joint Pipeline Office
 411 West 4th Avenue
 Anchorage, AK 99501

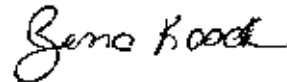
RE: Comments

Since day one, Nuiqsut has experienced impacts from the Alyeska pipeline. Alyeska needs to recognize that Nuiqsut is the most impacted village. Complete study of the pipeline impact has not been done on the village, and most important, the subsistence resources we depend on.

Here is a list of requests: (1) the Native Village of Nuiqsut (NVN) members and Nuiqsut Tribal Council (NTC) would like to have a Local Advisory Board, (2) we are also requesting more impact studies regarding animals, birds and humans, (3) there are no emergency services available on the haul road, we need these services because many residents of Nuiqsut use the roads also, (4) the facilities needs to be more respectful with the residents when they are requesting assistance when they are traveling on the haul road, (5) the adverse impact on environment and social impacts are not being studied, we would like to see the adverse impacts, (6) we need to have more local training and hiring for the residents of Nuiqsut, (7) and more time is needed to thoroughly evaluate extensions of permits.

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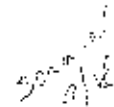
Thank you,



Zena Kasak, Tribal Administrator
 Signing for Leonard Lampe Sr., President

PHONE (907) 480-3010 FAX (907) 480-3011 EMAIL tanvn@astacalaska.net
 P.O. Box 89169, Nuiqsut Alaska 99789

Nuiqsut Tribal Council
NTC



Responses for Document 00106

- 00106-001:** The reader is directed to Section 2.5 of the FEIS, which discusses the need for advisory boards. The BLM will continue to work to listen very carefully to input provided by Alaska Native Tribes and villages on issues related to TAPS operations.
- 00106-002:** The FEIS sections on biological resources (4.3.14-18 and 4.4.8-12) have been revised to include information provided by the public during the comment process on the DEIS. The reader is also directed to section 2.5 in which BLM states that studies on issues related to pipeline operations can be initiated at any time if these studies are deemed necessary for the safe operation of TAPS.
- 00106-003:** Emergency services on the Dalton Highway are outside the scope of the EIS.
- 00106-004:** Access by travelers to APSC facilities on the Dalton Highway are outside the scope of the EIS.
- 00106-005:** Impacts to the environment, including social, economic, and subsistence are presented in Chapter 4 of the FEIS.
- 00106-006:** Section 2.5 discusses employment issues under section 29 of the Federal Grant. Employment requests by individual villages or Alaska Native Tribes are outside the scope of the EIS.
- 00106-007:** The time periods required for reviewing individual permits are outside the scope of the EIS.

**CITY OF CORDOVA, ALASKA
RESOLUTION 08-02-51**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CORDOVA,
ALASKA, CONDITIONALLY ENDORSING A 30-YEAR RENEWAL OF THE
RIGHT-OF-WAY FOR THE TRANS-ALASKA PIPELINE SYSTEM**

WHEREAS the Bureau of Land Management, in close cooperation with the State of Alaska, is seeking public comments on a proposed action to grant a 30-year renewal of a right-of-way for the Trans-Alaska Pipeline System (TAPS); and

WHEREAS the City of Cordova's primary economy is dependent on salmon production from the Copper River watershed; and

WHEREAS the TAPS crosses tributaries of the Copper River in more than 75 locations; and

WHEREAS scientific studies released last year state that the long-term damage to salmon from spilled oil is significantly higher than previously thought; and

WHEREAS the spill contingency plans for the pipeline are inadequate – as demonstrated by the Livengood bullet hole spill of 2001; and

WHEREAS the 800-mile long TAPS was completed in 1977 and is showing evidence of its age – as demonstrated by the 21-inch shift in a section of pipeline that went undetected for several months; and

WHEREAS the City of Cordova knows first-hand the importance of prevention and practice for effective emergency response efforts.

NOW, THEREFORE, BE IT RESOLVED THAT the City of Cordova endorses a 30-year renewal of the TAPS right-of-way on condition that:

1. An in-depth audit of the pipeline's operations and hardware be conducted by an independent entity, such as the National Academy of Sciences, at least every five years. The purpose of this audit is to ensure its operations and hardware stay current with the best available technologies and science.
2. A citizens' advisory council for the overland segment of the pipeline be established and include representatives of communities and landowners along the right-of-way. This council would make recommendations to the Department of Interior and Alaska Department of Natural Resources.

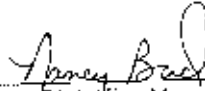
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BE IT FURTHER RESOLVED THAT the City of Cordova requests a 45-day extension of the August 20 deadline for public comments on the right-of-way renewal. A 45-day comment period in the middle of the summer in Alaska is extremely unfair to rural Alaskans who must use every day of summer to either earn or catch their winter keep.

107-3

PASSED AND APPROVED THIS 21ST DAY OF AUGUST, 2002.



Nancy Bird, Vice-Mayor



Lila J. Koplin, City Clerk

Responses for Document 00107

- 00107-001:** The reader is referred to Section 2.5 of the FEIS, in which audits are addressed under Alternatives and Issues Considered but Eliminated from Detailed Analysis.
- 00107-002:** The reader is referred to Section 2.5 of the FEIS, "Alternatives and Issues Considered but Eliminated from Detailed Analysis."
- 00107-003:** Although 45 days is understandably a short time to review a document of this size, the time period is consistent with the Council on Environmental Quality regulations for implementing the National Environmental Policy Act regarding the review of draft environmental impact statements. Significant effort was made to advise people of the schedule and duration of the review well in advance (one year). The DEIS was published on schedule and many substantive comments on the content of the DEIS, including yours, were received during the 45-day period.

Petition for Conditions of TAPS Lease Renewal

We, the undersigned insist up on the following conditions for the renewal of TAPS operational Leases:

- The grant lease should establish a citizens oversight group (COG) funded by the TAPS Owners through the Department of the Interior.
- TAPS dismantling, removal and restoration (DR&R) funds should be immediately placed in an escrow account.
- Grant and Lease renewal should be made conditional on satisfactory completion of an immediate comprehensive independent field audit, as well as an independent technical review and field audit every five years.
- TAPS should be transferred to a single responsible managing party with no North Slope production.
- A TAPS Employee Concerns Program should be incorporated into lease and right-of-way renewal to ensure critical problems are adequately addressed to prevent spills.
- Stipulations attached to the original federal and state Grant and Lease agreements should be carefully reviewed to ensure that they reflect a) scientific and technological advances during the last three decades and b) experience with the operation of TAPS.

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| Name | Address | Date |
|---------------------|----------------------------------------------------|----------|
| 1. Maggie Pinson | 18716 95 th Avenue NE, Bothell WA 98011 | 08-15-02 |
| 2. Mark Steen | Box 1310 Cordova, ALASKA 99574 | 08-15-02 |
| 3. Dora Schultz | Box 1291 Cordova AK 99574 | 8-15-02 |
| 4. Voudin Maitson | Box 1188 Cordova AK 99574 | 8-15-02 |
| 5. Michael Baiter | P.O. Box 1526 Cordova AK 99574 | 8-15-02 |
| 6. Clayton Hawkes | 725 Fritz Cove Rd Juneau AK 99801 | 8-15-02 |
| 7. Paul Rehwerder | PO Box 7853 Bellingham, WA 98228-1853 | 8-15-02 |
| 8. Sierra Drake | PO Box 1464 Cordova AK 99574 | 8-15-02 |
| 9. Rebecca Brewer | PO Box 841 Cordova AK 99574 | 8-15-02 |
| 10. Kathleen Ares | 1073 Urania Ave Kenai, AK 99504 | 8-15-02 |
| 11. Debi O'Zenek | PO Box 634 Cordova 99574 | 8/15/02 |
| 12. Barbara Macford | 51169 Badger Rd Spring Green, WI 53588 | 8/15/02 |
| 13. Becky Clausen | PO Box 1560 Cordova, AK 99574 | 8/15/02 |
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- TAPS should be transferred to a single responsible managing party with no North Slope production.
- A TAPS Employee Concerns Program should be incorporated into lease and right-of-way renewal to ensure critical problems are adequately addressed to prevent spills.
- Stipulations attached to the original federal and state Grant and Lease agreements should be carefully reviewed to ensure that they reflect a) scientific and technological advances during the last three decades and b) experience with the operation of TAPS.
- The public comment period must be extended by at least 45-days to ensure ample time for meaningful input.

108-7

| Name | Address | Date |
|-------------------------|-------------------------------------------|--------|
| 1. Opteen Decker | 4101 University Dr. #5-52 Anchorage 99508 | 8/3/02 |
| 2. Tom Gode | PO 1711 CDU | 8/3/02 |
| 3. Joann L. Reichold | POB 806 Cordova | 8/3/02 |
| 4. Mark G. Cummings | 5-mile Copper River Hwy Cordova | 8/7/02 |
| 5. Meadow Bejarano | POB 1261 cordova AK Meadow Bj | 8/7/02 |
| 6. Christina | POB 853 cordova Ak | 8/8/02 |
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Responses for Document 00108

- 00108-001:** The reader is referred to Section 2.5 of the FEIS, "Alternatives and Issues Considered but Eliminated from Detailed Analysis."
- 00108-002:** The reader is directed to the discussion of escrow funds found in Section 2.5.
- 00108-003:** The reader is referred to Section 2.5 of the FEIS, in which audits are addressed under Alternatives and Issues Considered but Eliminated from Detailed Analysis.
- 00108-004:** The reader is referred to Section 2.5 of the FEIS, "Alternatives and Issues Considered but Eliminated from Detailed Analysis."
- 00108-005:** The BLM and the agencies within JPO acknowledge both that there have been legitimate issues related to APSC's Employee Concerns Program (ECP) and that APSC has undertaken considerable efforts to improve and refine its ECP program.
- The BLM and JPO expect to continue to evaluate the effectiveness of APSC's ECP through confidential surveys that will seek input from all TAPS employees (see Section 4.8.4 of the FEIS). Like the three prior surveys, these efforts can provide broad measures of the confidence that TAPS workers have in APSC's ECP and can suggest areas needing improvement.
- The JPO also notes that a confidential hotline (1-800-764-5070) currently exists for employees or members of the public to report issues and concerns about TAPS. Recorded messages are checked daily by the BLM-Alaska Special Agent's office. The purpose of the hotline is to identify issues relating to pipeline integrity, public safety, environmental protections and regulatory compliance for incorporation into the JPO work program. The BLM also refers employees seeking personal relief (e.g., restoration of employment or lost compensation) to the U.S. Department of Labor or other appropriate authorities for further investigation.
- 00108-006:** The BLM and member agencies of the JPO use an adaptive management approach to evaluate the effectiveness of stipulations and regulatory oversight. Ongoing monitoring programs, as identified in the 12 Comprehensive Monitoring Reports published since 1996, provide BLM and JPO with the necessary information to evaluate the effectiveness of stipulations in the Grant and Lease.
- The reader is referred to Section 4.1.1 (JPO oversight) and specifically to Sections 4.1.1.2 (Adaptive Nature of the Grant in Compliance Monitoring), 4.1.1.3 (Risk-based Compliance Monitoring), 4.1.1.4 (JPO Comprehensive Monitoring Program), and 4.1.1.8 (Coordinated Planning and Response to Abnormal Incidents) for more information on the role of adaptive management as a JPO business practice.
- 00108-007:** Although 45 days is understandably a short time to review a document of this size, the time period is consistent with the Council on Environmental Quality regulations for implementing the National Environmental Policy Act regarding the review of draft environmental impact statements. Significant effort was made to advise people of the schedule and duration of the review well in advance (one year). The DEIS was published on schedule and many substantive comments on the content of the DEIS, including yours, were received during the 45-day period.

August 20, 2002

BLM TAPS Renewal EIS
 Argonne National Lab EAD/900
 9700 S. Cass Ave.
 Argonne, IL 60439
tapswebmaster@anl.gov

State of Alaska, DNR/JPO
 Attn: TAPS Renewal Team
 411 West 4th Ave., Suite 2C
 Anchorage, AK 99501
[ADNR Administrative Record@jpo.doi.gov](mailto:ADNR_Administrative_Record@jpo.doi.gov)

Re: Comments on Application of the Owners for Renewal of the Federal Grant and State Lease for the TAPS Right-of-Way

Over half my life, 27 years, has been invested here in the community of Cordova. The bottom dropped out of my world as a gillnetter's wife during the technological disaster of the Exxon Valdez oil spill. My marriage disintegrated, my ability to make a living as a news writer, initially very promising, deteriorated. I now live in public housing, working at odd jobs, struggling with domestic and mental health issues while I continue to try and build a viable business and take care of my children and fight off a hopelessness I believe is directly related to the 1989 disaster. We are the stewards of the land and our lives. Our community is splintered with the consequences of the Exxon Valdez oil spill and no more irresponsibility must occur. The Trans-Alaska Pipeline System absolutely has to be accountable.

I strongly disagree with statements made by both the state and federal regulators in the draft EIS documents. I am concerned that the next major spill will be along the overland portion of TAPS. The main pipeline crosses 76 tributaries of the Copper. While spill prevention and response measures have improved significantly since the 1989 spill—almost all due to citizen oversight and pressure, most of those changes are at the Valdez terminal and in Prince William Sound. On the pipeline, reliable spill prevention and response measures still do not exist. The problem is particularly acute at river crossings. TAPS crosses 800 streams and sections of pipeline over rivers have reached design capacity for sag—there is nothing left to give. This seems like an accident waiting to happen.

In the early 1970s and promised there wouldn't be an oil spill in Prince William Sound and made other promises such as tankers would have double hulls and we would have a state-of-the-art traffic control system in the Sound. Had these promises been kept, we might not have had the Exxon Valdez oil spill.

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Some, but not all, of the oil companies' promises were stated as a set of conditions and stipulations in the original agreements and right-of-way grants. The Interior Department and its designees were assigned the job of ensuring those promises to the American people were kept. Even a brief review of history shows that many of these promises were broken and that the companies were allowed to operate for literally years in noncompliance with their federal grant and state lease.

For example, the ballast water treatment (BWT) facility at the tanker terminal has not been reviewed at least once every 5 years to ensure state-of-the-art equipment and technology as promised the federal grant and state lease. Some improvements at the BWT facility occurred only recently and through citizen involvement and oversight. The vapor recovery system at the tanker terminal didn't work for decades—since startup until 1998 when vapor controls were built into two of the four berthing docks. When it didn't work it dumped literally tons of benzene into the air and jeopardized public and worker health and safety in violation of the federal grant, state lease, and operating permits. In 1993, concerned industry employees testified in Congress that the quality control program was nonexistent—since startup—and, as a result, the entire TAPS had been so poorly maintained that it posed an imminent threat to the public, workers, and the environment. Subsequent audits validated the whistleblowers' concerns. Operating without an independent quality control program is in direct violation of the federal grant and state lease.

109-2

More recent examples occurred after the *Exxon Valdez* oil spill. Still now over 13 years later, most of the species studied by the Trustee Council have not recovered from the spill. Yet the federal grant and state lease promise that damages to public lands will be promptly repaired or replaced and that damages to public fish and wildlife resources, and their habitat, will be rehabilitated. This has not happened.

109-3

The oil companies also promised in stipulations attached to the federal grant and state lease to "take all measures necessary to protect the health and safety of all persons affected by their activities..." (Stipulation 1.20.1). I believe this promise includes taking care of residents and cleanup workers after a spill. Yet, after the *Exxon Valdez* spill, Tatitlek villagers observed that Exxon was willing to spend \$800,000 on each sea otter for rehabilitation, but nothing or very little on mental health care for people traumatized by the spill. Further, thousands of cleanup workers got sick during 1989, despite Exxon's worker safety program. I am just learning that hundreds of people may still be sick from overexposure to oil vapors, fumes, and aerosols during the cleanup. All the oil companies promised to "immediately abate any health or safety hazards" (Stipulation 1.20.1); it seems all the companies, not just the spiller, are responsible to ensure that people don't get sick during the cleanup—and to take care of the ones who do as per the original promise.

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I think that the oil companies are now currently in noncompliance with the federal grant and state lease. For example, the fire-fighting ability at the tanker terminal is virtually nonexistent. Oily sludge (hazardous waste) has collected several feet deep in tanks at the BWT facility—and the sludge incinerator was **never built** as per the original facility design. There is still no independent quality assurance program. The contingency plans for river spills are grossly inadequate—drills show the plans won't work to contain and cleanup oil spilled into rivers. I'm sure this list is incomplete and pipeline regulators could add to it if they were to seriously look for problems and not just respond to ones brought to their attention by citizens or concerned employees.

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In light of these past and still ongoing problems, The Alaska Department of Natural Resources found the oil companies to be in compliance with the state lease. Why?

Federal and state regulatory agencies also stated that the aging 800-mile pipeline and its support systems that were originally built to last 30 years "*cannot be sustained for an unlimited duration*" with minimal costs and change in the operating and maintenance procedures. This statement demonstrates a lack of credibility—and no grasp of reality. The recent spate of accidents including the failed response to the Livengood bullet hole spill, and the 21-inch shift in a section of pipeline that went undetected for several months show that both industry and the regulators are ill-prepared for serious problems along the overland section of TAPS. The 3 spills at pump stations on pipeline startup after routine maintenance last fall clearly demonstrate this pipeline is aging and not aging well as frequent spills on startup are one sign of increasing problems that should be anticipated—not ignored—in an aging pipeline.

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I was further shocked and offended by the following statement in the draft EIS. "While the Exxon Valdez oil spill was a significant event in the operation of TAPS, creating significant benefits to the state and local economy that more than offset the economic damage to the fishing and tourism industries in Prince William Sound, it is unlikely that a spill of such magnitude, even if it occurred again would create the same level of economic activity" (DEIS, page 4-7-116).

This offensive statement clearly shows that the government regulators have a completely different perspective of their job of pipeline oversight than we were all led to believe by the federal grant and state lease. The original right-of-way documents do not mention that economics of spill cleanup would be weighed against economic damages to the few communities at risk—I don't think the right-of-way would have been granted with such a discriminatory approach. Instead the oil companies promised to protect, repair, replace, rehabilitate, etc. fish and wildlife resources, and their habitat (Sections 13, 14, 15, 19, 20, and 21)—and the regulators are supposed to hold the companies to this promise. Specifically, the companies also promised to protect subsistence resources, lands, and users, which have a zero dollar economy and can't be compared to economics of spill cleanups at all.

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Oil spills are expensive to clean up—I'm sorry that I can't see this as good for the economy, but that's really irrelevant. Even if there was zero economy as measured by exchange of dollars, the oil companies are authorized to operate only if they take steps to minimize risk of oil spills and damage from spills. It's the government regulators' job to see the oil companies are held to this standard—the statement in the draft EIS seems to indicate that the regulators are not doing their job and are out of compliance themselves with the federal grant and state lease.

Finally, I must state that I feel this 45-day public comment period for a project of such national and state significance is counterproductive at best and a sham at worst. I did not have time to thoughtfully review the 1,700 page draft EIS because I have been busy trying to earn a living and put up winter food during Alaska's short summer. It appears from statements in the draft EIS that the government regulators did not have time to thoughtfully review nearly 30-years of TAPS history and compare performance with promises, conditions, and stipulations in the federal grant and state lease. Why the rush on a project of such significance? Over a year ago, the Joint Pipeline Office stated that the comment period would run from July to September, but in keeping with 25 years of broken promises by TAPS operators and government regulators, the regulators have broken that promise too.

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Despite all the obstacles for public testimony, I offer the following recommendations for improving TAPS operations for the next 30 years—and I believe all my comments are well within the scope of this National Environmental Policy Act hearing process. I can only support reauthorization for another 30 years if these recommendations are fully addressed and included in the next federal grant and state lease.

#1 Stiff meaningful penalties for failure to comply.

All the laws, regulations, stipulations, and oversight in the world are forever inadequate without meaningful penalties and enforcement. Monetary fines are dwarfed by enormous profits, and the regulators are certainly not going to shut down the oil flow as a penalty for noncompliance—the nation has become too dependent upon this energy source. The track record of the oil companies show that it has acted like a child who knows it is never going to be disciplined. This was not what the American public was originally promised or led to believe would happen.

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Some possibilities for meaningful penalties for noncompliance by the oil companies include requirements for: 1) reporting the circumstances of noncompliance to their shareholders in quarterly newsletters as the events unfold (not after the fact); 2) CEOs and other responsible officers of oil companies to conduct public service in the TAPS corridor communities most at risk from the consequences of the noncompliance; 3)

accruing penalties with interest on a daily basis as long as the infraction occurs; and tying penalties in with the cost of the fixing the problem so that penalties are 10 times the money saved by failure to do the maintenance work in a timely manner. This latter would force owners to change perspective and view maintenance as a cost savings compared to prospective penalties.

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(Cont.)

#2 Establish a TAPS Citizens' Oversight Group.

Following the *Exxon Valdez* tragedy in 1989, the State of Alaska created the Alaska Oil Spill Commission to investigate the root causes of the spill and recommend changes to the oversight system. One of the Commission's central findings was that institutional complacency, both in industry and government, was a root cause of the spill. The Commission found that citizens were essential to an effective oversight system because they bring urgency to protecting the resources they care about and depend upon for their livelihoods. Distant bureaucrats, despite their best efforts, do not share this local perspective. To prevent future complacency, and thereby prevent future disasters, the Commission recommended creation of citizens' advisory councils for the marine and overland segments of Alaska's oil transportation system. We only have citizen oversight of the marine portion of TAPS—the tankers and tanker terminal—and it has proven the wisdom of the Commission's finding. It is time to apply the lessons learned to the overland pipeline.

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As a requirement of renewal, the grant and lease should establish a TAPS COG that would operate completely independently of government regulators and industry: incorporating government and industry into "citizen oversight" creates an oxymoron. The TAPS COG should make recommendations directly to the Department of Interior (DOI) and to the Department of Natural Resources (ADNR) or their designees. The COG should be funded through the DOI by the permittees as part of the cost of TAPS operations, and all members of the TAPS COG and their staff should be paid for their services. The COG contract should be negotiable on the same timeframe as the right-of-way permit; i.e., 30 years.

#3 Charge penalties if more than 10% of employees are afraid to speak out.

Industry employees are the public's front line of defense in reducing oil spills. The workers know what is wrong and how to fix it. They need to be allowed to do their jobs free of harassment and intimidation. All personnel—and particularly the quality control inspectors—need to be independent of pressure from Alyeska and its owners to provide the reliable comprehensive quality assurance program promised to the public. Such a program is critical to TAPS integrity as the pipeline ages, because increased

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maintenance costs will compete with oil company profits: workers need to be able to report maintenance problems without fear of reprisal.

The nuclear regulatory industry closes facilities if more than 10% of plant employees are afraid to speak out because of reprisals, harassment and intimidation. A similar standard should be adopted for TAPS operations, with annual independent surveys of workers to determine work conditions. Instead of closing facilities, stiff penalties should be applied, and public service by company officials and reporting of noncompliance to shareholders required (see Rec. #1, above).

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#4 *Require independent, long-term epidemiology studies, and short- and long-term treatment of physical and mental health effects, for workers and affected residents after major TAPS spills.*

Oil spills were—and still are—an anticipated side effect of TAPS construction, operation, maintenance, and termination. That's why there are oil spill contingency plans; that's why the oil companies promised, as a condition of operating, to protect public and worker health and safety. But a promise is worth nothing without follow through: after the Exxon Valdez spill this promise was ignored. There was inadequate financial support to meet increased needs of mental health facilities in affected communities and short- and long-term physical health care needs of cleanup workers were unmet. This is simply unacceptable—and in noncompliance with permits.

TAPS owners should be required to pay for increased mental health care in the years during and immediately after a spill in all affected communities. This care should include focused peer listening circles to mitigate community-level emotional trauma. Since oil spill cleanups are considered a hazardous waste cleanup, long-term health care studies should be required as the health symptoms associated with crude oil exposure (long-term respiratory damage; disorders of the central nervous system, liver, kidney, blood, and skin; endocrine disruption; and immune suppression) could take years to manifest as physical health problems. Oil companies should also be required to provide chemical decontamination treatments for individuals with acute health symptoms from high body levels of crude oil and other substances present during the cleanup. Individuals who become disabled from overexposure to chemicals present during the cleanup should be compensated by the oil companies, as should the estate of individuals who die from overexposure to chemicals present during the cleanup.

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#5 *Require independent verification of spill volume as a condition of lease renewal.*

Spill penalties for damages to natural resources such as fish, wildlife, public lands held in the public trust are based on the volume of oil spilled—as reported by the

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spiller. One way to reduce the risk of spills and resulting damage to the environment and worker and public health and safety—one of the promises of the original agreement and right-of-way leases—is to penalize TAPS owners, or responsible parties in the case of a TAPS tanker spill, for the correct amount of oil spilled.

For example, Exxon underreported how much oil it spilled. In an unpublished investigation on file at the Alaska Resources Library and Information Services, the State of Alaska found Exxon spilled about 35 million gallons. Exxon paid the American public one billion dollars for damage to public resources from a supposedly 11 million-gallon spill: by underreporting its spill by one-third, the company only paid for one-third of the damages and essentially saved itself two billion dollars.

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Independent verification should be required as a new condition of lease renewal. Further, stipulation should specify that government regulators and citizen oversight councils, either separately or jointly, conduct the assessment and agree upon the volume spilled before spill penalties are assessed.

#6 *Thoroughly review and update the original right-of-way grants and stipulations in light of past experience, current science, new technology, new laws, and public comments.*

The federal grant and state lease are three decades old and no longer reflect current science, technological advances, and law changes. For example, global warming and melting permafrost threaten to make at least one-third of the 77,000 vertical support members of the TAPS unstable with potentially catastrophic effects on the pipeline. Studies from the Exxon Valdez spill show that oil is 1,000 times more toxic previously thought, and that it can cause long-term environmental damage. Federal laws are still based on outdated research from the 1970s and 1980s and are grossly under-protective of fish and wildlife. This makes the original promises to protect fish, wildlife, and habitat even more important as basically these promises mean the owners and TAPS regulators will take measures beyond existing laws in order to protect fish and wildlife, habitat, and other subsistence needs.

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Further, the original grant and lease agreements were signed by some companies that no longer exist because of mergers and buyouts. I assume, but would like proof, that the new companies are signatories to the current right-of-way grants and leases.

#7 *Grant and lease renewals should be made conditional on satisfactory completion—within 12 months of the renewal—of an independent field-based evaluation of the entire TAPS including hardware and management.*

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In 1993 a series of independent and industry audits found TAPS was in an imminent state of collapse with several major system wide problems including hardware problems, technical issues, and management issues. 1994 was proclaimed to be the "year of fixes" by the Alyeska president at the time, but fixes proved elusive. For example, the highly touted fiber optics cable, which was supposed to replace the old communication system, didn't work as planned and was quietly shelved.

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No one knows how many problems were actually fixed of those disclosed in 1993, or what new problems remain unfixed because there has not been any independent audits of the TAPS since 1993. This is not acceptable for a system that provides a significant portion of the nation's energy demands and the bulk of the state's operating revenues, and can wreak environmental, social, and economic havoc on Alaska's communities, residents, and federally recognized tribes.

#8 *Grant and lease renewals should be made conditional on satisfactory completion of annual independent audits of TAPS operations and management and 5-year in-depth independent field-based evaluations of the entire TAPS, including hardware and management.*

I am concerned that the recommended alternative—to renew the permits for another 30 years—is way too long for this particular pipeline: it is essentially double its design life. If reauthorization is granted, it should be made **conditional** upon satisfactory completion of independent audits every year with in-depth audits every 5 years as stated above. The Prince William Sound Regional Citizens' Advisory Council has to pass an annual audit and review of operations to be recertified. Nothing less should be expected for the entire TAPS, which has much more at stake than the advisory council!

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#9 *Immediately escrow TAPS DR&R funds and use interest to finance the TAPS COG and other measures to improve protections for environment, fish and wildlife, and worker and public health and safety.*

Funds intended for future dismantling, restoration, and removal of the TAPS have been collected from TAPS oil companies and passed through to parent companies, resulting in enormous profits—and no pot of money for future DR&R. This is a breach of public trust—and yet another example of corporate irresponsibility and accounting fraud. Government regulators need to take immediate action to remedy this problem.

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I want these funds to be escrowed now—**before any grant and lease renewals**—as a sign of good faith efforts and intention by oil companies and government regulators to the American public. The public was promised this once: we don't need to be

promised it twice. Further, earnings from the funds can be pledged towards payment for fulfilling other stipulations under the original agreements—such as protecting the environment, public resources, and worker and public health and safety.

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#10 Transfer of TAPS operations to single source with no North Slope production.

The oil company owners consistently cut costs on TAPS operations and maintenance to increase their profits. This dynamic has created an internal conflict of interest, essentially, between the owners and the public interest. While the oil company permittees promised in the right-of-way leases to take all 'reasonable' or 'appropriate and adequate' steps to protect the environment, fish and wildlife, and public and worker health and safety, these adjectives are relative when viewed from different perspectives. What seems reasonable to the oil companies, who measure the cost of prevention against their profits, may not seem reasonable to the public, especially those who measure the cost of spills against their livelihoods and health. The track record shows that the oil companies have profited handsomely at the public's expense.

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By transferring the operation, maintenance, and termination of TAPS to a single source with no North Slope production, the internal conflict of interest is broken. This operator would take more 'reasonable' steps, from the public perspective, to reduce its liability from spills by attention to TAPS operations and maintenance. Performance bonds could be required for additional protection of the public interest.

Summary of Concerns

We are going to have to get very creative to prevent a pipeline spill. We can't keep doing the same thing we have done in terms of TAPS operations and maintenance for the past 25 years. To continue past practices is to virtually guarantee a major spill in the TAPS corridor.

I ask that you give serious consideration to my comments. And I restate my position: I can only support TAPS reauthorization for another 30 years if these recommendations are fully addressed and included in the next federal grant and state lease.

Sincerely,

Carolyn Roesbery
Bx 594, Cordova, AK 99574

Responses for Document 00109

- 00109-001:** Oil spill prevention and response capabilities and related activities specific to the Copper River drainage area are discussed more fully in a text box that has been added to Section 4.4.4.3.
- 00109-002:** The JPO produced TAPS engineering report No. 00-E-018, Valdez Marine Terminal Ballast Water Treatment Plant: Compliance with Agreement and Grant Section 23 (May 24, 2000). The report satisfies the 5-year review process.
- 00109-003:** The reader is directed to Section 2.5 of the EIS, especially the part on the Exxon Valdez oil spill.
- 00109-004:** Section 4.4.4.7, Human Health and Safety, in the EIS, provides a detailed analysis of the potential effects of oil spills on human health. The BLM and member agencies of the JPO are committed to the protection of human health and the environment. The federal grant and authorizing legislation (TAPAA) provide unprecedented authority to BLM in assuring the protection of human health and the environment. Stipulations (the guiding conduct of operations for the operator of TAPS) within the federal grant contain numerous provisions that are protective of human health and the environment.
- 00109-005:** Any information regarding potential hazards associated with TAPS should be provided by the JPO.
- The Valdez Marine Terminal (VMT) has a number of fire protection systems, and fire protection capability was considered in preparing the EIS. See the text box in Section 4.3.13.1 for a complete description of the VMT protection /response features. Buildup of waxy solids in tanks at the Ballast Water Treatment Facility has received considerable attention by the JPO and APSC, as well as by citizen groups such as PWS RCAC. There is concurrence on an appropriate course of corrective action. See text box in Section 4.3.13.1.3.
- APSC substantially revised its quality control procedures after the 1993 testimony. APSC's quality control program undergoes review by the JPO under its comprehensive monitoring program. See Section 4.1.3.1.
- 00109-006:** It is correct that the effects of aging have the potential to impact the integrity and reliability of any mechanical system. However, age alone does not dictate reliability or performance. Myriad factors can impact system performance. For example, the manner in which mechanical systems are operated and maintained can greatly influence their long-term integrity, reliability, and performance.
- Utilizing its oversight authority, the JPO ensures that APSC's operating and maintenance procedures take all potential impacting factors into account and are sufficient and appropriate to maintain TAPS integrity. The JPO also has the authority to direct APSC to undertake changes, repairs, or upgrades when that is not the case. Under the reliability centered maintenance (RCM) program, all TAPS subsystems are being carefully evaluated for the consequences of their failure and will have maintenance regimens or remanufacture, overhaul, or replacement schedules established that preclude such failures from occurring, if they would have an adverse impact on public safety or the environment.
- The text box in Section 4.1.1.8 provides a synopsis of the MP 400 bullet hole incident. Details of the spill and the response are provided. Changes to the pipeline's spill contingency plan that are being made as a result of lessons learned are also discussed.
- Each of the three spills that occurred on start-up after a maintenance-related shutdown have been carefully evaluated, and causal factors have been identified. The JPO has required APSC to revise its shut-down and start-up procedures to prevent reoccurrence. APSC is also required to conduct drills on its procedures to ensure they are correct and complete. Also, APSC has made modifications to piping at pump stations to enhance cold restart capabilities. Summaries of the three incidents are included in CMP Report #11, issued in April 2002. See also Section 4.1.1.4.

00109-007: Text has been added to Section 4.7.8.3 of the FEIS providing additional sources of information about the impact of the Exxon Valdez oil spill (EVOS) on communities, including intangible impacts, such as psychological stress, and in the fisheries, recreation, and tourism industries in the Prince William Sound area. In addition, compressed overviews of selected impacts of the EVOS have been added to Sections 4.7.8.1 and 4.7.8.2.

00109-008: Although 45 days is understandably a short time to review a document of this size, the time period is consistent with the Council on Environmental Quality regulations for implementing the National Environmental Policy Act regarding the review of draft environmental impact statements. Significant effort was made to advise people of the schedule and duration of the review well in advance (one year). The DEIS was published on schedule and many substantive comments on the content of the DEIS, including yours, were received during the 45-day period.

00109-009: The reader is referred to Section 2.5 of the FEIS, "Alternatives and Issues Considered but Eliminated from Detailed Analysis."

00109-010: The reader is referred to Section 2.5 of the FEIS, "Alternatives and Issues Considered but Eliminated from Detailed Analysis."

00109-011: The BLM and the agencies within JPO acknowledge both that there have been legitimate issues related to APSC's Employee Concerns Program (ECP) and that APSC has undertaken considerable efforts to improve and refine its ECP program.

The BLM and JPO expect to continue to evaluate the effectiveness of APSC's ECP through confidential surveys that will seek input from all TAPS employees (see Section 4.8.4 of the FEIS). Like the three prior surveys, these efforts can provide broad measures of the confidence that TAPS workers have in APSC's ECP and can suggest areas needing improvement.

The JPO also notes that a confidential hotline (1-800-764-5070) currently exists for employees or members of the public to report issues and concerns about TAPS. Recorded messages are checked daily by the BLM-Alaska Special Agent's office. The purpose of the hotline is to identify issues relating to pipeline integrity, public safety, environmental protections and regulatory compliance for incorporation into the JPO work program. The BLM also refers employees seeking personal relief (e.g., restoration of employment or lost compensation) to the U.S. Department of Labor or other appropriate authorities for further investigation.

00109-012: Section 4.4.4.7, "Human Health and Safety," provides a detailed analysis of the potential effects of oil spills on human health.

The BLM and member agencies of the JPO are committed to the protection of human health and the environment. The Federal Grant and authorizing legislation (TAPAA) provide unprecedented authority to BLM in assuring the protection of human health and the environment. Stipulations (the guiding conduct of operations for the operator of TAPS) within the Federal Grant contain numerous provisions that are protective of human health and the environment.

00109-013: The BLM and the member agencies of JPO investigate all significant spills to verify the spill volume. There has been no evidence to date that past spill volumes have been reported inaccurately. If natural resource damage claims occur because of a spill, the U.S. Fish and Wildlife Agency or National Marine Fisheries Service conduct studies to evaluate damage to natural resources.

00109-014: The BLM and member agencies of the JPO use an adaptive management approach to evaluate the effectiveness of stipulations and regulatory oversight. Ongoing monitoring programs, as identified in the 12 Comprehensive Monitoring Reports published since 1996, provide BLM and JPO with the necessary information to evaluate the effectiveness of stipulations in the Grant and Lease.

The reader is referred to Section 4.1.1 (JPO oversight) and specifically to Sections 4.1.1.2 (Adaptive Nature of the Grant in Compliance Monitoring), 4.1.1.3 (Risk-based Compliance Monitoring), 4.1.1.4 (JPO Comprehensive Monitoring Program), and 4.1.1.8 (Coordinated Planning and Response to Abnormal Incidents) for more information on the role of adaptive management as a JPO business practice.

00109-015: The reader is referred to Section 2.5 of the FEIS, in which audits are addressed under Alternatives and Issues Considered but Eliminated from Detailed Analysis.

00109-016: The reader is referred to Section 2.5 of the FEIS, in which audits are addressed under Alternatives and Issues Considered but Eliminated from Detailed Analysis.

00109-017: The reader is directed to the discussion of escrow funds found in Section 2.5.

00109-018: The reader is referred to Section 2.5 of the FEIS, "Alternatives and Issues Considered but Eliminated from Detailed Analysis."

00110

Anast, Georgia A.

From: Richmond, Pamela
Sent: Tuesday, August 20, 2002 7:12 PM
To: Anast, Georgia A.
Cc: TAPSWEBMASTER
Subject: FW: renewal of Taps permit
Categories: Business

Georgia,
 Here is another email comment to add.
 Pam

-----Original Message-----

From: Pete Mickelson [mailto:akwings@ctcak.net]
Sent: Tuesday, August 20, 2002 6:48 PM
To: ADNR_Administrative_Record@JPO.doi.gov
Cc: tapswebmaster@anl.gov
Subject: renewal of Taps permit

Box 325
 Cordova, Alaska 99574
 17 August 2002

BLM TAPS Renewal EIS
 Argonne National Lab EAD/900
 9710 S. Cass Ave.
 Argonne, IL 60439
 tapswebmaster@anl.gov

State of Alaska, DNR/JPO
 Attn: TAPS Renewal Team
 411 West 4th Ave., Suite 2C
 Anchorage, AK 99501
 ADNR_Administrative_Record@jpo.doi.gov

Re: Comments on Application of the Trans-Alaska Pipeline System Owners for Renewal of the Federal Grant and State for the TAPS Right-of-Way

Dear Sirs:

I have lived in the Cordova area since 1985, and from 1973 to 1975 prior to that. I am concerned about Trans-Alaska oil pipeline developing leaks, particularly in the Copper River. It crosses at least 76 salmon streams, and since I am a subsistence user, I am very concerned about possible leaks. Alyeska needs to address this issue, among others, before the lease is renewed. I recommend renewal on a 5 year basis rather than years.

My comments are based on my experience living in and near a community that the oil company and government representatives visited in the early 1970s and assured there wouldn't be an oil spill in Prince William Sound. The oil companies made many other promises such as tankers would have double hulls and would have a state-of-the-art traffic control system in the Sound. Had these promises been kept, we might have had the Exxon Valdez oil spill.

Some, but not all, of the oil companies' promises were stated as a set of conditions and stipulations in original agreements and right-of-way grants. The Interior Department and its designees were assigned the task of ensuring those promises to the American people were kept. Even a brief review of history shows that these promises were broken and that the companies were allowed to operate for literally years in noncompliance with their federal grant and state lease.

For example, the ballast water treatment (BWT) facility at the tanker terminal has not been reviewed

08/21/2002

110-1

least once every 5 years to ensure state-of-the-art equipment and technology as promised the federal grant and state lease. Some improvements at the BWT facility occurred only recently and through citizen involvement and oversight. The vapor recovery system at the tanker terminal didn't work for decades—since startup 1998 when vapor controls were built into two of the four berthing docks. When it didn't work it dumped literally tons of benzene into the air and jeopardized public and worker health and safety in violation of the federal grant, state lease, and operating permits. In 1993, concerned industry employees testified in Congress that the quality control program was nonexistent—since startup—and, as a result, the entire TAPS had so poorly maintained that it posed an imminent threat to the public, workers, and the environment. Subsequent audits validated the whistleblowers' concerns. Operating without an independent quality control program is in direct violation of the federal grant and state lease.

110-1
(Cont.)

More recent examples occurred after the Exxon Valdez oil spill. Still now over 13 years later, most of the species studied by the Trustee Council have not recovered from the spill. Yet the federal grant and state lease promise that damages to public lands will be promptly repaired or replaced and that damages to public wildlife resources, and their habitat, will be rehabilitated. This has not happened.

110-2

The oil companies also promised in stipulations attached to the federal grant and state lease to "take measures necessary to protect the health and safety of all persons affected by their activities..." (Stipulation 1.20.1). I believe this promise includes taking care of residents and cleanup workers after a spill. Yet, after the Exxon Valdez spill, Tatitlek villagers observed that Exxon was willing to spend \$800,000 on each sea otter rehabilitation, but nothing or very little on mental health care for people traumatized by the spill. Further, thousands of cleanup workers got sick during 1989, despite Exxon's worker safety program. I am just lea that hundreds of people may still be sick from overexposure to oil vapors, fumes, and aerosols during the cleanup. All the oil companies promised to "immediately abate any health or safety hazards" (Stipulation 1.20.1): it seems all the companies, not just the spiller, are responsible to ensure that people don't get sick during the cleanup—and to take care of the ones who do as per the original promise.

110-3

I think that the oil companies are now currently in noncompliance with the federal grant and state lease. For example, the fire-fighting ability at the tanker terminal is virtually nonexistent. Only sludge (hazardous waste) has collected several feet deep in tanks at the BWT facility—and the sludge incinerator was never as per the original facility design. There is still no independent quality assurance program. The contingency plans for river spills are grossly inadequate—drills show the plans won't work to contain and cleanup oil spilled into rivers. I'm sure this list is incomplete and pipeline regulators could add to it if they were to seriously look for problems and not just respond to ones brought to their attention by citizens or concern employees.

110-4

In light of these past and still ongoing problems, I strongly disagree with statements made by both the state and federal regulators in the draft EIS documents. The Alaska Department of Natural Resources found the oil companies to be in compliance with the state lease. This determination is obviously a requirement for reauthorization as it has nothing to do with reality.

Federal and state regulatory agencies also stated that the aging 800-mile pipeline and its support systems that were originally built to last 30 years "can be sustained for an unlimited duration" with minimal cost change in the operating and maintenance procedures. This statement demonstrates a lack of credibility—no grasp of reality. The recent spate of accidents including the failed response to the Livengood bullet hole spill, and the 21-inch shift in a section of pipeline that went undetected for several months show that both the industry and the regulators are ill-prepared for serious problems along the overland section of TAPS. The spills at pump stations on pipeline startup after routine maintenance last fall clearly demonstrate this pipeline is aging and not aging well as frequent spills on startup are one sign of increasing problems that should be anticipated—not ignored—in an aging pipeline.

110-5

I was further shocked and offended by the following statement in the draft EIS. "While the Exxon Valdez spill was a significant event in the operation of TAPS, creating significant benefits to the state and local economy that more than offset the economic damage to the fishing and tourism industries in Prince William Sound."

110-6

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Sound, it is unlikely that a spill of such magnitude, even if it occurred again would create the same level of economic activity" (DEIS, page 4-7-116).

This offensive statement clearly shows that the government regulators have a completely different perspective of their job of pipeline oversight than we were all lead to believe by the federal grant and state lease. The original right-of-way documents do not mention that economics of spill cleanup would be weighed against economic damages to the few communities at risk. Instead the oil companies promised to protect repair, replace, rehabilitate, etc. fish and wildlife resources, and their habitat--and the regulators are supposed to hold the companies to this promise. Specifically, the companies also promised to protect subsistence resources, lands, and users, which have a zero dollar economy and can't be compared to economics of spill cleanups at all.

110-6
(Cont.)

Oil spills are expensive to clean up--I'm sorry that I can't see this as good for the economy, but that's irrelevant. Even if there was zero economy as measured by exchange of dollars, the oil companies are authorized to operate only if they take steps to minimize risk of oil spills and damage from spills. It's the government regulators' job to see the oil companies are held to this standard--the statement in the draft seems to indicate that the regulators are not doing their job and are out of compliance themselves with the federal grant and state lease.

Finally, I must state that I feel this 45-day public comment period for a project of such national and significance is counterproductive at best and a sham at worst. The hearings in Barrow and in Cordova were both packed. I did not have time to thoughtfully review the 1,700 page draft EIS because I have been busy trying to earn a living and put up winter food in Alaska's short summer. It appears from statements in the EIS that the government regulators did not have time to thoughtfully review nearly 30-years of TAPS history and compare performance with promises, conditions, and stipulations in the federal grant and state lease. The rush on a project of such significance? Over a year ago, the Joint Pipeline Office stated that the comment period would run from July to September, but in keeping with 25 years of broken promises by TAPS operators and government regulators, the regulators have broken that promise too.

110-7

Despite all the obstacles for public testimony, I offer the following recommendations for improving TAPS operations for the next 30 years--and I believe all my comments are well within the scope of this National Environmental Policy Act hearing process. I can only support reauthorization for another 30 years if the recommendations are fully addressed and included in the next federal grant and state lease.

#1 Establish a TAPS Citizens' Oversight Group.

Following the Exxon Valdez tragedy in 1989, the State of Alaska created the Alaska Oil Spill Commission to investigate the root causes of the spill and recommend changes to the oversight system. One of the Commission's central findings was that institutional complacency, both in industry and government, was a cause of the spill. The Commission found that citizens were essential to an effective oversight system because they bring urgency to protecting the resources they care about and depend upon for their livelihoods. Despite bureaucrats, despite their best efforts, do not share this local perspective. To prevent future complacency and thereby prevent future disasters, the Commission recommended creation of citizens' advisory councils for marine and overland segments of Alaska's oil transportation system. We only have citizen oversight for the marine portion of TAPS--the tankers and tanker terminal--and it has proven the wisdom of the Commission's finding. It is time to apply the lessons learned to the overland pipeline.

110-8

As a requirement of renewal, the grant and lease should establish a TAPS COG that would operate completely independently of government regulators and industry: incorporating government and industry "citizen oversight" creates an oxymoron. The TAPS COG should make recommendations directly to the Department of Interior (DOI) and to the Department of Natural Resources (ADNR) or their designees. The COG should be funded through the DOI by the permittees as part of the cost of TAPS operations, and all

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members of the TAPS COG and their staff should be paid for their services. The COG contract should be negotiable on the same timeframe as the right-of-way permit; i.e., 30 years.

110-8
(Cont.)

#2 Apply stiff, meaningful penalties for failure to comply

All the laws, regulations, stipulations, and oversight in the world are forever inadequate without meaningful penalties and enforcement. Monetary fines are dwarfed by enormous profits, and the regulators are certainly not going to shut down the oil flow as a penalty for noncompliance—the nation has become too dependent upon this energy source. The track record of the oil companies show that it has acted like a child who knows it is never going to be disciplined. This was not what the American public was originally promised or led to believe would happen.

110-9

Some possibilities for meaningful penalties for noncompliance by the oil companies include requirements for: 1) reporting the circumstances of noncompliance to their shareholders in quarterly newsletters as the events unfold (not after the fact); 2) CEOs and other responsible officers of oil companies to conduct public service in the TAPS corridor communities most at risk from the consequences of the noncompliance; 3) accruing penalties with interest on a daily basis as long as the infraction occurs; and tying penalties in with the cost of fixing the problem so that penalties are 10 times the money saved by failure to do the maintenance work in a timely manner. This latter would force owners to change perspective and view maintenance as savings compared to prospective penalties.

#3 Require independent verification of spill volume as a condition of lease renewal.

Spill penalties for damages to natural resources such as fish, wildlife, public lands held in the public trust are based on the volume of oil spilled—as reported by the spiller. One way to reduce the risk of spills and resulting damage to the environment and worker and public health and safety—one of the promises of the original agreement and right-of-way leases—is to penalize TAPS owners, or responsible parties in the case of a TAPS tanker spill, for the correct amount of oil spilled.

110-10

For example, Exxon underreported how much oil it spilled. In an unpublished investigation on file at Alaska Resources Library and Information Services, the State of Alaska found Exxon spilled about 35 million gallons. Exxon paid the American public one billion dollars for damage to public resources from a supposed 11 million-gallon spill: by underreporting its spill by one-third, the company only paid for one-third of the damages and essentially saved itself two billion dollars.

Independent verification should be required as a new condition of lease renewal. Further, stipulations specify that government regulators and citizen oversight councils, either separately or jointly, conduct the assessment and agree upon the volume spilled before spill penalties are assessed.

#4 Thoroughly review and update the original right-of-way grants and stipulations in light of past experience, current science, new technology, new laws, and public comment

The federal grant and state lease are three decades old and no longer reflect current science, technological advances, and law changes. For example, global warming and melting permafrost threaten to make at least one-third of the 77,000 vertical support members of the TAPS unstable with potentially catastrophic effects on the pipeline. Studies from the Exxon Valdez spill show that oil is 1,000 times more toxic previously thought and that it can cause long-term environmental damage. Federal laws are still based on outdated research from the 1970s and 1980s and are grossly under-protective of fish and wildlife. This makes the original promise to protect fish, wildlife, and habitat even more important as basically these promises mean the owners and regulators will take measures beyond existing laws in order to protect fish and wildlife, habitat, and other subsistence needs.

110-11

Further, the original grant and lease agreements were signed by some companies that no longer exist

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because of mergers and buyouts. I assume, but would like proof, that the new companies are signatories current right-of-way grants and leases.

110-11
(Cont.)

#5 Grant and lease renewals should be made conditional on satisfactory completion—within 12 months of the renewal—of an independent field-based evaluation of the entire TAPS including hardware and management.

In 1993 a series of independent and industry audits found TAPS was in an imminent state of collapse several major system wide problems including hardware problems, technical issues, and management in 1994 was proclaimed to be the "year of fixes" by the Alyeska president at the time, but fixes proved elusive example, the highly touted fiber optics cable, which was supposed to replace the old communication syst didn't work as planned and was quietly shelved.

110-12

No one knows how many problems were actually fixed of those disclosed in 1993, or what new problems remain unfixed because there has not been any independent audits of the TAPS since 1993. This is not acceptable for a system that provides a significant portion of the nation's energy demands and the bulk of state's operating revenues, and can wreak environmental, social, and economic havoc on Alaska's communities, residents, and federally recognized tribes.

#6 Grant and lease renewals should be made conditional on satisfactory completion of annual independent audits of TAPS operations and management and 5-year in-depth independent field-based evaluations of the entire TAPS, including hardware and management.

I am concerned that the recommended alternative—to renew the permits for another 30 years—is too long for this particular pipeline: it is essentially double its design life. If reauthorization is granted, it should be made conditional upon satisfactory completion of independent audits every year with in-depth audits every 5 years as stated above. The Prince William Sound Regional Citizens' Advisory Council has to pass an annual audit and review of operations to be recertified. Nothing less should be expected for the entire TAPS, with much more at stake than the advisory council!

110-13

#7 Immediately escrow TAPS DR&R funds and use interest to finance the TAPS COG and measures to improve protections for environment, fish and wildlife, and worker and public health and safety.

Funds intended for future dismantling, restoration, and removal of the TAPS have been collected from TAPS oil companies and passed through to parent companies, resulting in enormous profits—and no money for future DR&R. This is a breach of public trust—and yet another example of corporate irresponsibility and accounting fraud. Government regulators need to take immediate action to remedy this problem.

110-14

I want these funds to be escrowed now—before any grant and lease renewals—as a sign of good efforts and intention by oil companies and government regulators to the American public. The public was promised this once; we don't need to be promised it twice. Further, earnings from the funds can be pledged towards payment for fulfilling other stipulations under the original agreements—such as protecting the environment, public resources, and worker and public health and safety.

#8 Require independent, long-term epidemiology studies, and short- and long-term treatment of physical and mental health effects, for workers and affected residents at major TAPS spills.

110-15

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Oil spills were--and still are--an anticipated side effect of TAPS construction, operation, maintenance and termination. That's why there are oil spill contingency plans; that's why the oil companies promised condition of operating, to protect public and worker health and safety. But a promise is worth nothing w follow through: after the Exxon Valdez spill this promise was ignored. There was inadequate financial su to meet increased needs of mental health facilities in affected communities and short- and long-term ph; health care needs of cleanup workers were unmet. This is simply unacceptable--and in noncompliance' permits.

TAPS owners should be required to pay for increased mental health care in the years during and immediately after a spill in all affected communities. This care should include focused peer listening circ mitigate community-level emotional trauma. Since oil spill cleanups are considered a hazardous waste cl long-term health care studies should be required as the health symptoms associated with crude oil expos (long-term respiratory damage; disorders of the central nervous system, liver, kidney, blood, and skin; endocrine disruption; and immune suppression) could take years to manifest as physical health problem companies should also be required to provide chemical decontamination treatments for individuals with health symptoms from high body levels of crude oil and other substances present during the cleanup. Individuals who become disabled from overexposure to chemicals present during the cleanup should be compensated by the oil companies, as should the estate of individuals who die from overexposure to che present during the cleanup.

110-15
(Cont.)

#9 Transfer of TAPS operations to single source with no North Slope production.

The oil company owners consistently cut costs on TAPS operations and maintenance to increase their profits. This dynamic has created an internal conflict of interest, essentially, between the owners and the interest. While the oil company permittees promised in the right-of-way leases to take all 'reasonable' or 'appropriate and adequate' steps to protect the environment, fish and wildlife, and public and worker he and safety, these adjectives are relative when viewed from different perspectives. What seems reasonable oil companies, who measure the cost of prevention against their profits, may not seem reasonable to the especially those who measure the cost of spills against their livelihoods and health. The track record sho the oil companies have profited handsomely at the public's expense.

110-16

By transferring the operation, maintenance, and termination of TAPS to a single source with no Nort production, the internal conflict of interest is broken. This operator would take more 'reasonable' steps, the public perspective, to reduce its liability from spills by attention to TAPS operations and maintenanc Performance bonds could be required for additional protection of the public interest.

Thank you for considering these points.

Sincerely,

Pete Mickelson, Ph.D.

08/21/2002

Responses for Document 00110

- 00110-001:** The JPO produced TAPS engineering report No. 00-E-018, Valdez Marine Terminal Ballast Water Treatment Plant: Compliance with Agreement and Grant Section 23 (May 24, 2000). The report satisfies the 5-year review process.
- 00110-002:** The federal action addressed in this EIS is renewal of the right-of-way for the TAPS. While renewal would result in continued operation of oil tankers in Prince William Sound, that activity is beyond the limits of the right-of-way corridor and thus, not under the jurisdiction of BLM. Moreover, the BLM has no authority over oil spill cleanup and damage assessment within Prince William Sound. Regulation of activities associated with the transport of oil by tankers in Prince William Sound is under the jurisdiction of the U.S. Coast Guard and the U.S. Department of Transportation. Analysis of impacts to fish and wildlife in Prince William Sound is included in the DEIS to provide perspective within which the direct and indirect impacts of the proposed action and alternatives are addressed.
- The BLM and member agencies of JPO enforce a number of stipulations that protect of fish and wildlife resources within the right-of-way corridor. The DEIS analysis did not find any significant impact to fish or wildlife resources associated with TAPS operations and maintenance within the right-of-way corridor.
- 00110-003:** Section 4.4.4.7, "Human Health and Safety," provides a detailed analysis of the potential effects of oil spills on human health.
- The BLM and member agencies of the JPO are committed to the protection of human health and the environment. The Federal Grant and authorizing legislation (TAPAA) provide unprecedented authority to BLM in assuring the protection of human health and the environment. Stipulations (the guiding conduct of operations for the operator of TAPS) within the Federal Grant contain numerous provisions that are protective of human health and the environment.
- 00110-004:** The JPO produced TAPS engineering report No. 00-E-018, Valdez Marine Terminal Ballast Water Treatment Plant: Compliance with Agreement and Grant Section 23 (May 24, 2000). The report satisfies the 5-year review process.

00110-005: It is correct that the effects of aging have the potential to impact the integrity and reliability of any mechanical system. However, age alone does not dictate reliability or performance. Myriad factors can impact system performance. For example, the manner in which mechanical systems are operated and maintained can greatly influence their long-term integrity, reliability, and performance.

Utilizing its oversight authority, the JPO ensures that APSC's operating and maintenance procedures take all potential impacting factors into account and are sufficient and appropriate to maintain TAPS integrity. The JPO also has the authority to direct APSC to undertake changes, repairs, or upgrades when that is not the case. Under the reliability centered maintenance (RCM) program, all TAPS subsystems are being carefully evaluated for the consequences of their failure and will have maintenance regimens or remanufacture, overhaul, or replacement schedules established that preclude such failures from occurring, if they would have an adverse impact on public safety or the environment.

The text box in Section 4.1.1.8 provides a synopsis of the MP 400 bullet hole incident. Details of the spill and the response are provided. Changes to the pipeline's spill contingency plan that are being made as a result of lessons learned are also discussed.

Each of the three spills that occurred on start-up after a maintenance-related shutdown have been carefully evaluated, and causal factors have been identified. The JPO has required APSC to revise its shut-down and start-up procedures to prevent reoccurrence. APSC is also required to conduct drills on its procedures to ensure they are correct and complete. Also, APSC has made modifications to piping at pump stations to enhance cold restart capabilities. Summaries of the three incidents are included in CMP Report #11, issued in April 2002. See also Section 4.1.1.4.

00110-006: Text has been added to Section 4.7.8.3 of the FEIS providing additional sources of information about the impact of the Exxon Valdez oil spill (EVOS) on communities, including intangible impacts, such as psychological stress, and in the fisheries, recreation, and tourism industries in the Prince William Sound area. In addition, compressed overviews of selected impacts of the EVOS have been added to Sections 4.7.8.1 and 4.7.8.2.

00110-007: Although 45 days is understandably a short time to review a document of this size, the time period is consistent with the Council on Environmental Quality regulations for implementing the National Environmental Policy Act regarding the review of draft environmental impact statements. Significant effort was made to advise people of the schedule and duration of the review well in advance (one year). The DEIS was published on schedule and many substantive comments on the content of the DEIS, including yours, were received during the 45-day period.

00110-008: The reader is referred to Section 2.5 of the FEIS, "Alternatives and Issues Considered but Eliminated from Detailed Analysis."

00110-009: The reader is referred to Section 2.5 of the FEIS, "Alternatives and Issues Considered but Eliminated from Detailed Analysis."

00110-010: The BLM and the member agencies of JPO investigate all significant spills to verify the spill volume. There has been no evidence to date that past spill volumes have been reported inaccurately. If natural resource damage claims occur because of a spill, the U.S. Fish and Wildlife Agency or National Marine Fisheries Service conduct studies to evaluate damage to natural resources.

- 00110-011:** The BLM and member agencies of the JPO use an adaptive management approach to evaluate the effectiveness of stipulations and regulatory oversight. Ongoing monitoring programs, as identified in the 12 Comprehensive Monitoring Reports published since 1996, provide BLM and JPO with the necessary information to evaluate the effectiveness of stipulations in the Grant and Lease.
- The reader is referred to Section 4.1.1 (JPO oversight) and specifically to Sections 4.1.1.2 (Adaptive Nature of the Grant in Compliance Monitoring), 4.1.1.3 (Risk-based Compliance Monitoring), 4.1.1.4 (JPO Comprehensive Monitoring Program), and 4.1.1.8 (Coordinated Planning and Response to Abnormal Incidents) for more information on the role of adaptive management as a JPO business practice.
- 00110-012:** The reader is referred to Section 2.5 of the FEIS, in which audits are addressed under Alternatives and Issues Considered but Eliminated from Detailed Analysis.
- 00110-013:** The reader is referred to Section 2.5 of the FEIS, in which audits are addressed under Alternatives and Issues Considered but Eliminated from Detailed Analysis.
- 00110-014:** The reader is directed to the discussion of escrow funds found in Section 2.5.
- 00110-015:** Section 4.4.4.7, "Human Health and Safety," provides a detailed analysis of the potential effects of oil spills on human health.
- The BLM and member agencies of the JPO are committed to the protection of human health and the environment. The Federal Grant and authorizing legislation (TAPAA) provide unprecedented authority to BLM in assuring the protection of human health and the environment. Stipulations (the guiding conduct of operations for the operator of TAPS) within the Federal Grant contain numerous provisions that are protective of human health and the environment.
- 00110-016:** The reader is referred to Section 2.5 of the FEIS, "Alternatives and Issues Considered but Eliminated from Detailed Analysis."

00111

From: <randort@nushotel.com>
To: <ADNR_Administrative_Record@jpo.doi.gov>, <Pat_Pourchot@dnr.state.ak.us>, Tony Knowles <Tony_knowles@gov.state.ak.us>, Fran Ulmer <Fran_Ulmer@gov.state.ak.us>
Date: 8/16/2002 1:23 PM
Subject: BLM TAPS Right of Way Renewal

To: BLM TAPS Renewal EIS
 Argonne National Laboratory EAD/900
 9700 S. Cass Ave.
 Argonne, IL 60439

Alaska State Dept. of Natural Resources
 411 W. 4th Ave
 Anchorage, Alaska 99501

To Whom It May Concern:

My concerns that should be addressed before a Trans Alaska Pipeline System renewal is approved follow:

1) Too Short Comment Period: Hopefully the response time for this renewal process could be extended. People from across Alaska will not have had an opportunity to comment because of the short time frame. Rushing forward on something as important as this issue seems short sighted.

111-1

2) Oversight Committee for TAPS: I support such a committee because the current structure is not broad enough to take into consideration the local governments, tribal governments, tourism businesses, Native groups, environment interests, and other's concerns. The pipeline is 800 miles long and its operation for the next 30 years should be under the scrutiny of a group similar to the Prince William Sound Regional Citizens' Advisory Council. This group has proven effective in its oversight activities and such a group would be beneficial to Alaska's interests as we look at an aging oil pipeline that could have enormous negative results in the event of a major catastrophic oil spill. The oil companies objections to oversight is shallow. The amount of money it would cost to ensure safe operations of a 30 year old oil pipeline is cheap indeed if the oversight prevents an oil spill that would cause irreparable damage to our environment.

111-2

3) Length of the Lease Renewal: The period of 30 years seems to be too long of a lease period. It would make more sense to have a 10 year renewal period so that Alaskans would have another opportunity to review the operational health, safety, and security of the oil pipeline as it advances in age. I would recommend that the lease renewal be shortened to 10 years.

4) Hiring Practices of TAPS: The TAPS record of hiring Alaskan residents and Alaska's Native people is dismal. We must insist on making sure that by the end of this renewal process that the TAPS is operated

111-3

largely by an Alaskan work force. Very few Rural Alaskans participated in the construction of the pipeline and very few are involved in its maintenance and operations. I would recommend that TAPS be required to work with our school districts, unions, and the University of Alaska to train a work force that will operate and maintain the entire system from top to bottom. That includes management and executive positions. We should set a goal of at least 75% of the TAPS work force will be Alaskans residents by 2012.

111-3
(Cont.)

5) Clean Up and Restoration Escrow Fund: The state of Alaska and its citizens must require a clean up and restoration escrow fund be set by law. Recovery operations will require a large investment from the oil industry and they should have an account set up that is dedicated to restoring the lands that are owned by the people of Alaska. It does not matter how far ahead the escrow fund will be needed but it should be in place before we approve another ROW lease renewal.

111-4

6) Notice of TAPS Shutdown: I do not think the oil industry knows when it will become necessary to shut down TAPS for economic reasons. Therefore, the state of Alaska and its people should be informed at least 24 months prior to the time that oil industry is planning to shut down TAPS. Alaska will need to have advance notice so that it can properly plan for the impact of TAPS shutting down its operations. At this time TAPS should give Alaska its detailed plan of clean-up and restoration. No renewal should be granted with out this provision in place.

111-5

7) Integrity Analysis: the state of Alaska and its people need to be given a detailed analysis of the greatest weaknesses that threaten the integrity of the safe operation and maintenance of TAPS. In addition, the oil industry needs to detail their strategies on how they will combat these weaknesses in order to guarantee safe operation of the oil pipeline. This analysis should be a part of the renewal process. Outside experts in this type of analysis should be consulted so that Alaska will know that the pipeline is indeed being operated in a safe and environmentally friendly manner.

111-6

Thank you for listening,

Nels Anderson, Jr.
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Dillingham, Alaska 99576
907-842-2366
andornt@nushtel.com

Responses for Document 00111

- 00111-001:** Although 45 days is understandably a short time to review a document of this size, the time period is consistent with the Council on Environmental Quality regulations for implementing the National Environmental Policy Act regarding the review of draft environmental impact statements. Significant effort was made to advise people of the schedule and duration of the review well in advance (one year). The DEIS was published on schedule and many substantive comments on the content of the DEIS, including yours, were received during the 45-day period.
- 00111-002:** The reader is referred to Section 2.5 of the FEIS, "Alternatives and Issues Considered but Eliminated from Detailed Analysis."
- 00111-003:** The recommendation made by the comment would involve a change to the Grant of Right-of-Way for Trans-Alaska Pipeline, which is beyond the scope of this EIS. The document currently evaluates the existing Federal Grant (see Appendix B). As noted in Section 4.3.21, Section 29 of the Grant of Right-of-Way for Trans-Alaska Pipeline addresses the hiring of Alaska Natives, who likely would be state residents (though no requirement for residency is included in Section 29).
- 00111-004:** The reader is directed to the discussion of escrow funds found in Section 2.5.
- 00111-005:** A proposal to permanently shut down TAPS would be a significant event that would not escape public notice. Requirements for dismantlement, removal, and restoration of the facilities are very specific, and there is ample authority to enforce them.
- 00111-006:** The BLM and member agencies of the JPO use an adaptive management approach to evaluate the effectiveness of stipulations and regulatory oversight. Ongoing monitoring programs, as identified in the 12 Comprehensive Monitoring Reports published since 1996, provide BLM and JPO with the necessary information to evaluate the effectiveness of stipulations in the Grant and Lease.
- The reader is referred to Section 4.1.1 (JPO oversight) and specifically to Sections 4.1.1.2 (Adaptive Nature of the Grant in Compliance Monitoring), 4.1.1.3 (Risk-based Compliance Monitoring), 4.1.1.4 (JPO Comprehensive Monitoring Program), and 4.1.1.8 (Coordinated Planning and Response to Abnormal Incidents) for more information on the role of adaptive management as a JPO business practice.

Testimony of Louis F. DeLong

BACKGROUND:

I have 42 years of diversified experience in the petroleum industry. Specifically I have extensive operational exposure in the following fields of the petroleum industry; namely, the refining, engineering, economic, finance and general/senior management.

I have had working assignments in both the U.S.A. and Foreign countries. Some of the more senior positions that I have held are:

---General Manager/Chief Executive Officer [CEO] of Esso Malaysia/Indonesia

---CEO North Pole Refining, Alaska

---CEO Earth Resources of Alaska

---Executive V.P. of Earth Resources Corp.

In addition I have been a Senior Advisor to foreign Gov't[s] in Southeast Asia, the Middle East and Asia.

I am here today to testify against granting a renewal of the operating license to Alyeska.

My reason[s] for the opposition to a renewal is that the granting of the license to Alyeska is not in the best interests of the United States and Alaskans; this viewpoint is from both an economic and environmental basis.

Since my time is limited I will expand upon the economic issues and leave to the many "other" people testifying today their reasons [from an environmental viewpoint] why the renewal license should not be granted to Alyeska.

The reasons for my opposition to an Alyeska-renewal are the following:

1. Alyeska is an operating company owned and controlled by a foreign company- a company that uses its' control of the pipeline to discourage the development of Alaska's oil fields. It does so by limiting the throughput of oil through the pipeline.

As an example I use the case of Conoco that found a BILLION barrel oil field but could not bring it to a commercial success because it could not obtain sufficient capacity in the pipeline. Conoco was told this while at the same time Alyeska was dismantling pump stations and reducing the pipeline capacity.

The probability of finding a BILLION barrel oil field is very low yet this rare find could not be brought to a commercial success because of the restrictions imposed SUBJECTIVELY on pipeline capacity.

In a hearing before the Federal Trade Commission [FTC] the Chairman of Conoco expressed his frustration that " the manipulations " by the foreign company prevented his company from development of one of the largest oil fields ever discovered in the USA. He also testified to the FTC that the pipeline tariff

112-1

from the North Slope to Valdez was unrealistically high and again was a deterrent to developing oil on the North Slope. It is interesting to note that the owners of the Alyeska pipeline are always listed in the top five most profitable transportation companies listed in the financial journals. The high pipeline tariff not only contributes to very high returns on the Alyeska pipeline but this high tariff also amounts to a subsidy that each potential new "oil producer" must pay the pipeline owner. This unrealistically high tariff adversely affects the economics of the development of the new oil field. It reminds one of what occurred when Standard Oil controlled the Penn. Railroads and received a rebate on all oil shipped. This led to the Interstate Transportation Commission

2. The pipeline owners' delay/discourage the Production of Alaskan oil. They tend to go overseas to look for oil since it allows them to participate in the control of the oil production in foreign countries that would otherwise be more fully developed/produced by "Independents" who are in need of oil production. The fact that the present owners of Alyeska have made the exploring/development of oil in Alaska so unattractive for anyone other than they means that they have tied up the Alaskan oil potential to their timetable and can concentrate on other geographical areas that are open to competitive forces. It is no accident that the only companies on the North Slope producing/exploring for oil are the owners of the Alyeska pipeline. Their drilling activity on the North Slope is less than 16 "exploratory" [?] wells [per/yr] vs. 4000 plus wells [per/yr] in Texas.

A question that should be asked is, "how profitable is looking for oil in Alaska for the owners of the Alyeska pipeline?"

If one looks at the Annual Reports of ARCO and STANDARD OIL of OHIO [STAN.] two of the original owners of the pipeline and two of the three original developers of Alaskan North Slope Oil we find the following financial returns before and after the Alaskan oil was developed by them.

In the year before the inclusion of Alaskan oil in the financial results of ARCO and STAN. neither company showed a profit greater than \$80 million dollars. In the first full year of Alaskan oil production each company reported over 2.2 BILLION dollars in profit.

The second question that must be asked is "Are there attractive areas in Alaska to look for oil?" The answer is absolutely YES.

Alaska has 14 to 17 major sedimentary basins [structures that can hold major deposits of oil] yet only one basin has been developed. It is estimated [conservatively] that proven/probably/possible reserves exceed 70 Billion barrels. If all the above is true then why don't we see more exploration/development of oil in Alaska?

As I mention, the oil companies need to control the production of oil so that it's price doesn't collapse. To gain this control they keep their hand in the major producing areas of the world and try as best they can [and do so very successfully] to control/limit the production of oil to stay in line with demand. To

do otherwise will mean that whenever the production of oil exceeds the demand the price of oil falls very dramatically as we have seen in the middle 90's and late 50's/early 60's.

3. The Royalty and Severance rates that the State of Alaska is receiving is very low compared to what other areas of the world are/have been receiving. Alaska is obtaining "rate levels" that were in effect in the lower 48 States where/when production from an oil well was limited to small/limited producing wells.

Since the 1960's the oil companies in high potential producing areas such as Alaska have entered into production sharing agreements which offer the "Host country" 50 to 85% of the oil /production. Also, the oil companies give large signing bonus in the hundred of millions of dollars.

These terms don't discourage oil companies from seeking leases since usually anywhere from 10 to 25 companies offer bids.

One asks why don't we see these types of bids being offered In Alaska?. I refer you to my example of the Conoco Oil Co. and my discussion on how the control of the pipeline capacity discourages other oil companies other than those that own the pipeline from seeking oil in Alaska.

4. The control of the Alyeska pipeline by the Present North Slope oil producers is adversely affecting United States Political and Foreign Relation Policies.

Because Alaska oil production is "curtailed" it is adversely affecting our balance of payments. At present the USA is importing about 15 million barrels of oil per day at a cost of 370 million dollars per day or 140 billion dollars per year. Last year the US balance of payments was a negative 140 Billion dollars or just about what our foreign oil bill was equal to.

Demand in this country is increasing at about 1 million barrels per day per year over the next 2 to 4 years which will increase our balance of payments deficit. The question is "how long will foreign creditors [China and Japan] subsidize our appetite for foreign exchange before they ask for large [political] offsets?" Not too long I suspect.

We also see today that the deficit oil production in the United States is having an effect on our foreign policy. Will the US be subject to the same "cutoff" in oil supplies that occurred in the mid 60's? This time it could get a lot more severe. Today we obtain about 75% of our oil from foreign sources. Back in the 60's we only required about 30% of our oil from abroad.

One environmental fall out from being dependent upon foreign crude is that a great amount of the foreign crude is moved in foreign flag tankers. These foreign flag tankers are usually registered in countries that have lax safety/engineering /training standards for the vessels and crews and as such have poor environmental records.

5. Alaskan crude is priced low relative to "other" crude oils' in the world market. This is important to Alaskans.

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The pipeline owners sell the North Slope crude to themselves so the transfer price is immaterial to them. In fact by selling to themselves they save on Royalties and severance taxes and thereby increase their overall profits.

This low transfer price for Alaskan crude is a further disincentive to those producers that don't have refining/marketing operations to process their Alaskan crude.

The question is asked how much of a debit to pricing is associated with Alaskan crude?. If one looks at the "crack spread" [value of the products made from the crude oil in question less the cost of the crude oil] we find that Alaskan crude has a 6 dollar a barrel plus advantage over other crude[s]. In effect Alaskan crude is priced 6 dollars below the market.

What does this mean to Alaskans. Since about 13 billion barrels of crude have been produced from the North Slope and the price is understated by about 6 dollars a barrel the value of Alaskan crude has been understated by about 80 billion dollars; the Alaskan share of this is about 25% or about 20 billion dollars. This sum is about what Alaska has in its Permanent Fund; it could be twice as large.

CONCLUSION:

The pipeline owners use environmental issues/arguments to deflect investigation/review of economical issues. These latter issues have a very significant affect on Americans and Alaskans especially in the following areas; namely:

The Political Arena: Dependency upon foreign oil limits US ability to negotiate freely with oil producing nations.

The World Financial Markets: (Huge imbalances on the US foreign trade [all the imbalance due to petroleum imports] jeopardize the US financial Institutions ability to maintain a free market in world trade.

The control of oil production by certain oil companies [and OPEC] artificially inflates the price of oil and has a dumping effect on the productivity of nations.

Louis + De Long 8/19/02

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Responses for Document 00112

- 00112-001:** Thank you for your comment.
- 00112-002:** Thank you for your comment.
- 00112-003:** Issues associated with determining royalty and severance rates are outside the scope of the renewal process and this EIS.
- 00112-004:** Thank you for your comment.
- 00112-005:** Thank you for your comment.
- 00112-006:** Sections 3.23, 4.3.19, 4.5.2.19, and 4.6.2.19 provide detailed analyses of the local, state, and national economic issues that are direct or indirect components of TAPS renewal decisions. World politics and energy policy issues are beyond the scope of this renewal process.