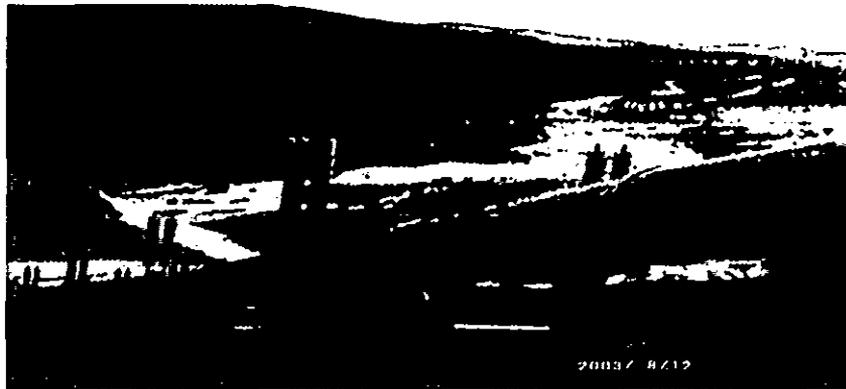




U.S. Bureau of Land Management



Comprehensive Monitoring Program Report Right-of-Way Compliance for TAPS Operation and Maintenance April 2007



Evaluation of Alyeska Pipeline Service Company Compliance With ROW Requirements

- Renewal of the Agreement and Grant of Right-of-Way for TAPS and Related Facilities - Legal and Administrative Provisions
- Temporary Use Permits and Right-of-Way Grants
- Mineral Material Sales

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Table of Contents

1.0 Introduction and Purpose

- 1.1 Legal and Administrative Provisions of the TAPS Right-of-Way Grant
- 1.2 Rights-of-Way Grants and Temporary Use Permits
- 1.3 Mineral Material Sales Disposal Program

2.0 Scope and Methodology

- 2.1 Scope
- 2.2 Methodology

3.0 Background

- 3.1 Legal and Administrative Provisions of the TAPS Right-of-Way Grant
- 3.2 Rights-of-Way Grants and Temporary Use Permits
- 3.3 Mineral Material Sales

4.0 Permit and Grant Requirements

- 4.1 Statutes and Regulations
- 4.2 Right-of-Way Grant and Temporary Use Permit Requirements
- 4.3 Individual Permit Stipulations
- 4.4 NEPA and Cultural Resource Reviews
- 4.5 Other NEPA Reviews

5.0 Results and Discussion

- 5.1 TAPS Federal Agreement and Grant Compliance
- 5.2 Other Rights-of-Way Grants and Temporary Use Permits Compliance
- 5.3 Mineral Material Program Compliance

6.0 Conclusions

- 6.1 Legal and Administrative Provisions of the TAPS Right-of-Way Grant
- 6.2 Rights-of-Way Grants and Temporary Use Permits
- 6.3 Mineral Material Sales

7.0 References

8.0 Signatures

Attachments

JPO Comprehensive Monitoring Program Report

An Evaluation of Permittee Compliance with:

- **The Legal and Administrative Provisions of the Renewal of the Agreement and Grant of Right-of-Way for the Trans-Alaska Pipeline and Related Facilities (Renewed January 8, 2003)**
- **Individual TAPS Right-of-Way grants and other land use authorizations (43 CFR 2880)**
- **Temporary Use Permits (43 CFR 2880)**
- **Mineral Material Sales Regulations (43 CFR 3600)**

1.0 Introduction and Purpose

The Comprehensive Monitoring Program (CMP) was developed to provide oversight of the Trans-Alaska Pipeline System (TAPS), focusing on the maintenance requirements and strategies necessary to ensure long-term operational safety and reliability of the TAPS systems and equipment in transporting crude oil to market. The CMP monitoring process is focused on problem prevention, rather than reaction and emergency response. The key objectives of the CMP are:

- Continued safe movement of oil through TAPS.
- Preservation of TAPS as a critical asset.
- Permittee compliance with the provisions and stipulations of the Renewal of the Agreement and Grant of Right-of-Way for TAPS and Related Facilities.
- Reduction of TAPS risk by requiring knowledge of hardware condition, effective management controls, and sufficient failure response.

The BLM Right-of-Way (ROW) Branch of the Joint Pipeline Office oversees and administers the mainline right-of-way for TAPS and other pipelines. The ROW Branch issues additional land use permits to Alyeska for the operation and maintenance of TAPS and to maintain the Right-of-Way. ROW issues Temporary Use Permits and Right-of-Way Grants to authorize land use for TAPS related facilities and to protect pipe integrity. ROW issues most permits for integrity dig excavations to investigate and repair pipe corrosion, and for river and floodplain projects, such as constructing river training structures to prevent serious bank erosion.

The BLM Right-of-Way Branch also administers the Mineral Materials Sales program for TAPS. Minerals mined and sold to the Permittee are used for operations and maintenance activities on TAPS, such as maintaining and repairing access roads, the right-of-way workpad, and for erosion control on river and floodplain projects.

The purpose of this report is to present the BLM's oversight and administration results of the following three key areas.

1.1 Legal and Administrative Provisions of the TAPS Right-of-Way Grant

The purpose of this report is to ensure that Permittees meet the legal and administrative requirements, terms, and conditions of the Renewal of the Agreement and Grant of Right-of-Way for the Trans-Alaska Pipeline (TAPS) and Related Facilities, signed by the Department of the Interior and TAPS owners January 8, 2003. The Authorized Officer in the United States Department of the Interior, Bureau of Land Management has the responsibility for administration of the Federal Grant. This responsibility includes verifying compliance with all Grant provisions for the duration of the Grant. The BLM verifies Permittee compliance with the legal and administrative provisions of the Federal Grant every five years, respectively. The last TAPS Assessment Report, JPO No. ANC-02-A-005, evaluated compliance with the legal and administrative provisions of the Federal Agreement and Grant in March 2002.

1.2 Rights-of-Way Grants and Temporary Use Permits

Temporary use permits, off-ROW land use authorizations, and individual right-of-way grants are issued for TAPS operations and maintenance activities. This report presents the results of an examination of assessment reports and surveillances conducted on temporary use permits, off-ROW authorizations, and individual right-of-way grants to ensure Permittee compliance with regulatory requirements.

1.3 Mineral Material Sales Disposal Program

The BLM Mineral Material Sales program supports TAPS operation and maintenance activities. This report evaluates, analyzes, and trends data from the assessment reports compiled from the surveillances of the mineral material sites along the Trans Alaska Pipeline System (TAPS) on Federal lands from Prudhoe Bay to Valdez, and from the inspection of the Operation Material Site (OMS) files maintained at TAPS pump stations. Annual inspections of mineral material sites on Federal land are required by BLM Manual Section 3600 and Instruction Memorandum No. 99-021.

2.0 Scope and Methodology

The scope of this report focuses on three areas of right-of-way compliance: 1) The legal and administrative provisions of the Renewal of the Agreement and Grant of Right-of-Way for TAPS and Related Facilities, 2) Temporary Use Permits and other right-of-way grants, and 3) the Mineral Materials program. The majority of work presented in this report consists of follow-up monitoring to work conducted at the time of TAPS Right-of-Way Renewal to the present, 2002-2007. The analysis answers the following questions:

- Do the stipulations of the land use authorization permits protect resources, the physical environment, public safety, and pipeline integrity?
- Are permitted activities conducted safely and in accordance with Grant and permit regulatory requirements?
- Are we surveilling the areas we should be, and if not, have other areas of focus been identified?

The CMP consists of a three-tiered process of monitoring TAPS for all BLM Rights-of-Way programs:

- 1) Surveillance process – On-site observations and inspections to document compliance with regulatory and statutory requirements.
- 2) Assessment process – Summary of multiple surveillance observations to trend finding.
- 3) CMP Report process – Summarizes overall program observations and findings, analyzes and evaluates conclusions presented in a final CMP report.

The CMP reports provide the results of the surveillances and assessments and discuss APSC actions in response to identified issues. BLM uses the surveillance process as the most frequent and routine monitoring tool. Surveillances are used to verify compliance with the Renewal of the Agreement and Grant of Right-of-Way for TAPS and Related Facilities, to identify situations needing correction. The results of surveillances and engineering reports, and studies are identified in assessments, which may include findings for corrective action. Assessment reports are broader in scope than surveillance reports and are the primary tool used to formally issue findings to APSC for corrective action. The APSC is responsible for addressing these findings, consistent with the requirements of the Federal Grant.

2.1 Scope

Legal and Administrative Provisions of the TAPS Right-of-Way Grant. The scope of this report includes verification of compliance for Sections 1-41 of the Federal Agreement and Grant, except Sections 9, 10, 12, 23, 27, 28, and 29. BLM program responsibility for these sections are outside of the scope of the BLM Right-of-Way Branch and will be evaluated for compliance by other BLM staff in separate reports.

Rights-of-Way Grants and Temporary Use Permits. BLM reviewed compliance for all active case files including temporary use permits, right-of-way grants, and off-ROW authorizations issued for TAPS operation and maintenance activities since the last CMP report in was prepared in support of the renewal of the Agreement and Grant of Right-of-Way in 2002.

Mineral Material Sales Contracts. The scope also includes BLM inspection and oversight of the mineral material sales issued for TAPS operations and maintenance activities since the TAPS Right-of-Way was renewed in 2002. At the time of renewal there were 44 mineral material sites on Federal land. Within the last five years, Alyeska discontinued eight of these contracts. Currently, as of April 2007 Alyeska maintains 36 active mineral material contracts on lands under BLM jurisdiction. BLM and Alyeska are currently coordinating on remaining required actions so that BLM may close the case files for the eight sites.

2.2 Methodology

Legal and Administrative Provisions of the TAPS Right-of-Way Grant. The scope of most Grant sections applies to all phases of TAPS, and all are for the duration of the Federal Grant. Some provisions require specific activities that were completed prior to pipeline construction. Others are contingencies for actions that have not yet occurred, or will not occur until termination of the Right-of-Way Grant. Still, other provisions are actions the Authorized Officer may take under certain circumstances, or the Permittees must take under certain circumstances, should they arise.

BLM staff reviewed the TAPS mainline case file records, BLM Serial numbers AA-5847 and FF-12505, to research all applicable documents to verify Permittee compliance with the legal and administrative Agreement and Grant provisions for the time frame between March 2002 and February 2007. BLM conducted surveillances for the Grant sections within the scope of this report to verify compliance with the legal and administrative provisions of the Renewal of the Federal Agreement and Grant of Right-of-Way for TAPS and Related Facilities. Some sections and subsections of the Grant do not contain specific action on the part of the Permittee, but are instead agreed upon terms. To ensure a thorough compliance review, the interpretation standards developed in 2002 by the Joint Pipeline Office and agreed upon with the Permittee for each provision of the Federal Agreement and Grant were carefully reviewed to ensure Permittees have complied with all legal requirements of the Grant.

Rights-of-Way Grants and Temporary Use Permits. Surveillances are conducted by BLM personnel throughout the year on many different activities occurring along TAPS. BLM conducted surveillances of temporary use permits (TUPs) for integrity investigation digs of the main pipeline, as well as various river and floodplain program projects, such as construction and repair of river revetments and other erosion control structures. BLM also conducted surveillances on TUPs that authorized three solid waste disposal sites along the TAPS right-of-way, an oil spill exercise staging area on the Tiekel River, below-ground check valve investigations, and a temporary self-contained camp facility at the Old Toolik Camp Pad.

BLM staff conducted an extensive search of the BLM case files and associated electronic data base systems to identify all relevant surveillances conducted between 2002 and 2006. BLM also reviewed an assessment report that summarizes 55 surveillances done in 2004 and two solid waste disposal sites, 100-1 and 117-1B. The results of this search are analyzed in Section 4.0, Results and Discussion.

Mineral Material Sales Contracts. BLM conducts annual site inspections of actively mined and maintained mineral material sites as required by the BLM Mineral Material Disposal Handbook (H-3600-1, Release 3-315, dated February 22, 2002). Each summer BLM realty staff inspect all active mineral material sites on Federal lands along TAPS to evaluate compliance with mineral material sales contract requirements, mining and reclamation plan, and special stipulations that apply to the specific site area. Each inspection is documented with a surveillance report, with accompanying photos to document the site condition. BLM staff then review surveillance reports to determine

patterns or trends of non-compliance with sales contracts or stipulations and prepare an assessment, the latest which was completed March 20, 2007.

3.0 Background

Administering the TAPS Right-of-Way. The Secretary of the Interior or his delegate, is responsible for administering and renewing approximately 426 miles of TAPS ROW, of which 375 miles are on land owned by the federal government and 51 miles are on land conveyed to Alaska Native Regional Corporations under the Alaska Native Claims Settlement Act of 1971. The remainder of TAPS is located on land owned by the State of Alaska (344 miles), the TAPS Owners (8 miles), and other private entities (22 miles). Of the land owned by the federal government, 30 miles are on land administered by DOD and the remainder is administered by BLM. The realty functions performed by DOI include issuing new permits and reviewing land-ownership issues associated with the existing ROW.

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 of Alaska 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.

BLM Permitting Process and Coordination. Each month BLM participates in a monthly lands and permits meeting in which the Alaska Department of Natural Resources (ADNR) and Alyeska staff. BLM administers the federal land along TAPS, and ADNR administers state land along TAPS. Both agencies authorize land use outside of the TAPS ROW and issue permits to Alyeska for routine operations and maintenance activities. Both agencies issue mineral material sales contracts and land use permits. Additionally, ADNR issues permits to Alyeska for water rights and water use.

The former Division of Governmental Coordination office, which is now the Office of Project Management and Permitting, merged into ADNR, and also participates in the monthly permit coordination meetings. The former Department of Fish and Game, Habitat and Restoration Division, also merged into ADNR, which is now the Office of Habitat Management & Permitting. This office administers the state permit program to protect anadromous fish and their freshwater habitats and to ensure efficient fish passage in all water bodies. For some Alyeska projects, both state and federal permits are required, especially for the rivers and floodplain projects. The monthly coordination meetings between subject matter experts from the ADNR offices, BLM and Alyeska streamline the state and federal permitting processes.

Land Ownership Along the TAPS Right-of-Way

The land where the pipeline is located is referred to as the TAPS Right-of-Way. Right-of-way ownership is:

**Federal Government: 375 miles
State Government: 344 miles
Native Allotments/Corporations: 51 miles
Private: 22 miles
TAPS Owners: 8 miles**

3.1 Legal and Administrative Provisions of the TAPS Right-of-Way Grant

The Trans-Alaska Pipeline Authorization Act (TAPAA) is the principal law governing the operation of TAPS. It declared that development and delivery of oil from Alaska's North Slope to domestic markets was in the national interest, and it authorized construction of the pipeline system. Title I of the Act amended Section 28 of the 1920 Mineral Leasing Act, and Title II authorized the construction of the Trans-Alaska Pipeline. The Act provided the Secretary of the Interior the authority to issue, administer, and enforce a right-of-way agreement through Federal lands in Alaska, and to issue stipulations that govern the construction, operation, maintenance, and termination of TAPS.

Normally, regulations are written and promulgated by the department that has the responsibility for administering a new law. These regulations are published as part of the United States Code, and explain how the items of law are administered. However, in the case of the TAPAA, no specific regulations were prepared. Instead the Agreement and Grant of Right-of-Way was written and signed in January 1974, and renewed thirty years later January 8, 2003, which defined most of the points of law as they applied to the pipeline Permittee. The BLM has the assigned responsibility for carrying out the Department of the Interior's statutory, regulatory, and contractual responsibilities for the federal TAPS Right-of-Way Grant.

3.2 Rights-of-Way Grants and Temporary Use Permits

Temporary Use Permits. The BLM issues temporary use permits and individual right-of-way grants to authorize land use for routine operation and maintenance activities outside of the TAPS mainline right-of-way, such as solid waste disposal sites, oil spill containment sites, river and floodplains projects and pipeline integrity dig excavations. Temporary use permits have a maximum duration of three years and are issued for TAPS temporary operations and maintenance activities. Most TUPS are issued for 1-2 year duration periods, to accommodate specific project work that is mostly done during the spring, summer and fall months.

Right-of-Way Grants. Right-of-way grants are issued to authorize land use for long-term use of ten or more years. BLM recently issued right-of-way grants to authorize land use for the oil spill containment sites required by the *Trans-Alaska Pipeline System Pipeline Oil Discharge Prevention and Contingency Plan* (commonly referred to as the C-Plan). TAPS access roads are also authorized by individual right-of-way grants. Most individual grants are issued for the same duration as the Renewal of the Federal Agreement and Grant of Right-of-Way, however in cases where land use authorization and activity is not expected to be for the same duration as the Federal Grant, these grants may have shorter time frames.

Each TUP and right-of-way grant application is processed as an individual action under normal BLM case file processing procedures and assigned its own serial number for records and tracking purposes. When processing a TUP or grant permit application for a TAPS operations or maintenance activity, several reviews are initiated to protect cultural resources, the environment, public health and safety, and mainline pipe integrity. Each review involves ensuring compliance with BLM policy, regulations, and statutes. BLM coordinates with other federal and state agencies on permits that may require multiple permits, such as with the larger river and floodplain projects. BLM initiates a NEPA review and analysis for all TUP and grant applications in accordance with the National Environmental Policy Act (NEPA) and 43 CFR Part 1500 federal regulations.

3.3 Mineral Material Sales Program

BLM has a nationwide Mineral Material Sales Program to make materials such as sand, gravel, dirt, and rock available to the public for sale. Mineral materials are used in building and construction activities. These materials are bulky and have low unit prices. Their weight makes their transportation costs very high; however, adequate local supplies of mineral materials are vital to TAPS operations and maintenance. BLM sells mineral materials to the public at fair market value, but allows free extraction by issuing free use permits to states, municipalities, or other government entities for public projects.

BLM disposes of mineral materials in conformance with agency land use plans. Anyone removing mineral materials must comply with applicable state and federal laws. Use authorization includes National Environmental Policy Act compliance (NEPA). BLM conducts annual inspection and production verification to monitor and ensure permittee compliance with the terms of the contract, and prevention and abatement of unauthorized use.

TAPS Mineral Materials Program. Alyeska purchases mineral materials from BLM at designated sites on federal lands along the pipeline. The company uses mined materials for varied uses, however most use is for maintenance of the TAPS access roads and the TAPS Right-of-Way workpad. BLM requires Alyeska to maintain the access roads and workpad in good condition in accordance with stipulations in the Renewal of the Agreement and Grant of Right-of-Way for TAPS and Related Facilities.

The BLM Mineral Material Disposal Handbook (H-3600-1) requires an annual site inspection of each actively mined and maintained material site on federal land along TAPS. Each summer BLM realty staff inspects all active mineral material sites on Federal lands along TAPS to evaluate compliance with mineral material sales contract requirements, mining and reclamation plans, and special stipulations that apply to the specific site areas. Field staff review individual mineral material case file records to make informed site evaluations in the field. At the end of each production calendar year, Alyeska submits information to BLM for verification of annual mineral material production amounts from each site in the following reports:

- The Year-End Contract Status Report
- Contract Closeout Report and,
- Activity/Stockpile Report for all active mineral material sale contracts.

JPO hosts an annual mineral materials mining review meeting in the fall of each year for Alyeska, state, and federal mineral material site administration staff to discuss results of field inspections and review production volumes and data. Last year's meeting was held December 6, 2006. BLM contacts the Fairbanks and Glennallen field offices each spring to inform field office staff of upcoming inspection activity and to obtain information about specific site or mining activity concerns.

BLM and Alyeska mineral material staff coordinate visits with pump station staff before BLM inspects the sites. The objective is to obtain information about recent work in the mineral material sites within each pump station's jurisdiction and let the pump station manager know that BLM staff plan to inspect the sites. Each pump station maintains an electronic data base of mineral material mining production volumes and truck count information, referred to as ROW MIS, Alyeska's Right-of-Way Management Information System, that tracks the type of mined material, the current inventory, and the volumes that are mined, processed, and hauled.

4.0 Permit and Grant Requirements

Renewal of the Agreement and Grant of Right-of-Way for TAPS and Related Facilities Legal and Administrative Provisions. In 2000-2001, before the renewal of the original Federal Agreement and Grant of Right-of-Way for TAPS, BLM conducted an in-depth review of the Federal Agreement and Grant of Right-of-Way, which resulted in the *Interpretation for the Sections and Stipulations of the Federal Agreement and Grant of Right-of-Way for the Trans-Alaska Pipeline System* (Federal Control Number 0013). BLM prepared the interpretation book to interpret each Grant section and stipulation so TAPS Permittees and BLM would agree on what is required for Grant compliance. After reviewing each of the sections containing legal provisions of the Agreement and Grant, the Authorized Officer determined some sections are legal provisions that do not require continuous active monitoring for compliance. However, these provisions require that Permittees comply with the legal terms and conditions of the Agreement and Grant. All provisions, regardless of whether or not they required active monitoring, were surveilled and assessed to ensure the Permittees have complied with their legal obligations. The

BLM ROW staff also has responsibility for monitoring certain stipulations of the Federal Grant, such as Stipulation 2.6, Material Sites.

4.1 Statutes and Regulations

Statutes. The Trans-Alaska Pipeline Authorization Act (TAPAA; 43 USC §§ 1651-1656) is Title II of Public Law [P.L.] 93-153, which was signed by President Nixon on November 16, 1973. It directed the Secretary of the Interior to authorize Rights-of-Ways through federal lands for the construction and operation of the Trans-Alaska Pipeline System. The Secretary of the Interior issued the Federal Grant for the pipeline on January 23, 1974. The technical and environmental stipulations governing the construction and operation of TAPS are identified in the Federal Grant.

P.L. 93-153 consisted of four parts (titles). Title I amended Section 28 of MLA by adding subsections (a) through (y). Title II (TAPAA) authorized construction and operation of TAPS. Title I of the Act, which consists of the Sec. 28 MLA amendments, requires the following regarding rights-of-way through any Federal lands:

“Rights-of-way or permits granted or renewed pursuant to this section shall be subject to regulations promulgated in accord with the provisions of this section and shall be subject to such terms and conditions as the Secretary or agency head may prescribe regarding extent, duration, survey, location, construction, operation, maintenance, use, and termination.”

Title II of the Act, cited as the Trans-Alaska Pipeline Authorization Act, states the following:

“The Congress hereby authorizes and directs the Secretary of the Interior and other appropriate Federal officers and agencies to issue and take all necessary action to administer and enforce rights-of-way, permits, leases, and other authorizations that are necessary for or related to the construction, operation, and maintenance of the Trans-Alaska oil pipeline system, including roads and airstrips, as that system is generally described in the Final Environmental Impact Statement issued by the Department of the Interior on March 20, 1972.”

Title III directed the President to enter into negotiations with the Government of Canada to determine the feasibility of constructing overland pipelines through Canada for the transport of oil and natural gas from the North Slope of Alaska to the Lower 48 States. Title IV addressed a number of miscellaneous topics. Section 203(c) of TAPAA states:

“(c) Rights-of-way, permits, leases, and other authorizations issued pursuant to this title by the Secretary shall be subject to the provisions of section 28 of the Mineral Leasing Act of 1920, as amended by title I of this Act...”

Mineral Materials Statute. The Materials Act of July 31, 1947, Public Law 80-291, (30 USC 601 et. Seq.), as amended, granted BLM the authority to dispose of mineral materials, such as sand, stone, gravel and clay. Subsequently, BLM promulgated Federal regulations to administer the Mineral Materials Sales Disposal program.

National Environmental Policy Act (NEPA). BLM is required to comply with the requirements of the NEPA statute when processing permit applications to authorize land use for TAPS maintenance and operation activities. TAPS has undergone several major NEPA reviews and analyses:

1) *Final Environmental Impact Statement, Proposed Trans-Alaska Pipeline*, Prepared by a Special Interagency Task Force for the Federal Task Force on Alaskan Oil Development, U.S. Department of the Interior, 1972. The U.S. Department of Interior completed a Final Environmental Impact Statement (FEIS) that identified and analyzed the probable direct, indirect, and cumulative environmental impacts associated with the construction, operation and maintenance of the Trans-Alaska Pipeline System for the first 30-year term of the Right-of-Way Grant. The Record of Decision stated there were no probable significant adverse environmental impacts from the TAPS Right-of-Way authorization and continued operation and maintenance along TAPS. This was the first comprehensive NEPA analysis document completed for the Trans-Alaska Pipeline System and the first EIS completed after passage of the National Environmental Policy Act in 1969.

2) *Final Environmental Impact Statement, Renewal of the Federal Grant for the Trans-Alaska Pipeline System Right-of-Way*, U. S. Department of the Interior, Bureau of Land Management Joint Pipeline Office, BLM-AK-PT-03-005-2880-990, November 2002. The BLM completed a Final Environmental Impact Statement (FEIS) that identified and analyzed the probable direct, indirect, and cumulative environmental impacts associated with renewal of the TAPS Right-of-Way. The FEIS and the Record of Decision stated there were no probable significant adverse environmental impacts from the TAPS Right-of-Way authorization and continued operation and maintenance along TAPS for an additional 30 years.

Code of Federal Regulations. Normally when Congress passes a statute, such as the TAPAA, the responsible federal agency writes, or promulgates federal regulations that provide specific guidance to federal agencies specific to that statute. However, due to time constraints and the magnitude of the project at the time, no federal regulations were specifically promulgated for TAPAA. Instead the Federal Agreement and Grant of Right-of-Way was issued to the Permittees directly after passage.

However, the Code of Federal Regulations (CFR) provides guidance to BLM to follow in administering all aspects of the BLM Right-of-Way program, including grants, temporary use permits, and mineral material sites. The CFR is the codification of the general and permanent rules published in the Federal Register by the executive departments and agencies of the Federal government. It is divided into 50 titles that represent broad areas

subject to Federal regulation. Each volume of the CFR is updated once each calendar year and is issued on a quarterly basis.

Right-of-Way Program. BLM follows Title 43 CFR 2880, Rights-of-Way Under the Mineral Leasing Act, to administer ROW permitting for individual grants and temporary use permits for TAPS. 43 CFR §2886.11 specifically states that the BLM will regulate the Permittee's grant or TUP activities in conformance with appropriate regulations and the terms and conditions of the grant or TUP.

Mineral Material Sales Program. Regulations which guide BLM's mineral materials program are found in Title 43 CFR Group 3600. Regulations governing contracts and permits for mineral materials are contained in Title 43 CFR, Subparts 3610 and 3620.

4.2 Right-of-Way Grant and Temporary Use Permit Requirements

Individual TUPS and ROW Grants. Stipulation 1.2.4 of the *Agreement and Grant of Right-of-Way for TAPS and Related Facilities* states:

“Permittees shall make separate application, under applicable statutes and regulations, for authorization to use or occupy Federal Lands in connection with the Pipeline System where the lands are not within the Right-of-Way granted by this Agreement.”

BLM issues individual grants to TAPS Permittees for access roads and other related facilities that are part of TAPS, but not physically located within the main TAPS Right-of-Way. CFR 2881.5 defines related facilities as:

“...structures, devices, improvements and sites located on Federal lands which may or may not be connected or contiguous to the pipeline, the substantially continuous use of which is necessary for the operation or maintenance of a pipeline such as supporting structures, airstrips, roads, campsites, pump stations, valves and other control devices, surge and storage tanks, bridges, monitoring and communication devices and structures housing them, terminals, including yards, structures, docks, fences, and storage tank facilities, retaining walls, berms, dikes, ditches, cuts and fills, and structures and areas for storing supplies and equipment.”

Individual right-of-way grants and TUPs are much shorter in length and volume than the Grant for the main TAPS Right-of-Way. These grants and TUPs are Mineral Leasing Act (MLA) grants and have specific terms and conditions for the land being authorized. The grants specify duration, which most of the time is the same duration as the Federal Agreement and Grant, a 30-year duration. The grants and TUPs convey the right to use described lands to construct, operate, maintain and terminate facilities within the permitted area for authorized purposes. BLM reserves the right in the permit to access the lands covered by the grant or TUP and enter any facility that is constructed within the authorized area. BLM issues a Decision letter with the grant or TUP document that

specifies the annual rental amount for the issued permit. Rental amounts are calculated according to national BLM rental policy schedules.

4.3 Individual Permit Stipulations

The BLM 2800 Rights-of-Way Manual, section 2801.81, states that compliance should be performed on the specific requirements of the specific ROW grant or permit. Listed in 43 CFR 2885.11(b) are twenty-two terms and conditions for BLM TUPs and ROW grants (Attachment 1). In addition to this list, individual TUPs, ROW grants, and off-ROW authorizations include their own Special Stipulations that are specific to the BLM and the circumstances of the TAPS ROW and workpad. Samples of these Special Stipulations are shown in Attachment 2. Stipulations to a Right-of-Way Grant and a Temporary Use Permit typically result from the mitigation measures identified in the NEPA review and analysis process, and other concerns expressed by other state and federal agencies within JPO. For example, sites containing activity near water bodies typically contain specific stipulations to protect fish resources. BLM coordinates this with the ADNR habitat protection staff.

4.4 NEPA and Cultural Resource Reviews

NEPA. In addition to the two comprehensive EISs completed for TAPS in 1972 and 2002 for the entire TAPS Right-of-Way, BLM has completed numerous environmental assessments as part of permit processing for different pipeline activities as part of ROW permit processing. BLM also completes Documentation of NEPA Adequacy (DNA) And Land Use Plan Conformance documents as part of NEPA review and analysis for most of the permits adjacent to and within the main TAPS Right-of-Way. DNA documents are completed for NEPA reviews, according to BLM Instruction Memorandum No. 2001-062, dated December 29, 2000 that allows BLM to rely on existing NEPA documents for a current proposed action and complete a DNA to document the rationale for the conclusion. The Authorized Officer signs the DNA conclusion that states the existing BLM NEPA documentation fully covers the proposed action and that the actions are within the scope of all existing applicable NEPA documents.

BLM Land Use Plans. BLM prepares land use plans for all lands in its jurisdiction to ensure the best balance of uses and resource protection for public lands. BLM uses a collaborative approach with local and State governments, the public, and stakeholder groups to develop Resource Management Plans that provide the framework to guide decisions for proposed actions on federal lands. When BLM receives a permit application from Alyeska, BLM reviews the appropriate land use plans as part of each NEPA review process to ensure that the proposed action is in conformance with the applicable land use plan. Several Land Use Plans encompass the TAPS Right-of-Way, specifically the *BLM Utility Corridor Resource Management Plan*, approved January 11, 1991, pertaining to the northern portion of the TAPS Right-of-Way, and the *BLM Southcentral Resource Management Plan*, approved in 1982, that covers the southern portion of the TAPS Right-of-Way. The permit package NEPA documents state whether

the proposed action is in conformance with the applicable land use plans as required by 43 CFR 1610.5, and that the proposed action is consistent with the objectives in the land use plan decisions.

Cultural Resource Protection. Section 106 of the National Historic Preservation Act requires BLM to review and examine whether potential cultural resources may exist within the proposed action area. BLM developed the *Protocol for Managing Cultural Resources on Lands Administered by the BLM in Alaska*. The protocol implements BLM's national cultural resources Programmatic Agreement in Alaska by describing how the Alaska State Historic Preservation Officer (SHPO) and the BLM will interact and cooperate under that agreement. The objective is to enhance management of cultural resources under BLM's jurisdiction.

When processing permit applications for Alyeska, BLM requests cultural resource clearance reports from archaeologists in the applicable BLM field office either in Fairbanks or Glennallen, (depending on location of the proposed action). The archaeologist typically provides an *Assessment of Undertakings Not Subject to Further Section 106 Review* to BLM Right-of-Way staff. This report states that according to the *Protocol for Managing Cultural Resources on Lands administered by the Bureau of Land Management in Alaska, between the Bureau of Land Management and the State Historic Preservation Officer*, signed April 17, 1998, the undertaking is not subject to further Section 106 review. The reports typically conclude that the proposed activities occur in areas previously and extensively modified by human use such that no intact cultural resources are likely to occur in the area. As long as the permittee adheres to specific permit stipulations, the archaeologist concludes that the permittee may proceed as proposed in the application. However, the permit stipulates if heritage or paleontological resources are encountered during implementation of the project, the project will cease and the appropriate BLM field archaeologist will be notified.

The permit stipulation states:

"There shall be no damage to or disturbance of any archaeological or historical sites and artifacts, including prehistoric stone tools and sites, historic log cabins, remnants of such structures, refuse dumps, and graves, and no collection of any artifacts whatsoever. In addition, collection of vertebrate fossils, including mammoths and mastodon bones, tusks, etc., is strictly prohibited. If historic or archaeological resources are encountered, the procedures as outlined in the *Programmatic Agreement Regarding Consideration and Management of Historic Properties Affected by Operations and Maintenance Activities Along the Trans-Alaska Pipeline System*, dated September 2005, will be followed."

4.5 Other NEPA Reviews

Strategic Reconfiguration of TAPS. Alyeska began submitting Notice to Proceed proposals after several years of planning to streamline TAPS operations and maintenance, reduce operation costs, and extend the life of the pipeline. The Notice to Proceed

applications consisted of installing new modules change hardware from turbine driven pumps to electric engine pumps at the pump stations along TAPS. Work mainly consisted of mechanical and electrical installations to reconfigure the pump stations to become more automated and less labor intensive. Notice to Proceed applications were submitted to JPO for each pump station project. BLM prepared two environmental assessments for reconfiguration, 1) *Environmental Assessment of the Proposed Reconfiguration of the Trans-Alaska Pipeline System*, (EA-03-009), in January 2004, and 2) *An Environmental Assessment of the Proposed Reconfiguration of TAPS Facilities at the Valdez Marine Terminal* (EA-993-04-006) in March 2005. Both environmental assessments resulted in a Finding of No Significant Impact. BLM completed subsequent DNA NEPA reviews for each Notice to Proceed submittal package issued, to ensure each project remained within the scope of the applicable environmental assessment. All individual NEPA reviews resulted in conclusions that all proposed projects were within the scope of the existing 2004 EA document. BLM completed the NEPA work for Strategic Reconfiguration between 2004 and 2006.

Ballast Water Treatment Facility. Alyeska submitted several Notice to Proceed requests for approval from BLM to modify the Ballast Water Treatment Facility (BWTF) at the TAPS Valdez Marine Terminal between 2006 and 2010. The purpose of the proposed action was to downsize the BWTF system to accommodate less ballast water flow from marine oil tankers as a result of reduced throughput of oil in TAPS. The proposed action consisted of renovating and updating the hardware at the BWTF to reduce the physical structure of the 3-tier wastewater treatment process. The objective was to incorporate new technologies, reduce the flammability of the storage tanks, improve operational efficiency, and reflect operational changes due to lower ballast water flow rates and changing tanker fleet characteristics. BLM completed the *Environmental Assessment for the Proposed Modification of the TAPS Ballast Water Treatment Facility at the Valdez Marine Terminal* (EA-AK-993-06-020) in December 2006, which resulted in a Finding of No Significant Impact.

Pigging Solids & TAPS Bypass Project. British Petroleum (BP), one of the TAPS owner companies, discovered crude oil had leaked from one of their transit lines at Prudhoe Bay on the North Slope in March 2006, and identified corrosion as the cause. Additional leaks occurred in August 2006, prompting a shut down of the Prudhoe Bay oil field operations to pig and address the corrosion situation in the transit lines leading to TAPS. The Department of Transportation Pipeline and Hazardous Materials Safety Administration (PHMSA) Office of Pipeline Safety issued a corrective action order to BP March 15, 2006, finding that the continued operation of three crude oil transmission pipelines in BP's Prudhoe Bay Operating Area would be hazardous to life, property, or the environment, without the implementation of corrective measures. PHMSA listed certain corrective actions to be taken within specified time frames.

BLM specified in meetings with Alyeska that BP's pigging solids should not be transported into the TAPS. BLM was concerned about the safe and efficient transportation of crude oil through the pipeline system to the Valdez Marine Terminal without harming the TAPS. Alyeska proposed constructing temporary piping to send the pigging solids directly from the transit lines into Tank 110, inside of Pump Station 1, where they were processed to separate the marketable

crude oil from the pigging solids. The crude oil was then transported to the TAPS and the pigging solids were disposed of. BLM considered the temporary piping proposal to be a good solution to avoid possible harm to the TAPS Pump Station 1 crude meters, facility piping, and the TAPS main line pipe from BP's pigging and pipe cleaning activities. The proposed action ensured pigging solids would not negatively impact the Trans-Alaska Pipeline System.

BLM completed a NEPA review as part of the Notice to Proceed approval process and determined the proposed action qualified as a categorical exclusion under 516 DM 11.5 E (18), because it was a temporary placement of a pipeline above ground. The proposed action was reviewed to determine if any of the twelve criteria for exception described in 516 DM 2, Appendix 2, applied. The Authorized Officer determined the criteria applied and did not require the preparation of an EA or an EIS.

BLM identified specific mitigation measures that became part of the Notice to Proceed approval stipulations JPO issued for the pigging solids project. BLM's emphasis was compliance with all terms, conditions, and stipulations contained in the *Renewal of the Agreement and Grant of Right-of-Way for the Trans-Alaska Pipeline and Related Facilities*, dated January 8, 2003, and compliance with all federal and state laws and regulations concerning operations at the Pump Station 1 facility, including compliance with existing air and water quality permits.

5.0 Results and Discussion

The BLM reviewed all field surveillances and assessments completed during the past five years in the BLM Rights-of-Way Section, from the time of TAPS Renewal in 2003 to the first quarter of 2007 to evaluate compliance with regulatory, statutory, and grant/permit requirements. The table below lists the number of completed surveillance reports by year and category.

BLM ROW Surveillances by Year and Type

Year	TUPs *	ROW Grants **	Off-ROW Authorizations Federal Grant Stipulation 2.9.1	TAPS Federal Agreement & Grant	Mineral Materials Site Inspections	Total Completed in ROW
2003	2	0	1		38	41
2004	110	18	1	1	37	167
2005	61	4	0		36	101
2006	71	161	0		36	268
2007	***	***	***	33	***	33
Totals	244	183	2	34	147	610

* Temporary Use Permits (TUPs): This category includes two line-wide maintenance TUPs, AA085311 and FF088241, which contained multiple integrity investigations and other projects. It also includes three solid waste disposal sites (SWDSs). In 2006, surveillances were conducted

for 37 expired TUPs in order to close the casefiles. This work will continue in 2007 and beyond as more TUPs expire.

** ROW Grants: This category includes a fuel gas line ROW grant, which is a related TAPS facility, BLM Serial No. FF-21770, and approximately 170 TAPS access road ROW grants. In 2006, surveillances were conducted for 157 TAPS Federal Grant access roads. The remaining access roads will be inspected during the 2007 summer field season.

*** Site inspections and surveillance reports for 2007 have not yet been completed as they are planned for completion during the 2007 summer field season.

5.1 TAPS Federal Agreement and Grant Compliance

BLM reviewed the TAPS mainline ROW Grant case file records, BLM Serial numbers AA-5847 and FF-12505, to research all applicable documents to verify compliance with the legal and administrative Grant provisions for the last five years since TAPS Renewal in 2002. JPO completed 34 surveillance reports for the Grant sections listed in this report to verify compliance with the *Renewal of the Agreement and Grant of Right-of-Way for TAPS and Related Facilities*. Some sections and subsections of the Grant do not contain specific action on the part of the Permittee, but are instead agreed upon terms. However, these sections were nevertheless evaluated for compliance. To ensure a thorough compliance review, the interpretation standards developed in 2002 by the Joint Pipeline Office and agreed upon with the Permittee for each provision of the Federal Agreement and Grant were carefully reviewed to ensure Permittees have complied with all legal requirements of the Grant. A review of 34 surveillances completed between 2002 and 2007 resulted in satisfactory compliance with the legal and administrative sections of the Federal Grant included within the scope of this report. No surveillances contained evidence that the Permittees have not complied with these Grant provisions at any time between 2002 and 2007.

No Active Monitoring Required. Grant Sections 1, 4, 5, 7, 11-13, 17-21, and 24-41 are legal and administrative provisions that do not require active, continuous monitoring.¹ These provisions contain language that is agreed to between the Permittees and the Department of the Interior. BLM conducted a review of the TAPS Right-of-Way case file records and completed surveillances for these sections to verify that Permittees remain in compliance with these legal and administrative provisions.

Actively Monitored Provisions. Grant Sections 2, 3, 6, 8, 15, 16 and 22 require active monitoring to verify Permittees compliance. BLM has completed surveillance reports for all of these sections except Section 3, *Transportation of Oil*, and Section 16, *Laws and Regulations*. BLM is currently in the process of verifying Permittee compliance with these two provisions, pending receipt of information from other state and federal agencies.

¹ See Chapter 7.0 References, 2007 Surveillances list of the Grant sections that do and do not require active monitoring, and a list of the surveillances completed for each section.

Grant Section 2 – Purpose of Grant; Limitations of Use to Permittees. Section 2 requires the Permittees to use TAPS only for the transportation of oil. BLM verified in Surveillance Report No. ANC-07-S-013 that all Permittees remain in compliance with the requirements of this provision. However, in 2005 Alyeska requested clarification from both ADNR and BLM how “oil” is defined, as a result of a letter from Flint Hills Resources of January 7, 2005. JPO had expressed concerns regarding output from the Flint Hills Resources refinery in Fairbanks. The concerns consisted of residual associated with a clean fuels project at the refinery that may not meet the Federal Grant and State Lease definition of oil. The concerns regarded occasional low-sulfur hydrocarbons contained in the refinery residual streams that would enter TAPS. According to the Renewal of the Agreement and Grant of Right-of-Way for TAPS and Related Facilities, Stipulation 1.1.1.16, “...Oil means unrefined liquid hydrocarbons, including gas liquids.”

In Alyeska Government Letter No. 3590, dated March 3, 2005, Alyeska requested clarification of the Federal Agreement and Grant definition of oil, to confirm understanding and interpretation that “oil” includes occasional low-sulfur hydrocarbons that are part of the residual stream from the Flint Hills Refinery. In this letter Alyeska stated:

“It is and has been the collective understanding and interpretation of Alyeska and the TAPS owners since the first refineries adjacent to the TAPS Right-of-Way began directly receiving TAPS transported crude oil by pipeline or connection some 29 years ago, that the refinery return streams (referred to as “Residual” in the Connection Agreement for the pipeline connecting the Flint Hills Resources refinery with TAPS) as delivered to TAPS historically and currently, were and are included within the scope of “Oil” as defined in the TAPS Right-of-Way Agreements.”

In March 2005, the Joint Pipeline Office and Alyeska both entered an *Agreement to Interpret the Definition of Oil*, signed by the BLM Authorized Officer and the ADNR State Pipeline Coordinator. The agreement stated the Federal Grant and State Lease definition of oil and that the definition would include refinery return streams for refineries connected directly to TAPS or by pipeline to TAPS, including occasional low sulfur hydrocarbons blended in refinery residual streams that may result from connected refinery operations to meet Federal low sulfur fuel standards. Alyeska stated in the Agreement that they would add this agreed upon definition to their Grant and Lease Compliance Manual and reference the Agreement as the basis for their interpretation.

Grant Section 3 – Transportation of Oil. State and Federal statutes require Permittees to maintain a Federal Energy Regulatory Commission (FERC) common carrier license. The BLM Authorized Officer views any violation of the Federal Energy Regulatory Commission of Alaska’s licenses as adversely affecting the public interest. The language and requirements of Section 3 are based on provisions contained in 43 Code of Federal Regulations, 2883.1-5, and the Mineral Leasing Act, Section 28(r), 30 United States Code 185.

The Trans-Alaska Pipeline System is both an interstate oil pipeline regulated by the Federal Energy Regulatory Commission under the Interstate Commerce Act and an intrastate oil pipeline regulated by the Regulatory Commission of Alaska (RCA) under Alaska Statute 42.06. (In 1999, the Alaska Public Utilities Commission was re-named the Regulatory Commission of Alaska). Each of the TAPS Owners holds a separate Certificate of Public Convenience and Necessity. These certificates were issued to the original TAPS Owners without hearings or proceedings under Alaska Statute 42.06.240(b) and were deemed to be in good standing without violations.

In some cases the certificates were transferred from the original TAPS owners to successors in interest during the first 30-year Grant of Right-of-Way. For example, in March 2002, the holders of TAPS certificates were Amerada Hess Pipeline Corporation (Certificate No. 300), BP Pipelines Alaska Inc. (Certificate 311), Exxon Pipeline Company (Certificate 304), Phillips Transportation Alaska, Inc. (Certificate 301), Unocal Pipeline Company (Certificate 312) and Williams Alaska Pipeline Company, L.L.C. (Certificate 308). These owner companies were different from the original owners listed in the 1974 Federal Grant.

Name changes and transfers of interest have since occurred between the TAPS owner companies from the time of TAPS Renewal in 2002 to the present, in April 2007. (These changes are discussed in more detail under Grant Sections 15 and 22). As of April 2007 the current TAPS owners of record are:

- 1) BP Pipelines (Alaska) Inc. (46.93% interest)
- 2) ConocoPhillips Transportation Alaska, Inc. (28.28 % interest)
- 3) Exxon/Mobil Pipeline Company (20.34% interest)
- 4) Unocal Pipeline Company (1.36% interest)
- 5) Koch Alaska Pipeline Company, L.L.C. (3.08% interest)

As part of the process of verifying compliance with Section 3 of the Federal Grant, BLM sent RCA a letter in March 2007 requesting RCA to verify that:

1. Each of the TAPS Owners has a current certificate of public convenience and necessity in good standing with RCA without allegations of violation.
2. No transfer of interest has occurred without RCA approval from January 8, 2003, (the date of TAPS ROW Grant Renewal) to the present, and
3. The current TAPS Owners are operating and maintaining the Trans-Alaska Pipeline System as a common carrier.

When JPO BLM receives this verification from RCA, Right-of-Way staff will complete a surveillance to verify Permittee compliance with Federal Grant Section 3, *Transportation of Oil*.

Grant Section 6 – Location of Right-of-Way. Section 6 requires the Permittees to physically mark and survey the TAPS Right-of-Way boundaries in a manner acceptable to the Authorized Officer. Since this was done at the time of pipeline construction, Subsections A through D do not require subsequent monitoring. However, Subsection 6E requires the Permittees to provide survey and adequate monumentation on the ground for any modifications adding lands to the Right-of-Way.

Between 2002-2007 BLM issued ten Decisions approving Alyeska's requests to add lands to the TAPS Right-of-Way Grant. BLM completed Surveillance No. ANC-07-S-089, dated April 13, 2007 that concluded the Permittees complied with all requirements of Grant Section 6E. BLM adjusted the annual rentals for each ROW modification and billed Alyeska annually along with the main TAPS Right-of-Way billing. The Authorized Officer approved all right-of-way modification requests.

Grant Section 8 – Use Charge for Right-of-Way. Section 8 requires the Permittees to pay an annual rental, or use charge determined by the Authorized Officer for use of the Federal lands within the TAPS Right-of-Way. This is in accordance with 43 CFR 2803.1-2(a) that requires holders of rights-of-way to pay rents annually and in advance. Surveillance No. ANC-07-S-088 verified that all required annual payments have been made on time to the Department of the Interior for use of Federal lands and in accordance with CFR 2880 requirements.

The Permittees pay annual rental for use of the following for TAPS and Related Facilities:

- 1) BLM Serial Nos. FF-12505 and AA-5847, TAPS Right-of-Way
- 2) BLM Serial No. AA-31329, Gulkana Microwave Site
- 3) BLM Serial No. FF-84966, Power Communication Line at Pump Station 5
- 4) BLM Serial No. AA-8817, et al., TAPS Access Roads
- 5) BLM Serial No. FF-21770, Fuel Gas Pipeline
- 6) BLM Serial No. AA-8863, TAPS Access Roads Across Ahtna Lands

Section 2 of the Grant states the Right-of-Way includes the 48" pipe and its Related Facilities, which are defined in Exhibit D:

- 1.1.1.24. A. "Related Facilities" means those structures, devices, improvements, and sites, the substantially continuous use of which is necessary for the operation or maintenance of the Oil transportation pipeline.

Section 8 of the *Renewal of the Agreement and Grant of Right-of-Way for the Trans-Alaska Pipeline and Related Facilities*, dated January 8, 2003, states the "Permittees shall pay to the United States, annually and in advance, the fair market rental value of the Right-of-Way, as determined by the Secretary."

BLM determines annual rental based on cost per acre valuation contained in the December 3, 2002 *Trans-Alaska Pipeline System Renewal Appraisal* completed by Black-Smith and Richards. An Encumbrance of Rights Factor (ERF) deduction of 13%

is based on the June 30, 2006 appraisal report completed by Black-Smith, Bethard & Carlson, LLC, transmitted by Memorandum to the Joint Pipeline Office from Martin Wild, DOI Senior Appraiser for Alaska, dated August 25, 2006.

In April 2006, the BLM published in the Federal Register an Advance Notice of Proposed Rulemaking that dealt with updating the linear right-of-way rental schedule used nationwide by the BLM. As a result of discussions in November 2006 with the BLM Washington Office, it was agreed BLM will continue to bill on a per acre value according to the TAPS appraisal until the new linear rental schedule is finalized, at which time BLM will begin charging rent as per the nationwide linear right-of-way rental schedule.

In addition to examination of BLM receipts and billing records for all TAPS rentals required under Grant Section 8, case file abstracts from the BLM Alaska Land Information System (ALIS) data base were reviewed for documentation of payments made to BLM for each of the above listed serialized case records. The Permittees paid all rentals in the amounts BLM billed for between 2002-2007. There is no evidence of noncompliance with Section 8, therefore Permittees remain in compliance with this provision.

Grant Section 15 – Guaranty. Section 15 of the Federal Grant requires each TAPS Permittee to provide the Secretary of the Interior (the BLM Authorized Officer has been delegated this responsibility) a valid and unconditional guaranty of the full and timely payment of all liabilities and obligations of the Permittee to the United States that relates to any part of the Trans-Alaska Pipeline System. 43 CFR 2883.1-3 authorizes the Authorized Officer to require a security to secure each Permittees' obligations. Grant Section 15 applies to any and all guaranties from the Permittees the Authorized Officer deems necessary during all phases of TAPS, ie., construction, operation, maintenance, and termination. JPO Surveillance Report No. ANC-02-S-010, conducted in 2002 verified that the Department of the Interior had accepted guaranties for each TAPS Permittee of record prior to TAPS Renewal.

The Record of Decision signed by the Secretary of the Interior January 8, 2003 required that the BLM Authorized Officer must verify all TAPS owner company guaranties every three years in accordance with Section 15 of the Federal Grant. On April 19, 2006 BLM sent letters to each of the five TAPS owner companies, requesting their current financial information to ensure that the various categories of liability remain covered. Specifically, BLM requested information on annual operating cost of TAPS, abandonment of TAPS at the end of its operation including restoration and rehabilitation, and potential liability from an oil spill from the pipeline, marine terminal or marine tankers. Section 21 of the Federal Grant specifies the extent of liability for each owner company.

In addition BLM requested a financial analyst opinion about the guarantor's current and expected future credit rating by Standard & Poor's and Moody. BLM requires each guaranty to be accompanied by a certificate and opinion of each company's legal council to verify the company's validity in regards to the owner company TAPS liability. Each TAPS owner company has submitted an acceptable certificate of liability along with an

appointment of an agent for service of process that is satisfactory to the Authorized Officer. The Federal Energy Regulatory Commission (FERC) and the Regulatory Commission of Alaska (RCA) also require submittal of this information to ensure each TAPS owner company complies with their statutory and regulatory requirements.

In April 2007, BLM completed Surveillance Report No. ANC-07-S-087 to verify that all current TAPS owners of record have submitted updated guaranties to the Department of the Interior in accordance with Grant Section 15, and that the Department has accepted them. According to BLM's case file records for the TAPS Right-of-Way, the Department of the Interior completed an economic evaluation for each owner company's guaranty submittals in September 2006, which concluded each current TAPS owner has met all guaranty requirements.²

The surveillance process included a review of BLM TAPS Corporate Qualifications case file record, AA-5722, to verify Permittee compliance with Section 15 of the Federal Grant. The following was checked and verified:

- 1) Each current Permittee has submitted updated guaranties to the Department of Interior and have met all Departmental requirements.
- 2) The Department of the Interior verified that Guarantors were any one of the following: a corporation, a partnership, an association or a joint stock company authorized to sue and be sued and hold title to property in its own name or a business trust.
- 3) Guaranties were signed by either the Secretary of the Interior or the Authorized Officer for the Secretary of the Interior, as delegated. The Secretary of the Interior delegated responsibility to the Authorized Officer for all matters concerning the Trans-Alaska Pipeline System, including those relevant to Section 15. 43 CFR 2883.1-3 allows the Authorized Officer to require a security to guarantee the Permittee's obligations.
- 4) No JPO records indicate that any guaranty filed with the Department of the Interior was found to be invalid or unenforceable by a court of law.
- 5) All required documents were submitted as requested and an appointment of an agent for service of process was included with each guaranty.

Guaranties of all current Permittees have been accepted by the Department of the Interior and are on file in BLM Corporate Case File AA-5722. Review of supporting documents submitted to the Department of the Interior verify that all TAPS owner companies comply with Section 15 of the *Renewal of the Agreement and Grant of Right-of-Way for TAPS and Related Facilities*. BLM is currently in the process of ensuring updated guaranties have been submitted by parent companies in some instances where TAPS Owner companies have undergone name changes and were acquired by other parent

² All guaranty documents and subsequent economic evaluations are confidential information. BLM follows federal records requirements and agency procedures to ensure confidentiality of information submitted to the agency from outside entities.

companies. BLM will complete another surveillance for Section 15 when this process is complete.

Grant Section 16 – Laws and Regulations. Section 16 requires Permittees to comply with all applicable Federal laws and regulations, including the Trans-Alaska Pipeline Authorization Act and Section 28 of the Mineral Leasing Act of 1920, as amended. Compliance with these requirements is accomplished through continuous monitoring to verify Permittees compliance with all Federal laws and regulations. When the TAPS Right-of-Way was renewed in 2002, BLM conducted an extensive and exhaustive examination of Permittee compliance with Section 16. At that time BLM obtained statements of compliance from all JPO agencies and evaluated Section 16 compliance in the May 2002 TAPS Compliance Report and the TAPAA Report, both completed as part of the renewal process. JPO Surveillance No. ANC-02-S-011 conducted in 2002 concluded that the Permittees were in compliance with Section 16 of the Federal Grant.

The BLM worked with a number of federal and state regulatory agencies to obtain reports on TAPS compliance with laws and regulations under their jurisdiction to support the renewal process for the Federal Grant. The U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration (PHMSA), is responsible for administering that department's national pipeline safety regulatory program pursuant to 49 USC §§ 60101-60128. The pipeline safety requirements are codified in 49 CFR Parts 190-199. The purpose of the safety regulatory program is to assure the safe transportation of natural gas, petroleum, and other hazardous materials by pipeline. Since TAPS first began transporting crude oil, the OPS has routinely identified regulatory concerns on TAPS and issued Notices of Probable Violation (NOPV) as appropriate.

The OPS completed a review of TAPS performance and the status of safety compliance issues on June 13, 2002. In this review, the OPS noted that Alyeska consistently responded in resolving pipeline regulatory issues. While there are still some regulatory issues being addressed by APSC, the OPS "believes that these issues will be resolved satisfactorily and should not impact the continued safe operation of TAPS." The OPS concluded the review by a June 17, 2002 letter to BLM that stated no outstanding regulatory pipeline safety violations existed that would lead to not recommending renewal of the Grant. Based on this OPS review, the BLM concluded that TAPS was in compliance with DOT requirements.

In a letter of June 14, 2001, to BLM, the U.S. Coast Guard issued a comprehensive safety assessment of the portions of TAPS under its jurisdiction. It concluded that APSC's marine operations were in compliance with applicable federal regulations and policies. In addition, the BLM received a letter from the U.S. Coast Guard on July 18, 2002, stating that the Bridge Administration Program found "no outstanding regulatory violations or other concerns with any of the numerous bridge structures along TAPS we previously authorized that would lead us to recommend against renewal of the Federal Grant of Right of Way" (Helfinstine 2002). This concluded the consultation process with the U.S. Coast Guard on renewal activities, and BLM determined TAPS was in compliance with U.S. Coast Guard requirements.

The U.S. Environmental Protection Agency (EPA) was contacted relative to TAPS compliance with laws under their jurisdiction. In an August 29, 2001 letter to BLM, EPA stated TAPS was in compliance with all applicable federal laws. EPA concluded APSC had no pending violations.

In March 2007, BLM requested statements of compliance from the U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration (PHMSA), the U.S. Environmental Protection Agency, and the U.S. Coast Guard, all having jurisdiction over specific areas for TAPS and Related Facilities. BLM plans to complete a surveillance and an evaluation of compliance with Grant Section 16 when the information is received from these agencies. The following table indicates the statutes and regulations each agency administers for TAPS.

Federal Laws and Regulations

Agency	Requirement
U.S. Bureau of Land Management	<ol style="list-style-type: none"> 1) Renewal of the Agreement and Grant of ROW for TAPS and Related Facilities (2003) 2) Mineral Leasing Act of 1920, as amended 3) Trans-Alaska Pipeline Authorization Act 4) 43 Code of Federal Regulations, Parts 2880, Rights-of-Way Under the Mineral Leasing Act, and 3600, Mineral Materials Disposal 5) Mineral Materials Act of July 31, 1947
U.S. Department of Transportation (PHMSA)	<ol style="list-style-type: none"> 1) Pipeline Safety Act 2) 49 CFR, Part 191 – Annual Reporting 3) 49 CFR, Part 192 – Hazardous Gas Pipelines 4) 49 CFR, Part 193 – Liquefied Natural Gas Pipelines 5) 49 CFR, Part 194 – Response Plans Onshore Pipelines 6) 49 CFR, Part 195 – Hazardous Liquid Pipelines 7) 49 CFR, Part 198 – Grants for Pipeline Safety 8) 49 CFR, Part 199 – Drug and Alcohol Testing
U.S. Environmental Protection Agency	<ol style="list-style-type: none"> 1) The Clean Water Act 2) The Clean Air Act 3) Resource Conservation and Recovery Act 4) Toxic Substances Control Act 5) Clean Water Act as amended by Oil Pollution Act of 1990 6) Oil Spill Prevention Act 7) CFR 40, Part 112, Oil Pollution Prevention
U. S. Coast Guard	<ol style="list-style-type: none"> 1) 33 USC, Rivers and Harbors Act, Section 9 2) General Bridge Act of 1946 3) 33 CFR, Navigation and Navigable Waters, Parts 114-115 4) 33 CFR, Part 154, Transferring Oil or Hazardous Materials in Bulk 5) 33 CFR, Part 156, Oil and Hazardous Material Transfer Operations from Vessels 6) 33 CFR, Part 158, Reception Facilities for Oil Noxious Liquid Substances and Garbage

Grant Section 22 – Transfers. Section 22 requires Permittees to 1) obtain prior written consent of the Secretary of the Interior before transferring any right, title or interest in the TAPS, and 2) submit to the Secretary of the Interior all documents required by law, regulation, or the Agreement and Grant that effects such a transfer. Section 22 is quite extensive and contains eight subsections, A through F. This section does not require active, continuous monitoring unless a transfer of interest occurs. Section 22D requires the Permittees to demonstrate to the satisfaction of the Secretary that the Transferee, or company acquiring TAPS interest, is capable of performing all of the liabilities and obligations of the Transferor. In accordance with Section 28 of the Mineral Leasing Act of 1920, as amended, the Secretary, before considering an application for consent and approval, must determine the technical and the financial capabilities of the Transferee to ensure they can perform all required liabilities and obligations relating to the interest being transferred. This applies during all phases of TAPS.

Section 22A specifically states:

“Permittees, and each of them, shall not, without obtaining the prior written consent of the Secretary, Transfer in whole or in part any right, title or interest in this Agreement or the right-of-Way. Any such Transfer other than with respect to an Involuntary Passage of Title, without en each instance obtaining the prior written consent thereto of the Secretary, shall be absolutely void, and, at the option of the Secretary, shall be deemed to be a breach of this Agreement by each Permittee so violating this Agreement.”

Amerada Hess/Phillips Transportation Transfer. On November 19, 2002, a joint request was submitted to the BLM Authorized Officer from Phillips Transportation Alaska, Inc. and Amerada Hess Pipeline Corporation for consent to transfer a 1.5% ownership interest in the TAPS Right-of-Way from Amerada Hess to Phillips. ConocoPhillips provided the financial guaranty for Phillips Transportation Alaska.³ BLM prepared an economic evaluation of Phillips Transportation Alaska that concluded ConocoPhillips had sufficient net worth to act as self insurer for the liabilities of Phillips for TAPS. The Authorized Officer determined that Phillips had the technical and financial capabilities to perform its responsibilities as a TAPS owner and approved the transfer of interest from Amerada Hess to Phillips by BLM Decision dated January 23, 2003.

Williams/Koch Transfer. On January 12, 2004, the Permittees requested consent of the Secretary of the Interior of one transfer of interest in TAPS, from Williams Alaska Pipeline Company (WAPCO) to Koch Alaska Pipeline Company, LLC (KAPCO). The BLM Authorized Officer issued a Decision and Consent to Transfer 3.0845% ownership interest in TAPS from Williams to Koch on March 31, 2004. BLM conducted a surveillance (ANC-04-S-059) for this transfer September 23, 2004, that verified the Permittees had complied with all of the required provisions of Section 22. BLM TAPS Corporate Qualifications case file record, AA-5722 contains all required documents

³ On February 20, 2004, Phillips Transportation Alaska, Inc. changed their name to ConocoPhillips Transportation Alaska, Inc. The Authorized Officer received notification of the name change, August 11, 2004

pertaining to this transfer, which are confidential in nature. The BLM Director at the time, delegated consent and approval authority to the Authorized Officer March 31, 2004, for the purpose of deciding the application of WAPCO.

1974 TAPS Owners of Record	2002 TAPS Owners of Record	2007 TAPS Owners of Record
Amerada Hess Corporation (3.00%)*	Amerada Hess Pipeline Corporation (1.50%)	BP Pipelines (Alaska) Inc. (46.93%)
ARCO Pipeline Company (28.08%)	BP Pipelines Alaska Inc (46.92%)	ConocoPhillips Transportation Alaska Inc. (28.29%)
Exxon Pipeline Company (25.52%)	Phillips Transportation Alaska, Inc. (26.79%)	Exxon/Mobil Pipeline Company (20.34%)
Mobil Alaska Pipeline Company (8.68%)	Exxon/Mobil Pipeline Company (20.33%)	Unocal Pipeline Company (1.36%)
Phillips Petroleum Company (3.32%)	Williams Alaska Pipeline Company, L.L.C. (3.08%)	Koch Alaska Pipeline Company, L.L.C. (3.08%)
Sohio Pipe Line Company (28.08%)	Unocal Pipeline Company (1.35%)	
Union Alaska Pipeline Company (3.32%)		

* Percentage of TAPS ownership

Mergers and Acquisitions. BLM is currently in the process of determining whether a transfer of interest in TAPS has taken place between Unocal Pipeline Company and Chevron Corporation. The Secretary of the Interior signed the Record of Decision (ROD) for the Renewal of the Federal Right-of-Way for the Trans-Alaska Pipeline (TAPS) and Related Facilities on January 8, 2003. In the ROD, the Secretary added a requirement to Section 15 of the Federal Agreement and Right-of-Way for TAPS and Related Facilities, "...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...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." These guaranties are for all liabilities associated with TAPS.

On April 19, 2006, three years after TAPS renewal, BLM sent letters to all current permittees of record, including Unocal, requesting their current financial information to ensure all liability was covered for TAPS operating expenses and DR&R. Unocal responded and provided the requested financial information showing the financial

position of Union Oil Company of California as of the end of 2005. The letter stated that Unocal Pipeline Company owns 1.38% of TAPS. However, the documents contained statements that Union Oil Company of California, as a subsidiary of Unocal Corporation was acquired by Chevron Corporation effective August 10, 2005. (Subsequently on June 13, 2006, an article appeared in the Anchorage Daily News that stated Chevron owned a 1.4 percent interest in the Trans-Alaska Pipeline). The Anchorage Daily News article raised some questions as the BLM TAPS Corporate Qualifications case file record, AA-5722 contains no evidence that prior written consent from the Secretary of the Interior had been obtained concerning any transfer of interest from Unocal Corporation to Chevron Corporation, as required by Section 22 of the Federal Grant.

BLM has questioned whether a transfer of interest has occurred, with Chevron stating they acquired 100% of the outstanding common shares of Unocal Corporation and a 100% interest in Union Oil Company of California subsidiary. Subsequently Unocal's compliance with Federal Grant Sections 15 and 22 is now in question. BLM is currently researching this and will conduct a surveillance after the question of whether a transfer of interest has been resolved.

5.2 Other Rights-of-Way Grants and Temporary Use Permit Compliance

The surveillances within the scope of this report include evaluation of the terms and conditions and Special Stipulations of each authorization, as well as a review of the case file. The case file review included verification of the presence of relevant documents, such as the application and permit or grant, and payment information, such as copies of billing notices and receipts. The following table indicates the number of surveillance reports completed since TAPS Renewal.

Section 2801.82 of the BLM 2800 Rights-of-Way Manual, Compliance Intensity (Frequency) and Timing, states the Authorized Officer shall determine the intensity of compliance activities for all phases of the holder's use of the land. There is no specified frequency of inspections. Current BLM practice holds that the frequency of inspection varies with the type of use authorized and depending on the results of previous inspections.

Historically BLM has not established a timetable for inspecting TUPs or ROW grant authorizations, with the exception of the access road ROW grants, which were inspected in 2001 in conjunction with renewal of the TAPS ROW, and are scheduled to be inspected every five years. The majority of BLM TUPs have a term of one year or less. Each TUP should be inspected at least once during the life of the project. There should also be a final inspection when the project has been completed to ensure the TUP area has been restored to the satisfaction of the Authorized Officer. With coordination between the three BLM offices, all active TUPs should be visited at least once in a field season.

ROW grants are typically authorized for longer periods of time. For example, the nine grants that authorize a total of 102 oil spill containment sites have an expiration date of January 22, 2034. Due to the fact that these sites do not experience regularly scheduled

activity, there is no need for annual inspections. Four to five major oil spill drills are scheduled each year, presenting the opportunity to inspect those specific containment sites. There are also smaller unannounced drills that occur throughout the year, resulting in a total of approximately 10 to 12 sites that may be inspected in conjunction with a drill. A rotation schedule could be established so each site is inspected at least once every five years. For the shorter term ROW grants and off-ROW authorizations, at least one inspection each field season should occur throughout the life of the project. A final inspection upon completion of the project to verify that site restoration has been completed would also be done.

Out of 429 total surveillances conducted between 2002 and 2006, only two had a finding of an attribute that was anything other than Satisfactory. The first of these concerned testing of dewatering effluent discharge at the site of a mainline integrity investigation dig in March 2004. Due to confusion about when and where the samples were tested, as well as the batteries being low on the turbidity meter, it was not clear if the effluent discharge was actually in violation of NPDES permit conditions. It was noted that follow-up would be done by spot checking at future dewatering projects to ensure compliance.

The second finding concerned excavated material being within two feet of the excavation edge of a fuel gas line integrity investigation dig in September 2004. This situation was discussed with Alyeska employees at the location and corrected on the spot.

5.3 Mineral Materials Disposal Program Compliance

Results. The result of surveillances conducted from 2002-2007 shows that Alyeska's compliance with the regulations governing usage of the TAPS Operations Material Sites (OMS) is of high quality and meets the requirements of the mining plans and the stipulations of the TAPS Agreement and Grant of Right-of-Way. Compliance of the Grant stipulations is as follows:

Grant Stipulation 2.6.1.1

If Permittees require materials from the public lands, Permittees shall make application to purchase such materials in accordance with 43 CFR, Part 3610. Permittees shall submit a mining plan in accordance with 43 CFR, Part 23. No materials may be removed by Permittees without the written approval of the Authorized Officer (AO).

In each case, APSC has applied to purchase the materials, filed a mining plan, and received advance approval in writing from the AO. An analysis of the individual surveillance elements follows.

1. Has the Purchaser exceeded the contract quantity as shown above? (Grant Stip 2.6.1.1; Contract Section 2)

In two instances, APSC inadvertently exceeded the quantities authorized in the OMS sale contract. The overages were detected by the contractor who weighed the material as it

was processed, and were realized at the end of the work day when the amount of material was totaled. In each case, APSC disclosed its error to the BLM as soon as they became aware of the overage and immediately paid the appropriate charges for the overages.

2. Has the Purchaser exceeded the area shown on the Material Site Mining Plan? (Grant 2.6.1.1; Contract Section 1)

APSC exceeded the working limits shown on the Mining Plan in one instance. In July 2004, at OMS 96-3, a frost-laden spoil pile thawed and bled off into the trees outside of the working limits. The layer of mud that was deposited outside the working limits was found to be thin enough that no action was taken to pull the mud back into the working limits. The area was allowed to revegetate on its own. Since then, the spoil pile has stabilized and the forested area affected by the mud is revegetating on its own.

3. Has the Purchaser provided advance payment for the materials? (Grant Stip 2.6.1.1; Contract Sec 3)

The purchaser has provided advance payment of materials in every instance except for the two overages mentioned in item #1 above. In those instances, as soon as APSC became aware of the overage, they paid the full amount of the overage.

4. Has the Purchaser provided total purchase price at least 60 days prior to the expiration date of the contract? (Grant Stip 2.6.1.1; Contract Section 3)

The purchaser has paid the total purchase price at least 60 days prior to the contracts' expiration dates.

5. Has the contract been extended? (Grant Stip 2.6.1.1; Contract Section 15)

During the period between 2002 and 2007, one mineral materials sale contract, AA084067, OMS 27-3N, was extended for a period of one year.

6. Is the contract current? (Grant Stip 2.6.1.1; Contract Section 11)

Of the 36 mineral materials sale contracts active at the beginning of 2007, 28 expired on January 31, 2007, and two more expired on April 5, 2007. APSC has submitted applications for new contracts on those 30 sites and the BLM is in the process of adjudicating the applications. Of the remaining six active contracts, a one-year extension was authorized for 27-3N, which will now expire on January 31, 2008, two contracts expire in August 2010, and two more expire in 2011.

7. Has the Authorized Officer given written approval to begin mining in this site? (Grant Stip 2.6.1.1)

The Authorized Officer has given written approval for mining at each site.

8. *Is the proposed contract materials site an existing materials site? (Grant Stip 2.6.1.2)*

All of the active mineral material sale contracts are on existing materials sites.

9. *Is the existing contract materials site blending in with surrounding natural land patterns? (Grant Stip 2.6.2.1)*

All mineral material sites currently under contract to APSC do blend with the surrounding natural land patterns.

10. *Is the Mining Plan providing for the prevention of soil erosion and damage to vegetation? (Grant Stip 2.6.2.1)*

The mining plans for all the current mineral material sale contracts do provide for the prevention of soil erosion and damage to the vegetation.

11. *Have reasonable measures been taken to prevent or correct undue and unnecessary erosion at the site? (Grant Stip 2.6.2.1.)*

Reasonable measures have been taken at all Operations Materials Sites currently under contract to prevent or correct undue and unnecessary erosion.

12. *Have reasonable measures been taken to prevent or correct undue and unnecessary vegetation damage at the site? (Grant Stip 2.6.2.1.)*

Reasonable measures have been taken at all Operations Materials Sites currently under contract to prevent or correct undue and unnecessary vegetation damage.

13. *Has primary access to the site been limited to the workpad and existing roads, unless specifically authorized in writing by the Authorized Officer? (Grant Stip 2.6.1.1; Contract Exhibit A, Special Stip 2)*

Primary access to each site has been by either the workpad or existing road.

14. *Are contract area limits staked prior to commencement of surface disturbing activities? (Grant Stip 2.6.1.1; Contract Exhibit A, Special Stip 3)*

The contract area limits were staked prior to the commencement of mining operations in each OMS.

15. *At completion of the contract mining, is area restored to the satisfaction of the Authorized Officer in writing? (Grant Stip 2.6.1.1; Contract Exhibit A, Special Stip 4)*

Eight mineral material sale contracts expired between 2002 and 2004. These sites have not yet undergone a final inspection for contract closeout compliance. These inspections will be completed in 2007 and the final closeout reports will then be prepared. Part of the

closeout inspection will be to determine if restoration of the area has been completed to the satisfaction of the Authorized Officer.

16. Has Purchaser stored fuel in the contract area? (Grant Stip 2.6.1.1; Contract Exhibit A, Special Stip 5)

The Purchaser does not store fuel in the contract area. When the purchaser is in the process of mining materials, they may have a fuel truck on site. This truck is not left overnight in the OMS.

17. Has Purchaser stored trash in the contract area? (Grant Stip 2.6.1.1; Contract Exhibit A, Special Stip 6)

The Purchaser does not store trash in the contract area.

18. Have waste materials been immediately removed from the contract area to appropriate facilities? (Grant Stip 2.6.1.1; Contract Exhibit A, Special Stip 6)

Waste materials are removed from the contract area to appropriate facilities.

19. Has the Authorized Officer required his authorized representative to be on site during operations, and if so, were operations conducted in his absence? (Grant Stip 2.6.1.1; Contract Exhibit A, Special Stip 7)

The Authorized Officer has not required his representative to be present on site during mining operations.

20. Has the Purchaser ensured that its agents, employees and contractors are in compliance with the special stipulations attached to the sales contract? (Grant Stip 2.6.1.1; Contract Exhibit A, Special Stip 8)

In May 2006, a BLM employee from Valdez conducted an inspection of OMS 27-3N and observed a lack of site control and lack of proper signage prior to blasting operations. The situation was discussed onsite with the blasting subcontractor. The surveillant also contacted an APSC representative, who was very cooperative and gave assurances he would follow up with the subcontractor prior to any further blasting operations. A subsequent inspection, also in May 2006, found the problems had been corrected.

21. Are contract lands under the jurisdiction of the Bureau of Land Management? (Grant Stip 2.6.1.1; Contract Exhibit A, Special Stip 9)

All mineral materials sale contracts issued by the BLM ROW group authorize Federal lands under the jurisdiction of the BLM.

22. Has the buffer between the highway and the material site been disturbed by operations? (Grant Stip 2.6.1.1)

Where buffers exist between the highway and the contract areas, APSC has not disturbed the areas by its operations. Where buffer areas are nonexistent, APSC has screened its operations to minimize the visual impact of the material sites.

23. Is the Material Site Mining Plan current? (Grant Stip 2.6.1.1; Material Site Mining Plan.)

All active mineral material sale contracts include current mining plans.

24. Are access roads constructed and operated to avoid damage to streams, lakes or other water areas and land adjacent to them? (Grant Stip 2.6.1.1)

All access roads have been constructed and operated to avoid damage to streams, lakes, or other water areas, and the land adjacent to them.

25. Is the pit maintained in a graded, clean and orderly condition? (Grant Stip 2.6.1.1)

Each OMS currently under contract is maintained in a graded, clean, and orderly condition.

Production Verification

BLM Instruction Memorandum No. 99-021 was established to specify the frequency and scope of the surveillance program. This IM has been superseded by BLM Handbook No. H-3600-1, Mineral Materials Disposal Handbook, which describes the frequency and scope of the field surveillances as currently being used by the BLM nationwide. BLM has followed this handbook's guidelines in its surveillance program, with one modification. Due to the short field season in Alaska, BLM performs one inspection on each mineral materials sale contract each year, as opposed to the Handbook's recommended monthly inspection of contracts greater than 15,000 cubic yards.

As of January 31, 2007, APSC has been relieved of the requirement of surveying each OMS site having a contract of greater than 10,000 cubic yards. APSC now will have to survey each pit area upon its initial contract and at the time when APSC closes out a material site. Annual production verification is carried out by means of an engineer's estimate of the stockpiles and by the truck counts of each load of material removed from the pit area.

Grant Stipulation 2.6.1.3

Gravel and other construction materials shall not be taken from stream beds, river beds, lake shores or other outlets of lakes unless the taking is approved in advance by the AO. During the time period covered by this report, 2002-2007, the spring and fall flooding of 2006 required several authorizations to move gravel in streambeds in order to reestablish stream channels and protect the pipeline. These authorizations were either temporary use permits or off-ROW authorizations issued under Grant stipulation 2.9.1. To date, no

surveillances have been done on these short term authorizations. However, surveillances should be conducted during the 2007 field season.

Site Closures.

Three of the eight operations material sites being considered for closure by the BLM are currently under joint use with the State of Alaska, Department of Transportation-Public Facilities, with the State having a continuing interest in these sites. The three sites authorized under a Free Use Permit held by the State are OMS 78-1, 95-2, 106-2.

Two additional sites considered for closure were under joint use between the State and APSC, but the State has given the Free Use Permits back to the BLM. These two sites are OMS 94-0 and 86-2.

Three remaining sites being considered for closure are under stand-alone contracts held by APSC. They are OMS 105-1, 97-2, and 30-2R.

Each of these eight sites will undergo a detailed surveillance during the summer of 2007 to ensure that the sites are suitable for closure. As a preliminary observation, all of the sites appear to have been rehabilitated to the extent required by the various rehabilitation plans submitted on the now-expired contracts. Upon receipt of the final surveillance reports, the appropriate action will be taken on each of the eight sites.

6.0 Conclusions and Recommendations

The answers to these questions posed in Chapter 2.0, Scope and Methodology are addressed in the following three sections.

- Do the stipulations of the land use authorization permits protect resources, the physical environment, public safety, and pipeline integrity?
- Are permitted activities conducted safely and in accordance with Grant and permit regulatory requirements?
- Are we surveilling the areas we should be, and if not, have other areas of focus been identified?

6.1 Legal and Administrative Provisions of the TAPS Right-of-Way Grant

After review, surveillance and assessment of the Renewal of the Federal Agreement and Grant of Right-of-Way for TAPS and Related Facilities sections included in this report, BLM concludes the Permittees are in compliance with all legal and administrative provision of the Grant.

Conclusions

After review, surveillance and assessment of the Federal Agreement and Grant of Right-of-Way sections included in this report, BLM concludes the Permittees are in compliance

with the legal and administrative portion of the *Renewal of the Agreement and Grant of Right-of-Way for TAPS and Related Facilities*. BLM has preliminarily determined that TAPS remains in compliance with all of the Federal Grant requirements within the scope of this report, unless BLM is notified otherwise. BLM knows of no outstanding citations or orders for violation of Grant requirements and stipulations, or violations of applicable laws. (Although the DOT PHMSA periodically issues NOPVs, the PHMSA has indicated that there are no outstanding or emerging regulatory pipeline safety issues). In addition, there has been no history of a refusal to correct identified problems or to comply with applicable laws. When JPO agencies have identified deficiencies, Alyeska has demonstrated a willingness to work with the agencies to resolve the problem(s) in a reasonable and timely manner.

Recommendations

Section 8 – Electronic Billing and Payments for TAPS ROW Rentals. In the current system, when Alyeska is billed for TUPs, ROW grants, or mineral material sale contracts, Alyeska submits a check to the BLM Public Room, where the payment is manually entered in the national BLM Collections and Billing System (CBS). In 2007, the JPO will be pursuing with Alyeska an alternate payment method consisting of Electronic Fund Transfers (EFTs). This process is already being used successfully for the quarterly reimbursable payments for Strategic Reconfiguration and Compliance costs. With EFTs, the entire payment process takes 2-3 days, requires no hard copy checks, and is expected to result in fewer errors that have occurred as payments are manually entered into CBS.

6.2 Rights-of-Way Grants and Temporary Use Permits

Conclusions

These results show an excellent record of compliance with the various terms and conditions and Special Stipulations of temporary use permits, right-of-way grants, and off-ROW authorizations that are issued in conjunction with, and in support of, the operation and maintenance of TAPS, ensuring the safety and integrity of TAPS. Though the BLM ROW section has increased the number of surveillances done on TUPs, ROW grants, and off-ROW authorizations, there is a need for more frequent inspections in a few areas.

Recommendations

With the understanding that individual surveillances will be conducted by other BLM personnel in the course of normal field-going activities, it is recommended that the Federal access road ROW grants continue to be inspected on a five-year schedule. Temporary use permits should be inspected at least once during the life of the project. If the project is not completed early enough in the field season to be inspected that same year, a separate close-out inspection will need to be conducted the next field season. For the oil spill containment site ROW grants, it is recommended that a portion of the 102 total sites be inspected each year. A rotation schedule should be established so each containment site is inspected at least once every five years. Additional inspections would be conducted in the course of oil spill drills that are carried out each year. Off-ROW authorizations and shorter-term ROW grants should be handled the same as TUPs – at

least one inspection should occur each field season throughout the life of the project, and a close-out inspection should be conducted upon project completion.

One ROW grant that does not appear to have been inspected by BLM personnel is the Gulkana microwave site, case file AA031239. An inquiry should be made as to whether one of the non-JPO BLM field offices is currently conducting surveillances on this site. If so, copies of those surveillances need to be added to the JPO BLM case file. If no one is conducting these surveillances, BLM needs to establish an inspection schedule for the site.

6.3 Mineral Materials Program

Conclusions

Alyeska has met the requirements of the regulations, the Right-of-Way Grant, including the stipulations listed in Section 2.6, and the mining and reclamation plans for each mineral material site. As a summary of the Mineral Material Disposal Program between 2002-2007, JPO BLM has completed more than 220 on-site field inspections and resulting surveillance reports of up to 44 OMS sites on BLM land. Alyeska has complied with the requirements of the required laws, regulations, Right-of-Way Grant stipulations, and mining and reclamation plans that apply to each surveillance conducted during the evaluation period.

BLM is in the process of issuing new mineral materials sales contracts for most of the sites along TAPS. Alyeska recently filed an appeal on the BLM Statewide Mineral Material Site Appraisal. Since BLM is using the current appraisal upon which to charge contract sales fees, further appeals filed by Alyeska could potentially halt this year's mineral material mining operations. BLM cannot discuss any aspect of the Mineral Material Site appraisal while it is on appeal at the Department of the Interior Board of Land Appeals. However, BLM is entering discussions with Alyeska about issuance of the new contracts. A final decision on the appeal is not expected in the near future.

Recommendations

The Mineral Materials Disposal program typically resides in the Division of Mining and Materials throughout BLM. When the minerals examiner left BLM in the mid-1990's, this program was reorganized into the BLM Branch of Rights-of-Way, and administration of the BLM mineral material sites along TAPS was assigned to the lands and realty specialists. Expected retirements and attrition will result in a loss of knowledge and expertise with the BLM mineral materials disposal program. BLM envisions an opportunity to obtain a minerals specialist or a geologist to administer the Mineral Materials program for TAPS. The minerals specialist would be assigned to the BLM Rights-of-Way section and administer the entire Mineral Material Disposal program, including issuing the new mineral material sale contracts, processing all requests to modify existing contracts, and tracking the annual OMS payments and monthly production costs in accordance with 43 CFR 3600. The minerals specialist would complete the required annual site inspections and complete the resulting surveillance reports and the annual assessment.

7.0 References

This block of references relates to the Legal and Administrative Provisions

Section	Title	Surveillance Report	Monitoring
1	Grant of Right-of-Way	ANC-07-S-012	No Active
2	Purpose of Grant; Limitations of Use to Permittees	ANC-07-S-013	Active
3	Transportation of Oil	<i>In process</i>	Active
4	Exhibits; Incorporation of Certain Documents by Reference	ANC-07-S-014	No Active
5	Width of Right-of-Way	ANC-07-S-028	No Active
6	Location of Right-of-Way	ANC-07-S-089	Partially active
7	Duration of Right-of-Way Grant	ANC-07-S-029	No Active
8	Use Charge for Right-of-Way	ANC-07-S-088	Active
11	Reservation of Certain Rights to the United States	ANC-07-S-023	No active
13	Damage to U.S Property, Repair, Replacement or Claim for Damages	ANC-07-S-034	No Active
14	Indemnification of the U.S.	ANC-07-S-027	No Active
15	Guaranty	ANC-07-S-087	Active
16	Laws and Regulations	<i>In process</i>	Active
17	No Right of Set Off	ANC-07-S-024	No Active
18	Right of U.S. to Perform	ANC-07-S-025	No Active
19	Liens	ANC-07-S-026	No Active
20	Insolvency	ANC-07-S-033	No Active
21	Breach; Extent of Liability of Permittees	ANC-07-S-035	No Active
22	Transfer	ANC-04-S-059	Partially Active
24	Duty of Permittees to Abate	ANC-07-S-037	No Active
25	Temporary Suspension Orders of Authorized Officer	ANC-07-S-038	No Active
26	Appeal Procedure	ANC-07-S-039	No Active
27	Requests to Resume; Appeals	ANC-07-S-040	No Active
30	Native and Other Subsistence	ANC-07-S-041	No Active
31	Termination or Suspension of Right-of-Way	ANC-07-S-042	No Active
32	Release of Right-of-Way	ANC-07-S-043	No Active
33	Agreements Among Permittees	ANC-07-S-044	No Active
34	Access to Documents	ANC-07-S-049	No Active
35	Rights of Third Parties	ANC-07-S-045	No Active
36	Covenants Independent	ANC-07-S-046	No Active
37	Partial Invalidity	ANC-07-S-047	No Active
38	Waiver Not Continuing	ANC-07-S-048	No Active
39	Remedies Cumulative; Equitable Relief	ANC-07-S-050	No Active
40	Section Headings	ANC-07-S-051	No Active
41	Authority to Enter Agreement	ANC-07-S-052	No Active

This block of references relates to the Temporary Use Permits & Right-of-Way Grants

Surveillance No.	Project Inspected	Date Conducted
ANC-03-S-001	TUP FF093818 & Off-ROW auth. PLMP 230	1/30 – 2/3/2003
FBU-03-S-002, rev. 1	TUP FF088241, PLMP 168	3/18 – 3/20/2003
Conducted in 2004		
VMT-04-S-024	Access roads from VMT to PS10	1/28/2004
ANC-04-S-009	Off-ROW auth. PLMP 217	Jan./Feb. 2004
FBU-04-S-044 to 050	TUP FF088241, PLMP 182.76	3/20 – 3/23/2004
FBU-04-S-051	TUP FF088241, PLMP 182.76	3/23 – 3/25/2004
FBU-04-S-062 to 068	TUP FF088241, PLMP 552.4, CV 86	3/31/2004
FBU-04-S-123 to 129	TUP FF088241, PLMP 573.8, CV 89	4/7/2004
FBU-04-S-130 & 131	TUP FF088241, PLMP 298.53	4/24/2004
FBU-04-S-132 to 135	TUP FF088241, PLMP 308.07	4/29 – 4/30/2004
FBU-04-S-117, rev. 1	TUP AA085311, PLMP 575	5/25 – 5/26/2004
FBU-04-S-136 & 137	TUP AA085311, PLMP 575.17	5/25 – 5/26/2004
FBU-04-S-138 & 139	TUP AA085311, PLMP 575.21	5/25 – 5/26-2004
FBU-04-S-141	TUP AA085311, PLMP 575.78	5/25 – 5/26-2004
FBU-04-S-144 & 145	TUP AA085311, PLMP 581.08	5/25 and 6/2/2004
FBU-04-S-147	TUP AA085311, PLMP 584.04	6/2/2004
FBU-04-S-140	TUP AA085311, PLMP 575.78	6/8/2004
FBU-04-S-087 to 112 & 114	TUP FF023116, SWDS 100-1	6/8/2004
FBU-04-S-142	TUP AA085311, PLMP 575.39	6/8/2004
FBU-04-S-143	TUP AA085311, PLMP 575.17	6/8/2004
FBU-04-S-148 to 153	TUP AA085311, PLMP 579.94	6/8 – 6/10/2004
FBU-04-S-146	TUP AA085311, PLMP 584.04	6/10/2004
VMT-04-S-067	TUP AA085311, PLMP 756.86	6/18/2004
VMT-04-S-068 & 069	TUP AA085311, PLMP 756.86	6/19/2004
VMT-04-S-070 to 073	TUP AA085311, PLMP 756.86	6/21 – 6/24/2004
VMT-04-S-074	TUP AA085311, PLMP 756.86	6/28/2004
VMT-04-S-075	TUP AA085311, PLMP 756.86	6/18 – 6/24/2004
ANC-05-S-001	TUP FF094267, Old Toolik Camp Pad	7/9/2004
ANC-04-S-201	TUP FF088241, PLMP 165.77	7/20/2004
FBU-04-S-203 to 212	TUP FF023292, SWDS 117-1B	7/31/2004
FBU-04-S-280 to 285	TUP FF023292, SWDS 117-1B	7/31/2004
FBU-04-S-290 to 292	TUP FF023292, SWDS 117-1B	7/31/2004
FBU-04-S-297 & 299 to 301	TUP FF023292, SWDS 117-1B	7/31/2004
FBU-04-S-361	TUP FF023292, SWDS 117-1B	7/31/2004
FBU-04-S-213 to 216	TUP FF023116, SWDS 100-1	8/3/2004
FBU-04-S-318	ROW grant AA037895, access rd. 10 APL-0	9/8/2004
FBU-04-S-319	ROW grant AA008822, access rd. 9 APL/AMS-4	9/8/2004
FBU-04-S-322	ROW grant AA009602, access rd. 9 APL-3A	9/8/2004
ANC-04-S-209	ROW grant FF021770, fuel gas line	9/19/2004
FBU-04-S-368 to 375	ROW grant FF021770, fuel gas line	9/19 – 9/20/2004
FBU-04-S-355	Old TUP, Happy Valley Camp, PLMP 336	9/24/2004
FBU-04-S-339	Access road to PS 4, 114 APS-2	9/19 – 9/20/2004
FBU-04-S-365 to -367 & -378	Access road to PS 4, 114 APS-2	9/19 – 9/20/2004
FBU-05-S-002	TUP FF088241, PLMP 477.47	11/3/2004

Surveillance No.	Project Inspected Conducted in 2005	Date Conducted
FBU-05-S-006	TUP FF088241, PLMP 211.12	1/28/2005
FBU-05-S-014	TUP FF088241, PLMP 211.12 access	2/14 – 2/16/2005
FBU-05-S-018	TUP FF088241, PLMP 211.12	2/14 – 2/16/2005
FBU-05-S-027	TUP FF088241, PLMP 211.12	2/13 – 2/16/2005
FBU-05-S-040 & 049, rev. 1	TUP FF088241, PLMP 211.12	2/13 – 2/16/2005
FBU-05-S-066 & 067	TUP FF088241, PLMP 211.12	2/13 – 2/16/2005
FBU-05-S-070 to 072	TUP FF088241, PLMP 211.12	2/13 – 2/16/2005
FBU-05-S-076	TUP FF088241, PLMP 211.12	2/13 – 2/16/2005
FBU-05-S-078	TUP FF088241, PLMP 215.59	2/13 – 2/16/2005
FBU-05-S-089 to 093	TUP FF088241, PLMP 215.59	2/13 – 2/16/2005
FBU-05-S-095 & 096	TUP FF088241, PLMP 215.59	2/13 – 2/16/2005
FBU-05-S-114	TUP FF088241, PLMP 215.59	2/13 – 2/16/2005
FBU-05-S-115	TUP FF088241, PLMP 211.12	2/13 – 2/16/2005
FBU-05-S-161	TUP FF088241, PLMP 211.12	2/13 – 2/16/2005
FBU-05-S-065	TUP FF088241, PLMP 215.59	2/14 – 2/16/2005
FBU-05-S-028	TUP FF088241, PLMP 215.59	2/17/2005
FBU-05-S-038 & 039	TUP FF088241, PLMP 211.12	2/17/2005
VMT-05-S-008	ROW grant AA008829, access rd. 12 APL-1	2/19/2005
FBU-05-S-025 & 026	TUP FF023116, SWDS 100-1	2/23/2005
FBU-05-S-032 & 033	TUP FF023116, SWDS 100-1	2/25/2005
FBU-05-S-036	TUP FF088241, PLMP 211.12	2/25/2005
FBU-05-S-037	TUP FF023116, SWDS 100-1	2/25/2005
FBU-05-S-051	TUP FF088241, PLMP 181.17	3/11/2005
FBU-05-S-052	TUP FF023116, SWDS 100-1	3/11/2005
FBU-05-S-107	TUP FF023116, SWDS 100-1	3/11/2005
FBU-05-S-111 & 112	TUP FF023116, SWDS 100-1	3/11/2005
FBU-05-S-118 & 119	TUP FF023116, SWDS 100-1	3/11/2005
FBU-05-S-121, 123 & 124	TUP FF023116, SWDS 100-1	3/11/2005
FBU-05-S-237	TUP FF088241, PLMP 181.87	3/11/2005
VMT-05-S-032	Access road bridge and gate, PLMP 754.1	5/10/2005
FBU-05-A-003	TUP FF023116 & FF023292, SWDS 100-1 & 117-1B	5/2005
FBU-05-S-247	TUP AA085311, PLMP 575.17	5/23/2005
FBU-05-S-249	TUP AA085311, PLMP 575.21	5/23/2005
FBU-05-S-250	TUP AA085311, PLMP 575.39	5/23/2005
FBU-05-S-251	TUP AA085311, PLMP 575.78	5/23/2005
VMT-05-S-037	ROW grant AA008817, access rd. 8 APL-2	6/2/2005
VMT-05-S-038	OSCS at 8 APL-2	6/2/2005
VMT-05-S-039	Access rd. gate and bridge, 8 APL-2	6/2/2005
VMT-05-S-067 & 068	TUP AA085311, PLMP 647.02	7/14/2005
FBU-05-S-234	TUP FF023116, SWDS 100-1	7/14/2005
VMT-05-S-070	TUP AA085311, PLMP 647.02	7/15/2005
FBU-05-S-320	TUP FF020105, SWDS 38-1	7/18/2005
VMT-05-S-071	TUP AA085311, PLMP 647.02	7/19/2005
FBU-05-S-238	TUP FF088241, PLMP 215.59	7/28/2005
VMT-05-S-078	TUP AA085311, PLMP 745.2	7/29/2005
VMT-05-S-093	OSCS 11-4, Tonsina River	9/13/2005

Surveillance No.	Project Inspected	Date Conducted
FBU-05-S-400	TUP FF023116, SWDS 100-1	9/18/2005
FBU-05-S-390	TUP FF023116, SWDS 100-1	9/18 – 11/1/2005
FBU-06-S-010	TUP FF023116, SWDS 100-1	12/7/2005
FBU-05-S-403	TUP FF094649, PLMP 271.5	12/22/2005
	Conducted in 2006	
FBU-06-S-045 & 046	TUP FF023292, SWDS 117-1B	2/8/2006
FBU-06-S-090	TUP FF094593, Ray River Bridge	4/17/2006
VMT-06-S-044	ROW grant, access rd. 27 AMS-4	4/19/2006
FAI-06-S-110	TUP FF023116, SWDS 100-1	4/20/2006
VMT-06-S-054 to 056	TUP AA086328, PLMP 647.33	5/18/2006
VMT-06-S-070 & 074	TUP AA086328, PLMP 647.33	5/24/2006
VMT-06-S-078 & 080	TUP AA086328, PLMP 647.34	5/24/2006
VMT-06-S-087 & 088	TUP AA086328, PLMP 647.34	5/24/2006
VMT-06-S-096 & 098	TUP AA086328, PLMP 647.33	6/2/2006
VMT-06-S-099 to 101	TUP AA086328, PLMP 648.9	6/2/2006
VMT-06-S-102 to 104	TUP AA086328, PLMP 648.9	6/6/2006
VMT-06-S-108 & 109	TUP AA086328, PLMP 647.33	6/6/2006
VMT-06-S-110	TUP AA086328, PLMP 647.34	6/6/2006
VMT-06-S-112 & 113	TUP AA086328, PLMP 648.89	6/6/2006
VMT-06-S-130, 132 & 133	TUP AA086327, PLMP 732	6/29/2006
VMT-06-S-134	TUP AA086328, PLMP 647, holes 3 & 4	6/29/2006
VMT-06-S-135	TUP AA086327, PLMP 732	6/29/2006
VMT-06-S-136	TUP AA086328, PLMP 647	6/29/2006
ANC-06-S-179	TUP AA086551, Tiekel River	7/7/2006
ANC-06-S-207 to 211	5 old TUPs, close-out inspections	8/3/2006
ANC-06-S-212 to 243	32 old TUPs, close-out inspections	8/4 – 8/8/2006
ANC-06-S-253 to 342	ROW grants, 90 access roads	8/3 – 8/9/2006
ANC-06-S-426 to 456	ROW grants, 31 access roads	8/8 – 8/9/2006
FAI-06-S-316	TUP FF023292, SWDS 117-1B	8/9/2006
FAI-06-S-327	OSCS 3016, PLMP 128.62	8/10/2006
ANC-07-S-054 to 057	ROW grants, 4 access roads	8/14 – 8/17/2006
ANC -07-S-059 to 086	ROW grants, 28 access roads	8/14 – 8/17/2006
FAI-06-S-295	ROW grant FF021650, access rd. 57 APL-3	8/29/2006
VMT-06-S-182	ROW grant AA009589, access rd. 8 APL-1, LWC 2	10/24/2006
VMT-06-S-183	ROW grant AA009589, access rd. 8 APL-1, LWC 1	10/24/2006

This block of references relates to the Mineral Material Sites

1) Renewal of the Agreement and Grant of Right-of-Way for the Trans-Alaska Pipeline and Related Facilities between the United States of America and Amerada Hess Pipeline Corp., Et. Al.

2) JPO Assessment Report ANC-02-A-12 Assessment of OMS Sites (Operations Material Sites) Prepared by Stan Bronczyk and Pat Jarrett dated October , 2002.

- 3) JPO Assessment Report ANC-03-A- 002 Assessment of OMS Sites (Operations Material Sites) Prepared by Lois Simenson and Pat Jarrett dated December, 2003.
- 4) JPO Assessment Report ANC-04-A-001 Assessment of OMS Sites (Operations Material Sites) Prepared by Stan Bronczyk and Pat Jarrett dated January 10, 2005.
- 5) JPO Assessment Report ANC-07-A-002 Assessment of OMS Sites (Operations Material Sites) Prepared by Stan Bronczyk dated March 9, 2007.
- 6) Right-of-Way Regulations 43 CFR 3600.
- 7) JPO Surveillance Report Nos. ANC-02-S-348 thru ANC-02-S-390
- 8) JPO Surveillance Report Nos. ANC-03-S-368 thru ANC-03-S-402
- 9) JPO Surveillance Report Nos. ANC-04-S-060 thru ANC-04-S-096
- 10) JPO Surveillance Report Nos. ANC-05-S-141 thru ANC-05-S-176
- 11) JPO Surveillance Report Nos. ANC-06-S-181 thru ANC-06-S-206
- 12) JPO Surveillance Report Nos. ANC-06-S-244 thru ANC-02-S-252

8.0 Signatures

Lois Simenson
Realty Specialist

Date

Nolan Heath
Deputy Authorized Officer

Date

Lois Simenson 9/20/07 *Nolan Heath* 20 Sep 2007

Jerry Brossia
Authorized Officer

Date

Jerry Brossia 9/20/07

ATTACHMENT NO.

1

Bureau of Land Management, Interior

§ 2885.11

fees as set out in §§ 2885.19 and 2885.23 of this subpart. Your written acceptance constitutes an agreement between you and the United States that your right to use the Federal lands, as specified in the grant or TUP, is subject to the terms and conditions of the grant or TUP and applicable laws and regulations.

§ 2885.11 What terms and conditions must I comply with?

(a) *Duration.* All grants with a term of one year or longer will terminate on December 31 of the final year of the grant. The term of a grant may not exceed 30 years. The term of a TUP may not exceed 3 years. BLM will consider the following factors in establishing a reasonable term:

(1) The cost of the pipeline and related facilities you plan to construct, operate, maintain, or terminate;

(2) The pipeline's or related facility's useful life;

(3) The public purpose served; and

(4) Any potentially conflicting land uses; and

(b) *Terms and conditions of use.* BLM may modify your proposed use or change the route or location of the facilities in your application. By accepting a grant or TUP, you agree to use the lands described in the grant or TUP for the purposes set forth in the grant or TUP. You also agree to comply with, and be bound by, the following terms and conditions. During construction, operation, maintenance, and termination of the project you must:

(i) To the extent practicable, comply with all existing and subsequently enacted, issued, or amended Federal laws and regulations, and state laws and regulations applicable to the authorized use;

(2) Rebuild and repair roads, fences, and established trails destroyed or damaged by constructing, operating, maintaining, or terminating the project;

(3) Build and maintain suitable crossings for existing roads and significant trails that intersect the project;

(4) Do everything reasonable to prevent and suppress fires on or in the immediate vicinity of the right-of-way or TUP area,

(5) Not discriminate against any employee or applicant for employment during any phase of the project because of race, creed, color, sex, or national origin. You must also require subcontractors to not discriminate;

(6) Pay the rent and monitoring fees described in §§ 2885.19 and 2885.23 of this subpart;

(7) If BLM requires, obtain and/or certify that you have obtained a surety bond or other acceptable security to cover any losses, damages, or injury to human health, the environment, and property incurred in connection with your use and occupancy of the right-of-way or TUP area, including terminating the grant or TUP, and to secure all obligations imposed by the grant or TUP and applicable laws and regulations. Your bond must cover liability for damages or injuries resulting from releases or discharges of hazardous materials. BLM may require a bond, an increase or decrease in the value of an existing bond, or other acceptable security at any time during the term of the grant or TUP. This bond is in addition to any individual lease, statewide, or nationwide oil and gas bonds you may have;

(8) Assume full liability if third parties are injured or damages occur to property on or near the right-of-way or TUP area (see § 2886.13 of this part);

(9) Comply with project-specific terms, conditions, and stipulations, including requirements to:

(i) Restore, revegetate, and curtail erosion or any other rehabilitation measure BLM determines is necessary;

(ii) Ensure that activities in connection with the grant or TUP comply with air and water quality standards or related facility siting standards contained in applicable Federal or state law or regulations;

(iii) Control or prevent damage to scenic, aesthetic, cultural, and environmental values, including fish and wildlife habitat, and to public and private property and public health and safety;

(iv) Protect the interests of individuals living in the general area who rely on the area for subsistence uses as that term is used in Title VIII of ANILCA (16 U.S.C. 3111 *et seq.*); and

289

(v) Ensure that you construct, operate, maintain, and terminate the facilities on the lands in the right-of-way or TUP area in a manner consistent with the grant or TUP;

(10) Immediately notify all Federal, state, tribal, and local agencies of any release or discharge of hazardous material reportable to such entity under applicable law. You must also notify BLM at the same time, and send BLM a copy of any written notification you prepared;

(11) Not dispose of or store hazardous material on your right-of-way or TUP area, except as provided by the terms, conditions, and stipulation of your grant or TUP;

(12) Certify that your compliance with all requirements of the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. 11001 *et seq.*, when you receive, assign, renew, amend, or terminate your grant or TUP.

(13) Control and remove any release or discharge of hazardous material on or near the right-of-way or TUP area arising in connection with your use and occupancy of the right-of-way or TUP area, whether or not the release or discharge is authorized under the grant or TUP. You must also remediate and restore lands and resources affected by the release or discharge to BLM's satisfaction and to the satisfaction of any other Federal, state, tribal, or local agency having jurisdiction over the land, resource, or hazardous material;

(14) Comply with all liability and indemnification provisions and stipulations in the grant or TUP;

(15) As BLM directs, provide diagrams or maps showing the location of any constructed facility;

(16) Construct, operate, and maintain the pipeline as a common carrier. This means that the pipeline owners and operators must accept, convey, transport, or purchase without discrimination all oil or gas delivered to the pipeline without regard to where the oil and gas was produced (*i.e.*, whether on Federal or non-federal lands). Where natural gas not subject to state regulatory or conservation laws governing its purchase by pipeline companies is offered for sale, each pipeline company must

purchase, without discrimination, any such natural gas produced in the vicinity of the pipeline. Common carrier provisions of this paragraph do not apply to natural gas pipelines operated by a

(i) Person subject to regulation under the Natural Gas Act (15 U.S.C. 717 *et seq.*); or

(ii) Public utility subject to regulation by state or municipal agencies with the authority to set rates and charges for the sale of natural gas to consumers within the state or municipality.

(17) Within 30 calendar days after BLM requests it, file rate schedules and tariffs for oil and gas, or derivative products, transported by the pipeline as a common carrier with the agency BLM prescribes, and provide BLM proof that you made the required filing;

(18) With certain exceptions (listed in the statute), not export domestically produced crude oil by pipeline without Presidential approval (see 30 U.S.C. 185(u) and (s) and 50 U.S.C. App. 2401);

(19) Not exceed the right-of-way width that is specified in the grant without BLM's prior written authorization. If you need a right-of-way wider than 50 feet plus the ground occupied by the pipeline and related facilities, see §2885.14 of this subpart;

(20) Not use the right-of-way or TUP area for any use other than that authorized by the grant or TUP. If you require other pipelines, looping lines, or other improvements not authorized by the grant or TUP, you must first secure BLM's written authorization;

(21) Not use or construct on the land in the right-of-way or TUP area until:

(i) BLM approves your detailed plan for construction, operation, and termination of the pipeline, including provisions for rehabilitation of the right-of-way or TUP area and environmental protection; and

(ii) You receive a Notice to Proceed for all or any part of the right-of-way or TUP area. In certain situations BLM may waive this requirement in writing, and

(22) Comply with all other stipulations that BLM may require.

ATTACHMENT 2

Sample Special Stipulations for a TUP

1. The Temporary Use Permit (TUP) shall be subject to the terms, conditions, and stipulations of the Renewal of the Agreement and Grant of Right-of-Way for the Trans-Alaska Pipeline and Related Facilities between the United States of America and Amerada Hess Corporation, *et al.*, dated January 8, 2003, which became effective on January 24, 2004. It shall be provided, however, that in the event of a conflict, either express or implied, between any provisions of the Federal Agreement for TAPS and any provision of this TUP, such conflict shall be resolved in favor of this TUP.
2. Primary access shall be limited to the work pad and existing roads, unless specifically authorized in writing.
3. The TUP area limits shall be staked prior to commencement of any surface disturbing activities.
4. The TUP area shall be restored to the satisfaction of the Authorized Officer and in accordance with 43 CFR 2885.11(b), Terms and Conditions of Use.
5. Land use activity, including any construction, shall be conducted to minimize disturbance to existing vegetation.
6. Fuel storage is not allowed within the TUP area.
7. Temporary trash storage is not allowed in the TUP area. Waste materials will be removed from the TUP area to appropriate facilities on a regular basis.
8. The Authorized Officer may require that his authorized representative be on site during operations conducted under this TUP.
9. The permittee shall inform and ensure compliance with these stipulations by its agents, employees, and contractors, including subcontractors at any level.
10. This TUP applies to lands under jurisdiction of the Bureau of Land Management.
11. There shall be no disturbance of any archaeological or historical sites, including graves and remains of cabins, and no collection of any artifacts whatsoever. Also, collection of vertebrate fossils, including mammoths and mastodon bones, tusks, etc., is strictly prohibited. If historic resources are encountered, then all artifacts will be respectfully left in place and the BLM Glennallen Field Office cultural resource staff will be notified immediately.

ATTACHMENT 3

**Sample Special Stipulations for a ROW Grant for
Oil Spill Containment Sites**

1. The Right-of-Way Grant shall be subject to the terms, conditions, and stipulations of the Renewal of the Agreement and Grant of Right-of-Way for the Trans-Alaska Pipeline and Related Facilities between the United States of America and Amerada Hess Corporation, et al., dated January 8, 2003, which became effective on January 24, 2004. It shall be provided, however, that in the event of a conflict, either express or implied, between any provisions of the Federal Agreement for TAPS and any provision of this ROW Grant, such conflict shall be resolved in favor of this ROW Grant.
2. No surface-disturbing activity will take place at containment sites 3-20, 3-21, 3-29, or 3-31 prior to archaeological field inventory, which we expect to be completed by mid-summer 2007. In addition, since containment site (CS) 3-29 is located within an area identified as “sensitive – red” in the *Programmatic Agreement Regarding Consideration and Management of Historic Properties Affected by Operations and Maintenance Activities Along the Trans-Alaska Pipeline System*, dated September 2005, if ground-disturbing activity were to take place at CS 3-29, Alyeska will follow the procedures described in Section III (TAPS Cultural Resource Compliance Process) of the Programmatic Agreement.
3. Upon expiration or termination of use, the land area shall be restored to the satisfaction of the Authorized Officer and in accordance with 43 CFR 2885.11(b) Terms and Conditions of Use.
4. Primary access shall be limited to the work pad and existing roads, unless specifically authorized in writing by the Authorized Officer.
5. The Grant area limits shall be staked prior to commencement of any Conex placement activities.
6. If the natural vegetation is disturbed as a result of the permittee’s activities, the disturbed areas shall be returned to their original or normal physical condition and natural productivity and diversity with re-establishment of native plant species, as soon as practicable, to the satisfaction of the Authorized Officer, as stated in writing.
7. Land use activity, including any construction, shall be conducted to minimize disturbance to existing vegetation.
8. Fuel storage is not allowed within the Grant area.

9. Temporary trash storage is not allowed in the Grant area. Waste materials will be removed from the Grant area to appropriate facilities on a regular basis.
10. The Authorized Officer may require that his authorized representative be on site during operations conducted under this Grant.
11. The permittee shall inform and ensure compliance with these stipulations by its agents, employees, and contractors (including subcontractors at any level).
12. This Grant applies to lands under jurisdiction of the Bureau of Land Management.
13. There shall be no damage to or disturbance of any archaeological or historical sites and artifacts, including prehistoric stone tools and sites, historic log cabins, remnants of such structures, refuse dumps, and graves, and no collection of any artifacts whatsoever. In addition, collection of vertebrate fossils, including mammoths and mastodon bones, tusks, etc., is strictly prohibited. If historic or archaeological resources are encountered, the procedures as outlined in the *Programmatic Agreement Regarding Consideration and Management of Historic Properties Affected by Operations and Maintenance Activities Along the Trans-Alaska Pipeline System*, dated September 2005, will be followed.

ATTACHMENT 4

Sample Special Stipulations for an Off-ROW Authorization

- (1) This authorization is subject to terms, conditions, and stipulations of the Renewal of the Agreement and Grant of Right-of-Way for the Trans-Alaska Pipeline and Related Facilities, dated January 8, 2003.
- (2) At least 48 hours prior to the beginning of the project, notification shall be given by the grantee to the Authorized Officer. Within 24 hours of completion of this operation, a notification shall be given by the grantee to the Authorized Officer. These notifications may be accomplished by calling Pat Perry at (907) 257-1341.
- (3) Amendments or modifications to this authorization shall be approved in writing by the Authorized Officer.
- (4) The Authorized Officer may require a representative to be onsite during any operations conducted under this authorization.
- (5) Vehicles shall be operated in a manner such that the vegetative mat is not disturbed. Blading or removal of vegetative cover is prohibited.
- (6) Existing roads and trails shall be used whenever possible.
- (7) All river crossings will be perpendicular to the river channel.
- (8) The authorization area must be kept clean. All solid waste shall be backhauled to a solid waste disposal site approved by ADEC.
- (9) All oil and hazardous material spills shall be cleaned up and reported in accordance with applicable State statutes and regulations.
- (10) No fuel storage is allowed on the area included in this authorization.
- (11) Abandonment of vehicles is prohibited.
- (12) Vehicle maintenance and/or storage and stockpiling of material are prohibited.
- (13) The grantee shall inform and ensure compliance with these stipulations by its agents, employees, and contractors, including subcontractors at any level.
- (14) The grantee shall defend, indemnify and hold harmless the United States harmless from and against any and all claims, damages, suits, losses, liabilities, and expenses for injury to or death of persons and damage to or loss of property arising out of or in connection with the entry on and use of federal and/or state lands authorized under this permit by grantee, its contractors, subcontractors, and their employees.
- (15) This authorization does not obviate nor preclude the necessity to obtain other permits that may be required by law or regulation.