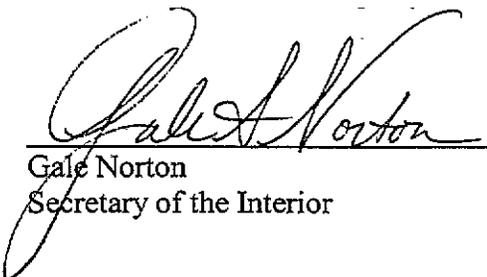


**RENEWAL OF THE FEDERAL RIGHT-OF-WAY  
FOR THE  
TRANS-ALASKA PIPELINE AND RELATED FACILITIES**

**RECORD OF DECISION**

---

  
Gale Norton  
Secretary of the Interior

*Jan 8, 2003*  
Date

---

**January 2003**

Prepared By  
U.S. Department of the Interior  
Bureau of Land Management

## Summary and Background

On May 2, 2001, the current holders of rights-of-way for the Trans-Alaska Pipeline System (Pipeline) and its related facilities (collectively referred to as TAPS) applied for renewal of the Federal Grant for a period of 30 years beyond the current expiration date of January 22, 2004. The TAPS is operated by the Alyeska Pipeline Service Company (APSC) as agent for the TAPS Owners. The six companies who hold the rights-of-way for TAPS are BP Pipelines (Alaska), Inc. (46.9263%); Phillips Transportation Alaska, Inc. (26.7953%); ExxonMobil Pipeline Company (20.3378%); Williams Alaska Pipeline Company, L.L.C. (3.0845%); Amerada Hess Pipeline Corporation (1.5000%); and Unocal Pipeline Company (1.3561%) (collectively referred to as the Permittees). At this time there is pending before BLM a request for approval to transfer the Amerada Hess Pipeline Corporation interest to Philips Transportation Alaska, Inc. It has also been widely reported that Williams Alaska Pipeline Company, L.L.C., is attempting to sell its interest in TAPS.

The Federal Agreement and Grant of Right-of-Way for the TAPS (Federal Grant) was issued on January 23, 1974, and the State Right-of-Way Lease for the TAPS (State Lease) was issued on May 3, 1974. Both the Federal Grant and State Lease are for periods of 30 years. The Trans-Alaska Pipeline System was constructed from 1974 through 1977 across 800 miles of Alaska on rights-of-way granted by federal, state, and private landowners.

This Record of Decision (ROD) authorizes renewal of the current terms of those portions of the TAPS rights-of-way under the administration of the United States of America commencing on January 22, 2004 and extending until January 22, 2034. Prior to this time, the Agreement and Grant of Right-of-Way for the Trans-Alaska Pipeline, dated January 23, 1974, has been amended by various changes in law, regulations, and orders. These prior amendments to the TAPS rights-of-way are to continue in force and effect. This renewal is made under the authority granted by the Trans-Alaska Pipeline Authorization Act, 43 U.S.C. §§ 1651-1656, section 28 of the Mineral Leasing Act, as amended, 43 U.S.C. § 185, and the regulations promulgated therefor. The Bureau of Land Management (BLM) has received extensive assistance from other Federal agencies, the State of Alaska, local governments, Tribes, and thousands of individuals and institutions who have shared their knowledge and insights about the TAPS.

The State of Alaska has conducted a parallel process for renewal of the State Lease. The BLM closely coordinated with the State of Alaska to ensure timely and effective analyses and public input. The State of Alaska has completed its deliberations on the renewal application for the State Lease, and on November 26, 2002, the State Lease was renewed for an additional 30 years.

In addition to the main pipeline, there are rights-of-way for related facilities consisting of access roads, a gas pipeline, and other ancillary needs. The TAPS ROW is currently used solely for the Pipeline. The width of the ROW ranges from 54 to 300 feet. The width is 54 to 64 feet on federal lands (54 feet for buried pipe and 64 feet for elevated pipe), 100 feet on State lands, and 54 to 300 feet on private lands. There are no potentially conflicting uses of the land; the only use currently envisioned would be for one or more gas pipelines on the existing TAPS ROW corridor to carry North Slope natural gas.

Regulation and oversight of TAPS is performed by six federal and seven state agencies co-located within the Joint Pipeline Office (JPO). The federal agencies are the United States Department of the Interior BLM and Minerals Management Service (MMS), the U.S. Environmental Protection Agency (EPA), U.S. Department of Transportation Office of Pipeline Safety (OPS), U.S. Coast Guard (USCG), and Army Corps of Engineers (USACE). Currently, approximately 439 miles of the Pipeline are on lands administered by the United States.

This decision is substantially similar to the Preferred Alternative identified in the *Final Environmental Impact Statement for the Renewal of the Federal Grant for the Trans-Alaska Pipeline System Right-of-Way* (FEIS), dated November 2002, with the exception that the Secretary is now exercising existing discretionary authority and requiring a financial audit of the Owner entities every three years.

The FEIS fully analyzed three alternative actions and the BLM also considered additional alternatives set forth in the EIS. The BLM analysis pursuant to section 810 of the Alaska National Interest Lands Conservation Act (ANILCA) is appended to the FEIS. No new §810 terms or conditions are added to the grant by this decision.

## Decision

On May 2, 2001 the Permittees filed an application with the Department of the Interior to renew the rights-of-way for TAPS. Based on the findings set forth and the documents incorporated in this Record of Decision and all other materials before the Department relating to the operation and monitoring of the TAPS, and in consideration of the approximately \$8 billion cost of construction of TAPS, its useful life, and public purpose served, I do hereby conclude that the applicants have satisfied all of the requirements to qualify for renewal of the federal rights-of-way for the Trans-Alaska Pipeline System, related facilities and associated rights. As a result thereof, and having made all the findings required by law, I hereby authorize renewal of said rights-of-way which are under the administration of the Department of the Interior under the same terms and conditions as are currently operative, except as otherwise specifically provided by this decision, and with the understanding that the monitoring and mitigation that currently is required and operative shall be pursued to completion or as otherwise directed by the Authorized Officer. This renewal shall be effective for a period of thirty years to commence on January 22, 2004 and to expire January 22, 2034. This decision is substantially similar to the Preferred Alternative in the *Final Environmental Impact Statement for the Renewal of the Federal Grant for the Trans-Alaska Pipeline System Right-of-Way*, November 2002, with the exception of the financial audit requirement set forth below which is an exercise of my existing authority. The terms and conditions of the rights-of-way hereby renewed are to be those set forth in the Federal Grant, except as it was amended by the currently operative language of Section 28 (attached to this Record of Decision as Appendix A). All orders, directives, initiatives and agreements entered under authority of the Federal Grant and currently operative are to continue in full force and effect. In addition, I am adding to today's renewal decision the requirement that at least once every three years, or more frequently if circumstances so warrant, the Authorized Officer shall conduct an audit of the financial resources of the Owner entities that provide guaranties under Section 15 of the Federal Grant. Along with the Federal Grant's ownership transfer requirements, I believe this new audit requirement will add a level of financial security that will ensure the continued availability of adequate Owner resources throughout the renewal period.

## **Title Status**

The Department of the Interior Bureau of Land Management is responsible for administering approximately 423 miles of TAPS, of which 372 miles are on land owned by the Federal government (32 miles subject to primary jurisdiction of the Department of Defense) and 51 miles on lands conveyed to various parties for which the Department retained administration. The remainder of TAPS is located on land owned by the State of Alaska (344 miles), the Permittees (8 miles) and other private entities (22 miles).

The Department reviewed the status of the TAPS rights-of-way issued by the private parties as well as the Lease renewed by the State of Alaska on November 26, 2002. It was determined that, except for three specific instances that are currently in negotiations between the Permittees and the landowners, renewing the Federal rights-of-way will ensure that TAPS has the legal right to operate over its entire length. The Permittees will report to the Authorized Officer on the progress of their negotiations.

Appendix B to this ROD is a list of all Federal rights-of-way being renewed. This list is presented by legal description and by BLM serial number.

## Findings

In support of the decision to renew the TAPS rights-of-way for an additional 30 years and based on the documents incorporated by reference in this ROD and other materials in the custody of the Department of the Interior relating to TAPS, the following specific findings are hereby made:

1. The TAPS is in commercial operation and is likely to continue in commercial operation until 2034.
2. The TAPS is operated and maintained in accordance with the provisions of TAPAA, section 28 of the MLA, as amended, 43 U.S.C. § 185, and the regulations promulgated thereunder.
3. A right-of-way in excess of 50 feet is necessary for the operation and maintenance of the TAPS and to protect the environment and the public safety.
4. The current operations of the TAPS are in compliance with the terms of the 1974 Grant and all applicable statutes and regulations.
5. Procedures and requirements are in place for the safe operations of the Pipeline to ensure the safety of workers and the public from sudden ruptures and slow degradation of the Pipeline.
6. Appropriate disclosures have been made as required in 43 U.S.C. § 185(i).
7. The current holders of the TAPS rights-of-way have demonstrated sufficient technical and financial capabilities to operate, maintain and terminate the TAPS. Before the BLM approves the transfer of interest in the TAPS, an investigation is made into the financial and technical capabilities of the proposed holder.
8. The holders of the TAPS rights-of-way are not required to post a bond. The parent company of each company holding an interest in the TAPS has executed a continuing guaranty in favor of the United States to cover its financial obligations. New financial assurance review procedures of these guarantees are being instituted by this decision.
9. TAPS operates as a common carrier and its tariffs are filed with the Federal Energy Regulatory Commission, as required.
10. TAPS was constructed in accordance with the existing Federal and State standards for right-of-way construction after consideration of the potentially conflicting uses of the federal land and, because TAPS is constructed over land owned by both the United States and the State of Alaska, operation and maintenance of TAPS is conducted in compliance with Federal and State standards.

11. It is the intent of the Department of the Interior that TAPS be renewed and able to continue operations, and that the issuance of the Federal renewal and the State Lease confirms the right for TAPS to operate on lands or rights-of-way necessary for the operation of TAPS, but not owned or controlled by the Permittees except for the specific instances set forth in the Title section of this ROD.

12. The Pipeline has a useful life of at least thirty years, both as a physical structure and as a commercial entity.

13. The construction of TAPS cost approximately \$8 billion, and annual operating costs are approximately \$400 million.

14. Due to the continuing need in the U.S. for energy products and the need to continue to deliver and develop domestic energy supplies for public purposes the Department of the Interior supports the renewal of TAPS for thirty years.

## **Alternatives Considered**

The FEIS presented the Preferred Alternative and two other alternatives. It also considered but did not analyze in detail twelve additional alternatives.

**Preferred Alternative:** The Preferred Alternative is substantially similar to the decision described in this ROD except that the Secretary has decided to exercise existing discretionary authority and is requiring a financial audit of the Owner entities every three years. Under this alternative, operations would be authorized to continue for 30 more years. Changes to the system's configuration and operation would continue to evolve to meet changing oil throughput, respond to changes in environmental conditions, and incorporate appropriate new technologies for pipeline operations.

**Time Dependent Alternative:** Under this alternative, renewal of the TAPS rights-of-way as described in the Preferred Alternative would be authorized for some period less than 30 years.

**No-Action Alternative:** Under this alternative, there would be no renewal of the TAPS rights-of-way and operations would cease at the end of the current Federal Grant (January 22, 2004). The BLM would require the TAPS Owners to remove the TAPS facilities and restore the ROW as specified by the BLM Authorized Officer. If this alternative were selected, additional NEPA review would be conducted to examine options related to TAPS demobilization, and removal and ROW restoration.

### **Alternatives Considered But Not Analyzed In Detail:**

1. Transfer Ownership of TAPS to Another Entity.
2. Transfer Operation to Another Common Agent.
3. Require Payment of the Exxon Valdez Oil Spill Settlement prior to the renewal of the Federal right-of-way.
4. See authorization for BLM to Fine TAPS Owners.
5. Establish a Citizen's Advisory Committee Funded by the TAPS Owners.
6. Conduct Periodic Audits.
7. Establish an Escrow Account for TAPS Removal and ROW Rehabilitation.
8. Establish an Escrow Account to Fund Emergency Aid for Loss of Subsistence or Economic Benefit Because of TAPS Activities and Permit Individuals to Sue for Such Aid.

9. Establish an Escrow Account to Fund Studies of TAPS Impacts on Rural Alaska and to Address Those Impacts.
10. Require Maintenance of 20% Native-Hire Employment and Allow Natives to Bring Suit for Failure to Achieve That Goal.
11. Close the Dalton Highway or Restrict Access along the Highway.
12. Increase Oil Spill Response Capabilities by Training, Hiring, and Equipping Additional Local Oil Spill Response Crews.

## Management Considerations

The TAPS consists of an 800-mile, 48-inch-diameter crude oil pipeline, elevated aboveground for 420 miles and buried for the other 380 miles. Seven pump stations move oil through the pipeline, with four additional pumps on standby. The Valdez Marine Terminal on Prince William Sound has storage facilities of oil and loading berths for 9.18 million barrels. Except for occasional maintenance and repair down time, the pipeline has operated continuously since its startup in June 1977. The peak average daily crude oil through TAPS of 2.03 million barrels per day was reached in 1988; the current throughput is approximately 1 million barrels per day. The total travel time through the pipeline at the current flow rate is about 9 days.

TAPS has been identified as a critical component to the United States' National Energy Policy. New oil fields on the North Slope of Alaska will be dependent on the TAPS for transportation of the oil to the Valdez Marine Terminal for delivery to the marketplace. Section 202 of TAPAA notes the importance of TAPS in meeting the national energy needs. This section states that the "development and delivery of oil and gas from Alaska's North Slope to domestic markets is in the national interest because of growing domestic shortages and increasing dependence upon insecure foreign sources" and that TAPS will make North Slope oil "available for domestic use and will best serve the national interest." The United States imported about 10 million barrels of oil per day in 2000, which is about twice the amount imported in 1973 when TAPAA was passed by Congress (NEPDG 2001). The TAPS throughput is about 1 million barrels per day, which is approximately 17% of the current domestic crude oil production. Construction and operation of TAPS was determined to be in the national interest in 1973; continued operation of this pipeline clearly remains in the national interest today.

The importance of TAPS was identified in a report developed by the National Energy Policy Development Group (NEPDG) for President George W. Bush. The NEPDG called TAPS "the single most important crude oil pipeline in the United States" and recommended that DOI implement "the most expeditious process for renewal of the Trans-Alaska Pipeline System rights-of-way to ensure that Alaskan oil continues to flow uninterrupted to the West Coast of the United States" (NEPDG 2001). Continued operation of TAPS is important to ensure a secure and adequate supply of energy. In addition, the TAPS is a vital component of the country's energy infrastructure and is crucial to development of North Slope oil reserves. The FEIS indicates that the Arctic National Wildlife Refuge has not yet received legislative regulatory funding or permitting approval. If and when such events occur, appropriate NEPA compliance will examine additional impacts of these actions on TAPS, or as necessary.

## **Financial Assurance Evaluation and Guaranty**

Section 15 of the Federal Grant requires that each TAPS Owner entities guaranty payment of all its liabilities and obligations under the Grant. This guaranty must be fully satisfactory to the Secretary both in form and substance. Each of the existing TAPS Owners has in the past provided and maintained in place such a guaranty and those guarantees are and have been deemed adequate. The obligation to have in place a satisfactory guaranty will continue over the course of the 30-year renewal period.

During the first 25 years of TAPS operations, changes in TAPS ownership have occurred and the petroleum industry itself has seen substantial change. Formerly large corporations have merged or been acquired and major assets bought and sold. The TAPS owners themselves have all been affected by these broad changes. Based on what we have already seen in the industry, shifts in TAPS ownership over the next 30 years are likely. We can also expect that as operations continue, new obligations and liabilities will arise under operation of the Grant. This makes maintenance of the guaranty provisions of the Grant particularly critical as we look at 30 more years of TAPS operation.

The Grant and the guaranty requirements anticipate ownership changes and wisely prohibit transfers without the prior written consent of the Secretary. As part of the Secretary's evaluation of any transfer, the financial and technical capabilities of the future owner must first be established to the Secretary's satisfaction and the adequacy of the guaranty demonstrated. While these are important safeguards, it will also be important to ensure that the existing Section 15 guarantees continue to provide a financial resource adequate to guaranty payment of all the Grant's obligations.

For these reasons, the Secretary is adding to today's renewal decision the requirement that once every three years and more frequently if, in the opinion of the Secretary, the circumstances so warrant, the Authorized Officer shall conduct an audit of the financial resources at the disposal of the Owner entities that provide the Section 15 guaranties. If the Secretary determines by the audit that the Section 15 guaranties are inadequate, the Secretary may require additional financial assurances and guaranties. Along with the Grant's ownership transfer requirements, the Secretary believes this new audit requirement will add a level of financial security that will ensure the continued availability of adequate Owner resources throughout the renewal period.

## **ANILCA Section 810 Summary**

ANILCA Section 810(a) , 16 U.S.C. § 3120, requires that an evaluation of subsistence uses and needs be completed as part of any federal agency determination to withdraw, reserve, lease, or otherwise permit the use, occupancy, or disposition of public lands in Alaska. The following discussion summarizes the ANILCA § 810 evaluation for the Preferred Alternative which was set out in greater detail in Appendix E of the FEIS.

BLM determined that the effect of the proposed action on subsistence would not reach the threshold of “may significantly restrict” subsistence uses. The statutory obligation would have been satisfied with this finding alone, but to ensure that full consideration of subsistence resources in light of potential cumulative impacts of the TAPS was available to the Secretary, the BLM undertook a series of public hearings to review the effects of the TAPS on subsistence, as if Section 810 standard had been triggered. The BLM published notice in the Federal Register on July 5, 2002, that cumulative impacts may significantly restrict subsistence uses. Public hearings, combined with public hearings on the DEIS for TAPS right-of-way renewal, were held in Cordova, Valdez, Glennallen, Anchorage, Fairbanks, Minto, and Barrow, Alaska, between July 26 and August 9, 2002. Based upon its Section 810 evaluation, BLM and after conducting these hearings, BLM has concluded:

1. That the TAPS renewal would not significantly affect the subsistence rights of rural Alaskans. Some small or slight impacts might occur under a renewal for thirty years. The subsistence impacts likely related to the TAPS potentially would be: (1) limited reduced access to portions of subsistence use areas and (2) possible disruptions to the movement of game. It is likely that the magnitude of these consequences would be very small, and would not significantly restrict subsistence uses.
2. Since the TAPS is constructed and is an operational system, there is no other land available to accomplish the purpose sought to be achieved. The proposed action will involve the minimal amount of public lands necessary to accomplish the purpose of renewing TAPS.
3. There is no other alternative that would reduce or eliminate the use of public lands needed for subsistence purposes and accomplish the public purpose.

## **Mitigation and Monitoring**

The FEIS addresses the current and ongoing mitigation measures applicable under the existing Federal Grant. Mitigation measures consist of those covered by technical, environmental, and general stipulations of the Federal Grant and the State Lease, as well as the other requirements of the 41 sections of the Federal Grant and the 42 sections of the State Lease.

As addressed in the FEIS, the Joint Pipeline Office (JPO) oversight of TAPS operations coupled with the design features of TAPS and its operational controls provide the foundation for mitigation under the Federal Grant and the State Lease. The fundamental objective of all JPO oversight is to ensure that the APSC, as the permittees' common agent, complies with all requirements delineated in the Federal Grant and State Lease and their respective stipulations. In addition, the BLM has additional broad management authority under TAPAA and Federal Grant Stipulations 1.3.2, 1.8, and 3.2.1.2 to add requirements related to the construction, operation, maintenance and termination of TAPS in order to protect the public interest. The BLM in the past has exercised its authority under the Federal Grant stipulations and retains this authority to issue interpretive letters clarifying existing requirements of the Federal Grant and adopting new requirements deemed appropriate as a result of the JPO's monitoring and oversight of TAPS operations.

The FEIS also identifies certain ongoing initiatives occurring under various statutory or contractual authorities. These initiatives include: (i) a plan to develop a programmatic agreement with the State of Alaska Historic Preservation Office and the National Advisory Council on Historic Preservation to guide future section 106 consultations regarding protection and mitigation of cultural and historic resource impacts; (ii) continued Copper River Basin spill analyses, (iii) a plan to conduct another TAPS employee concerns survey within the next three years; and (iv) continued monitoring of APSC and contractor recruiting and hiring of Alaska Natives consistent with employment goals of the Alaska Native Utilization Agreements (ANUAs) executed under Section 29 of the Federal Grant. Although these initiatives are not new mitigation measures necessary or appropriate for adoption into the Federal Grant, the BLM possesses authority, where appropriate, to modify existing mitigation or to adopt new requirements found by BLM to be appropriate based upon these and other ongoing initiatives.

In sum, this decision to adopt the Preferred Alternative identified in the FEIS necessarily includes continuation of the currently applicable mitigation and monitoring. The existing Federal Grant provides that "In the construction (including, but not limited to) design, operation, maintenance (including, but not limited to, a continuing and reasonable program of preventive maintenance) and termination of the Pipeline System, Permittees shall employ all practicable means and measures to preserve and protect the environment, as provided in this Agreement." Accordingly, in adopting the Preferred Alternative, which continues the currently applicable

mitigation and monitoring, BLM finds that all practicable means to avoid or minimize environmental harm from the alternative selected have been adopted.

## **Endangered Species Act And Related Acts Consultation**

Pursuant to the Endangered Species Act, the Fish and Wildlife Coordination Act, the Marine Mammal Protection Act and Essential Fish Habitat Provisions of the Magnuson-Stevens Fishery Conservation and Management Act, the BLM initiated consultation with the U.S. Fish and Wildlife Service (FWS) and the National Marine Fisheries Service (NMFS).

Under section 7 of the Endangered Species Act, the BLM prepared *Biological Evaluation of the Effects of Right-of-Way Renewal for the Trans-Alaska Pipeline System on Threatened and Endangered Species and Designated Critical Habitat* (Biological Evaluation), dated June 2002. The Biological Evaluation identified five species of concern within the action area: spectacled eider, Steller's eider, humpback whale, fin whale, and Steller sea lion. It found that there was no designated critical habitat within the action area for the TAPS renewal. The Biological Evaluation concluded that the proposed action was not likely to adversely affect the five species or any critical habitat. The National Marine Fisheries Service and the Fish and Wildlife Service each concurred with BLM's determination that the proposed action would not adversely affect the species of concern.

An *Essential Fish Habitat* analysis was prepared by the BLM. The National Marine Fisheries Service concurred that the *Essential Fish Habitat* consultation requirements of the Magnuson-Stevens Fishery Conservation and Management Act have been satisfied and further concurred with BLM's determination that any short-term adverse effects on *Essential Fish Habitat* can be adequately avoided, minimized and mitigated by the conservation measures associated with the proposed action.

## **Intergovernmental Coordination and Public Participation**

Executive Order 13175 stipulates that Tribes identified as “directly and substantially affected” be consulted by Federal agencies during the NEPA process. The BLM initially sent an information letter to all of the federally recognized Tribes in Alaska. Then, in May 2001, 19 Tribes (later increased to 21) were identified by the BLM as possibly being “directly and substantially” affected by the TAPS ROW renewal process and BLM again contacted these Tribes.

Throughout the renewal process, the BLM and the EIS team provided special presentations or further information exchange and carefully listened to the concerns of the Native people. The majority of concerns were related to employment opportunities, possible impacts on a subsistence life style, the importance of preserving the subsistence-oriented aspects of traditional culture, and spill response activities. This consultation is detailed in the FEIS.

As part of its effort to ensure that the Permittees were in compliance with applicable statutes and regulations, the BLM specifically consulted with the Federal and State regulatory agencies. Sections 5.6 and 5.7 of the FEIS detail the extensive agency consultations that occurred during the NEPA process. ESA section 7 consultations were conducted with the FWS and NMFS and included the preparation of a biological evaluation. An Essential Fish Habitat analysis was prepared for NMFS. The BLM conducted meetings and provided written documentation to the Department of Defense. The BLM has consulted with the Alaska State Historic Preservation Office. The BLM notified the U.S. Forest Service and the National Park Service on the receipt of the application, public scoping dates, and the availability of the DEIS for public comment.

A public scoping process was also conducted. From July 31 to October 19, 2001. During that period, the BLM invited the public and interested groups to provide information, suggest issues that should be examined, and express their concerns and opinions on all aspects of the proposal to renew the Federal Grant. Six public meetings were held at various locations throughout Alaska as a part of the scoping process.

The DEIS was issued in July 2002. The Notice of Availability (NOA) of the DEIS was published by the EPA in the *Federal Register* on July 5, 2002 (Volume 67, Number 129). Additionally, the BLM notified the public about the comment process via newsletters, newspaper advertisements, local media, and the TAPS EIS Web Site during the period June 24-July 25, 2002. The public comment period closed on August 20, 2002.

Open public hearings were held in Cordova, Valdez, Glennallen, Fairbanks, Minto, Anchorage, and Barrow. More than 580 people and organizations participated in the public comment process by providing letters, oral testimony, Internet-based comments, faxes, or voice

message comments. More than 100 recognized organizations (public and private), including Alaska Native organizations, provided comments on the DEIS. Approximately 460 individuals and organizations provided state and country locations. Based on that information, comments were received from a minimum of 32 states, the District of Columbia, and two foreign countries. Of those commentors, 55% were from Alaska and 45% were from the other states. States with the most commentors included Alaska (252), California (33), New York and Ohio (14 each), Illinois (13), Washington and Pennsylvania (12 each), Texas (11), Oregon (9), New Jersey (7), and Virginia, Florida, and Massachusetts (6 each).

In addition, the BLM cooperated closely with the State of Alaska in the State's process for renewal of the State Lease for TAPS so that the requirements for operation and maintenance of TAPS would be coordinated to the maximum extent.

## **Final Agency Action and Appealability**

This Record reflects the final decision for the Department of the Interior.

## **Incorporation By Reference**

The following documents are hereby incorporated by reference into this ROD as fully as if they were reprinted herein:

BLM, *Final Environmental Impact Statement for Renewal of the Federal Grant for the Trans-Alaska Pipeline System Right-of-Way*, BLM/AK/PT-02/026+2880+990, U.S. Department of the Interior, Anchorage, Alaska, November 2002.

BLM, *Preliminary Regulatory Evaluation of the Request for Renewal of the Federal Grant of Right-of-Way for the Trans-Alaska Pipeline System (TAPAA Report)*, U.S. Department of the Interior, Anchorage, Alaska, December 2002.

BLM and ADNR, *A Comprehensive Monitoring Program Report Examining Grant & Lease Compliance for the Trans-Alaska Pipeline System*, Report No. CMP-02-C-001, Anchorage, Alaska, April 2002.

BLM and ADNR, *Comprehensive Monitoring Program, TAPS Maintenance & Sustained Useful Life, January 2001 - May 2002*, Report No. CMP-02-C-002, Anchorage, Alaska, June 2002.

BLM and ADNR, *A Comprehensive Monitoring Program Report, Evaluation of Alyeska Pipeline Service Company's Operation of the Trans-Alaska Pipeline 1999/2000*, Report No. CMP-00-C-001.

BLM and ADNR, *A Comprehensive Monitoring Program Report, Evaluation of Alyeska Pipeline Service Company's Trans-Alaska Pipeline Construction Program 1999/2000*, Report No. CMP-01-C-001.

BLM and ADNR, *A Comprehensive Monitoring Program Report, Evaluation of Alyeska Pipeline Service Company's Trans-Alaska Pipeline Maintenance Program 1999/2000*, Report No. CMP-01-C-002.

BLM and ADNR, *Condition of the Trans-Alaska Pipeline System*, Anchorage, Alaska, November 2002.

*Application for Renewal of the Trans-Alaska Pipeline System*, filed May 2001.

*Agreement and Grant of Right-of-Way for the Trans-Alaska Pipeline*, January 23, 1974.

BLM, *Biological Evaluation of the Effects of Right-of-Way Renewal for the Trans-Alaska Pipeline System on Threatened and Endangered Species and Designated Critical Habitat*, June 2002.

ADNR, *Renewal & Amendment of Right-of-Way Lease for the Trans-Alaska Pipeline & Associated Rights* ADL 63574, dated November 26, 2002.

ADNR, *Commissioner's Final Written Determination Renewal and Amendment of Right-of-Way Lease for the Trans-Alaska Pipeline System and Associated Rights* ADL 63574, dated November 25, 2002.

BLM case files for rights-of-way and other interests as set forth in Appendix B, hereto.

Memorandum of Understanding dated May 2, 1980 Between Alyeska Pipeline Service Company and U.S. Army Corps of Engineers.

Letter dated December 10, 2002 from Harold D. Hopson, U.S.COE to Henri Bisson, State Director, BLM.

## APPENDIX A

### 28. Nondiscrimination and Equal Employment Opportunity

- A. Permittees shall assure that no person shall on the grounds of race, creed, color, national origin or sex be excluded from receiving or participating in any activity, including all aspects of employment and contracting, conducted under any permit, right-of-way, public land order, or other Federal authorization granted or issued under the Trans-Alaska Pipeline Authorization Act. Permittees shall comply with all regulations that shall be promulgated by the Secretary to implement this provision.
  
- B. Permittees agree that, during the period of construction of the Pipeline System and for so long as the Pipeline System, or any portion thereof, shall be in operation, or for so long as this Agreement shall be in effect, whichever is the longer:
  - (18)1 The recipient hereby agrees that it will not, directly or through contractual or other arrangements, on the grounds of race, creed, color, national origin, or sex, discriminate against any individual or establishment in offering or providing contracts, employment, services, financial aids, or other benefits. Recipient will take affirmative action to utilize minority business enterprises in the performance of contracts awarded by recipient, to assure that applicants for employment are employed and that employees are treated during employment, and that individuals are offered and provided services, financial aids, and other benefits without regard to their race, creed, color, national origin, or sex. Recipient agrees to post in conspicuous places available to contractors, employees, and other interested individuals, notices which set forth these equal opportunity terms and to notify interested individuals, such as bidders, purchasers, and labor unions or representatives of workers with whom it has collective bargaining agreements of recipient's obligations under section 403 of Public Law 93-153.
  
  - (2) The recipient will comply with all rules, regulations, and orders of the Department of the Interior which implement section 403 of Public Law 93-153.

- (3) The recipient will furnish all information and reports required by or pursuant to rules, regulations, and orders implementing section 403 of Public Law 93-153 and permit access to its books, records, and accounts by the Secretary of the Interior, the Department Compliance Officer, or other designee of the Secretary, for purposes of investigation to ascertain compliance with rules, regulations, and orders of the Department of the Interior which implement section 403 of Public Law 93-153.
- (4) The recipient recognizes and agrees that its obligation for compliance with section 403 of Public Law 93-153 and implementing rules, regulations, and orders extends not only to direct activities, but also to require that contractors, subcontractors, suppliers, and lessees comply with section 403 and implementing rules, regulations, and orders. To that end the recipient agrees that with regard to all contracts over \$10,000 and all contracts of indefinite quantity (unless there is reason to believe that the amount to be ordered in any year under the contract will not exceed \$10,000) to:
- (a) Obtain as part of its contractual arrangements with such parties, as a minimum form of assurance an agreement in writing, that:
    - (i) The contractor hereby agrees that it will not, directly or through contractual or other arrangements, on the grounds of race, creed, color, national origin, or sex, discriminate against any individual or establishment in offering or providing contracts, employment, services, financial aids, or other benefits. Contractor will take affirmative action to utilize minority business enterprises in the performance of subcontracts which is awards, and to assure that applicants are employed and that employees are treated during employment, and that individuals are offered and provided services,

financial aids, and other benefits without regard to their race, creed, color, national origin, or sex.

Contractor agrees to post in conspicuous places available to contractors, employees, and other interested individuals notices which set forth these equal opportunity terms and to notify interested individuals, such as bidders, purchasers, and labor unions or representatives of workers with whom it has collective bargaining agreements of contractor's obligations under section 403 of Public Law 93-153.

(ii) The contractor will comply with all rules, regulations, and orders of the Department of the Interior which implement section 403 of Public Law 93-153.

(iii) The contractor will furnish all information and reports required by or pursuant to rules, regulations, and orders implementing section 403 of Public Law 93-153 and permit access to its books, records, and accounts by the Secretary of the Interior, the Department Compliance Officer, or other designee of the Secretary, for purposes of investigation to ascertain compliance with rules, regulations, and orders of the Department of the Interior which implement section 403 of Public Law 93-153.

(iv) Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of said rules, regulations, and orders shall constitute a breach of its contractual arrangements whereby said arrangements may be cancelled,

terminated, or suspended, or may be subject to enforcement otherwise by appropriate legal proceedings.

(v) Contractor will obtain the provisions of paragraph (4)(a) (i) through (v) of this section in all subcontracts over \$10,000 and all subcontracts of indefinite quantity (unless there is reason to believe that the amount to be ordered in any year under the contract will not exceed \$10,000).

(b) Recipient will make every good faith effort to secure the compliance and will assist and cooperate actively with the Department Compliance Officer and the Secretary or his designee in obtaining and enforcing the compliance of said contracting parties with the requirements of section 403 and implementing rules, regulations, and orders, and with their respective contractual arrangements; and will take such action with respect to any contract or purchase order that the Secretary of the Interior, the Department Compliance Officer, or other designee of the Secretary may direct as a means of enforcing such provisions: Provided, however, that in the event the recipient becomes involved in litigation with a noncomplying party, it may request the Department of the Interior to enter into such litigation to protect the interests of the United States in the enforcement of these obligations, and

(c) Recipient will obtain and furnish to the Department Compliance Officer such information as he may require for the supervision or securing of such compliance.

(5) In the event of the recipient's noncompliance with the equal opportunity terms, compliance may be effected by the suspension or termination or refusal to grant or to continue providing the Federal authorization in accordance with procedures authorized by section 403 of Public Law 93-153, and set forth in implementing rules, regulations, or orders, or by any other means authorized by

law.

Permittees further agree that they will be bound by the equal opportunity clause (i.e., subsections (1) through (5) of this subsection B) with respect to their own employment practices when they participate in federally assisted construction work.