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LAW OFFICES OF NANCY S. WAINWRIGHT  
13030 Back Road, Suite 555  
Anchorage, Alaska 99515-3538

(907) 345-5595 (telephone)  
(907) 345-3629 (facsimile)  
nsw@Alaska.com (e-mail)

April 22, 2006

State Pipeline Coordinator  
State Pipeline Coordinator's Office  
State of Alaska Department of Natural Resources  
411 West 4<sup>th</sup> Avenue, Suite 2  
Anchorage, AK 99501-2343

RE: Conditional Right of Way Lease Applications ADL 417577 and ADL 417578 for the  
Eastern North Slope Gas and Oil Pipelines

Dear State Pipeline Coordinator:

Lydia Sovalik and Joseph Akpik wish to provide the following comments on, and objections to, the Commissioner's analysis of OPMP's applications for Conditional Right of Way (ROW) Leases ADL 417577 and 417578 and the environmental report. These individuals have direct financial interests in a Native Allotment, including subsistence interests, affected by the lease applications and are delivering these written objections to the State Pipeline Coordinator's office not later than 60 days from date of the initial publication of this notice (February 23, 2006).

The effects of the proposed project on the natural values of this region are not examined, because most of the information necessary to evaluate the application has not been submitted. The State Pipeline Coordinator's Office has previously noted, "pipeline integrity considerations are ultimately the major environmental gauge to provide to the public" yet there is no ability for the public to analyze pipeline integrity of the proposed pipelines. Issues related to pipeline integrity, safety, and quality of long-term maintenance and operations are of utmost importance to us, yet there is little or no information on how this will occur under the proposed conditional ROW leases. The risks of the proposed project to the environment and subsistence uses of the area are unacceptably high. We disagree with the environmental analysis that OPMP can prevent significant environmental impacts, since OPMP has submitted no information to demonstrate that it has the actual technical or financial ability to do so, or any analysis of the actual impacts, based upon a realistic design, location or construction plan. We also believe that the State has ignored how the potential effects of global climate change that is ongoing and will accelerate in the future will impact the proposed pipelines.

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This application is being submitted by an applicant without the financial resources, the technical capability, the expertise or the legislative authority to construct, borrow money to construct, to contract for construction or to or transfer its interest in the conditional pipeline right of way. Moreover, if there is an oil spill, there is no indication that OPMP has the financial, technical or contracted ability to respond. There is no possibility for OPMP to satisfy the requirements of AS 38.35.100, because OPMP is a governmental entity without the legislative authority to undertake the necessary pipeline functions. OPMP is not a "person" or "persons." The use of OPMP as an applicant is a "shell" created by DNR to avoid disclosure of the entities that are actually contemplated to construct and operate the pipeline. There is no indication how leasing to OPMP (a state agency) will strengthen free competition in private enterprise. AS 38.35.010. In fact the application states that the essential financial component the public is entitled to scrutinize is missing and has not yet been developed or submitted.

OPMP's application states it will provide financial information (including an annual financial statement and balance sheet) "after it has completed further financing studies and determined the proposed operator of the pipeline." This is unacceptable, and does not give the public any ability to determine whether the conditional lease is in the best interests of the state. Furthermore, it is unclear how a state entity such as OPMP will be "bound by all covenants" in the lease, and also have the ability to "challenge the power of the state to require such a covenant" if OPMP, as an entity of the state is the lessee. AS 38.35.225. Will the police powers of the state DNR be exercised against the police powers of the state OPMP? Whose powers are preeminent? Which entity is the superior sovereign? And since OPMP is within DNR, will DNR exercise its police powers against DNR? The prospects of such an arrangement are legally incomprehensible. Moreover, since OPMP is acting on behalf of an as yet unidentified private company, it is unclear whether it is exercising a governmental function.

DNR has not disclosed any information about the relationship of these proposed pipelines to those pipeline applications previously submitted (and apparently withdrawn) by Exxon. OPMP disingenuously states: "OPMP does not know of other persons who own or presently plan to own an interest in the proposed pipelines." OPMP should be required to disclose any potential owners or operators of the pipeline, including all entities who have communicated with OPMP or DNR about possible ownership or operation of the pipeline. There should be a discussion of the effect Exxon's failure to perform under the Pt. Thomson leases, and whether this will be a consideration in the selection of Exxon as a potential operator or owner of the pipeline. OPMP and DNR should be required to disclose whether OPMP or any potential owner or operator of the lease will attempt to condemn property, acquire easements or rights of way from private property owners in conjunction with this lease.

DNR has not developed a current comprehensive master plan for pipeline transportation development, against which the public can gauge whether the OPMP application is consistent. AS 38.35.015(5). There is no analysis or indication of how the proposed projects will satisfy the requirements of AS 38.05.017(a)1).

We recommend that the Department of Natural Resources deny the conditional oil and gas pipeline right-of-way leases because they are contrary to the Right-of-Way Leasing Act, the Alaska Coastal Zone Management Program, and because the application does not contain

sufficient information for the public to assess the financial, environmental and social impacts of the proposed pipelines. Some additional specific comments follow:

OPMP's application and design criteria submittal is incomplete.

Critical information and analysis essential for the Commissioner's analysis of the pipelines' right-of-way applications has not yet been submitted. There is no information on soil borings to verify the design basis criteria established for the proposed pipelines in areas such pipeline thaw settlement. There is no information on material sites, whether migration patterns in the region will be affected by the pipeline, water sources for construction (other than a general reference to "potential" water sources) or the impacts of the project on water use, aquatic organisms or fish. The application states "The pipe size and engineering characteristics of the pipeline cannot be determined at this time." It is unclear how the affected public is supposed to comment on an application when this significant information is missing. Likewise the other unknowns are "the capacity of the pipeline"; "logistical facilities for construction and operation of the pipeline"; "the size and location of the field camps"; "size, number and approximate housing for personnel operating or maintaining the pipeline"; "size and location of health care facilities"; "approximate number of persons to be employed to operate and maintain the pipeline"; commencement date; construction time, estimated cost of construction, annual costs of operation and maintenance; the Safety Program Plan has not been submitted. This information is critical if the public and affected persons can adequately comment on the projects.

An ACMP review and consistency analysis is necessary.

An Alaska Coastal Management Program review needs to be done specifically for the conditional right-of-way leases analyzing the coastal impacts with specific analysis design criteria and pipeline integrity. However, since OPMP is the applicant, there is a conflict of interest for OPMP to conduct and analysis of its own project.

OPMP's project does not comply with the ACMP's and North Slope Borough Coastal Management Program standards including: habitat standard, energy facilities standard (including the consolidation of facilities); subsistence standard; geophysical hazards standard, and transportation and utilities standard to ensure that coastal resources are not injured

Environmental analysis is incomplete and inadequate.

The environmental analysis is incomplete since most of the project-specific information is lacking (see discussion above.) The analysis makes sweeping conclusions such as the conclusion that endangered species will not likely be affected, yet the text states that there will be impacts in the regions of three rivers. There is a complete lack of information on the location and number of stream crossings, water withdrawals, material sites, and therefore there can be no reasonable conclusion as to whether or not caribou, polar bears, and other wildlife will be impacted by the project. Yet, the environmental analysis concludes there will be no impacts. Similarly impacts to historic, archeologic, and subsistence resources are not analyzed, because the specifics of the projects are unknown.

In conclusion, we do not find that OPMP's application, environmental analysis and design basis is acceptable under state law ; we object to its issuance, and we request that you deny the OPMP oil and gas conditional right-of-way leases as proposed. Thank you for this opportunity to comment.

Sincerely,



Nancy S. Wainwright  
on behalf of Lydia Sovalik and Joseph Akpik

Cc: North Slope Borough