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April 24, 2006

Mr. Frederick M. Thompson
Acting State Pipeline Coordinator
Alaska Department of Natural Resources
State Pipeline Coordinator's Office
411 W. 4th Avenue, Suite 2C
Anchorage, AK 99501
Attn: Janetta Pritchard
Sent via Fax 907-646-5012

RE: Public Notice, ADNR Office of Project Management and Permitting, Conditional Right of Way Lease Applications, ADL 417577 - Oil Pipeline, ADL 417578 - Gas Pipeline

Dear Mr. Thompson:

We are providing these comments in response to your public notice in the Anchorage Daily News dated February 23, 2006 on behalf of the Northern Alaska Environmental Center and our members including hundreds of Alaskans. The Northern Center is a non-profit organization dedicated to conservation of the environment and sustainable resource stewardship in Interior and Arctic Alaska through advocacy and education.

The ADNR is proposing two overlapping rights-of-ways in a 700 foot wide corridor for a 45-mile distance in the Eastern North Slope to transport oil and gas from the Point Thomson vicinity to Pump Station 1 in Prudhoe Bay. These rights-of-ways would be for construction of an oil pipeline on VSMs (Vertical Support Members) and another for a natural gas pipeline, which may be partially or fully buried, or on VSMs 7-feet off the tundra. The notice states "the proposed pipeline diameters have not been determined at this time because of a lack of information on production reservoirs and oil and gas field development plans. The composition of the oil and gas entering the pipelines is unknown." ADNR states that the natural gas pipeline volume would be no greater than 2 billion standard cubic feet/day and crude oil pipeline volumes of no more than 1 million bbls per day, and that the pipelines will be constructed for a "lifetime of a minimum of thirty years."

We understand that the Governor has requested that the Alaska Department of Natural Resources acquire these pipeline rights of ways under the Alaska Right-of-Way leasing Act, AS 38.35. This is a very strange application upon which to provide comment since the applicant (ADNR) is the same as the reviewing agency (ADNR), an unprecedented situation for pipelines and akin to the fox guarding the chickenhouse.

At the outset please note that under Alaska Statute 38.35.050(a), only a "person or persons desiring to own a pipeline which is proposed to be located in whole or in part on state land" may apply for a non-

A 501 (C) (3) NOT-FOR-PROFIT ORGANIZATION

830 COLLEGE ROAD, FAIRBANKS, ALASKA 99701

PHONE: (907) 452-5021 FAX: (907) 452-3100 • <http://www.northern.org> • pam@northern.org

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competitive right-of-way lease of the state land. There is nothing in the statute to indicate that the Legislature anticipated or intended that the State of Alaska would become an applicant and/or owner of an oil and gas pipeline. To the contrary, it is apparent that the Legislature did not intend that an agency of the State of Alaska would be eligible to become an applicant under this statute or it would have clearly stated otherwise. The legislature passed this statute just prior to the start up of construction of the trans-Alaska Pipeline to Valdez. The Legislature's obvious intent was to give private, third parties the opportunity to lease a right-of-way over State-owned lands on a non-competitive basis for the construction of that pipeline.

ADNR has not proposed any actual oil or natural gas pipeline project in its application. Does the State of Alaska plan to get into the business of building oil or natural gas pipelines? If so, it needs to propose a real project with completed engineering, design, safety, spill response plans, leak detection system, and the necessary environmental baseline information, and begin an adequate environmental impact review process according to state and federal law.

If an oil company submitted an application and Environmental Report to the federal and state agencies this bereft of details regarding the project it would be summarily sent back as incomplete and insufficient for review. This application could set a poor precedent for what it deems acceptable for submission by an oil and gas producer or pipeline company. ADNR is not conducting an open process and it seems likely that it will not produce a result that fairly considers public concerns given the paucity of actual project information in the applications and supporting materials.

We are concerned about the poor public process involved in the considerations of these gas and oil pipeline ROWs for a number of reasons. ADNR has apparently not visited affected communities on the North Slope, including Kaktovik, Nuiqsut and others that depend on the subsistence resources that use the area to inform them of this project. The state's proposals will lead to major direct, indirect, and cumulative impacts to a large region of the North Slope as yet not developed for oil or gas production and generally in pristine condition.

The application materials fail to provide adequate information about the project itself, or any site-specific environmental information, and therefore there is an insufficient basis for the state to make its Best Interest Finding or Decision. A major crude oil or natural gas common carrier pipeline crossing frontier areas of the North Slope is a major action requiring federal permits and therefore an Environmental Impact Statement under the National Environmental Policy Act is necessary. We are particularly concerned about potential negative impacts to habitats of the Porcupine Caribou Herd and the Central Arctic Caribou Herd, migratory birds, polar bear denning, vegetation, water quality and quantity, hydrology, fish and their habitats, endangered species, muskox, and indirect and cumulative impacts to nearshore and marine resources including lagoons, barrier islands, river deltas, marine mammals, endangered bowhead whales, and subsistence resources and access including hunting, fishing by Iupiat, Gwich'in, and other Alaska Natives and other rural residents, and wilderness values. The application or Environmental Reports fail to provide site-specific baseline information, nor any maps, and do not provide any impact analysis.

Furthermore, Governor Murkowski's Administration has a poor track record regarding its secret deal with the 3 major natural gas producers (BP, Conoco, and Exxon) that is at the center of a major controversy. The public should have an open and fair process to review any project that may be tied to the Alaska Natural Gas Pipeline.

Is this a speculative venture intended to facilitate permitting of other oil and gas projects, or to change the economic feasibility of projects? This would fit with the philosophy expressed by the Governor, along the lines of "if we build it, they'll come." Economic study of the benefits to the state need to be done prior to issuance of a right-of-way if this is the goal of ADNR obtaining the Oil and Gas Pipeline ROWs.

Is the State submitting this application as a front for another entity (e.g. ExxonMobil, or others)? This could be a mechanism to get it through below the radar of public involvement, especially give the unpopularity of Exxon in this state given the long-term harm from the Exxon Valdez spill and its appeal of the lawsuit filed by the fishermen and others harmed by the spill?

The state requirements for financial information are insufficiently addressed on these applications. ADNR states "the OPMP will provide financial information after it has completed further financing studies and **determined the proposed operator of the pipeline.**" (Oil Pipeline ROW Application, p. 15). Does ADNR propose a fair and open process to choosing an operator? Is this the same as transferring (selling?) leases to a private company? How will the state determine the adequacy of the financial information submitted? How will the state achieve financial benefit by transferring the oil and gas pipeline ROW leases to another entity? Will there be a bait-and-switch for this application wherein half-way through the process, and after the public has an opportunity to comment, ADNR says this is really an Exxon (or other company's) project?

What is a "Conditional" Right-of-way lease? There is no explanation of the procedures or criteria for converting the Conditional leases issued to the ADNR to full leases. Would there be procedures to ensure competitive bidding and application for all the oil and gas companies or could this process lead to favoritism and political influence? Would these be common carrier pipelines? Could one company tie up the right-of-way with exclusive rights, preventing another company from building a project? Is this intended as a way of curtailing environmental reviews for major projects for which an EIS would be necessary?

ADNR does not explain the purpose and need for these pipeline rights-of-ways. How will the citizens of Alaska receive "maximum benefit" of its resources in land, oil and gas, and adequately maintain its trust resources including land, water, fish and wildlife? If the intent of these ADNR right-of-way leases is to promote oil and gas development, how exactly does this Conditional lease do that? How does ADNR insure that if it is subsidizing the permitting process by having the state do the first step without a real project in hand, that there will be full permit and environmental review process at the next step? Will ADNR conduct a full public review of another Best Interest Finding and Commissioners' Decision be provided at the point the conditional ROW is being converted to an actual project ROW?

According to Alaska Department of Transportation, it is continuing to evaluate engineering, design, and do environmental baseline studies for the Governor's Industrial Roads program's proposed Bullen Point Road. While both of these projects head east from Prudhoe Bay to the Point Thomson area they are not the exact same corridors, according to the most recent ADOT information available. How do the oil and gas pipeline ROWs mesh with the proposed road? There is no mention of the Bullen Point Road in the application or its supporting materials. How would these subsidies to the oil and gas industry benefit the state's coffers, and how would they avoid, minimize, or mitigate the impacts to resources?

The direct, indirect, and cumulative environmental impacts from combination of the pipelines and roads need to be analyzed. The application for oil pipeline ROW states that the design life time for any necessary roads and bridges would be 50 years (p. 5). What roads or bridges does ADNR plan? This essential information. The applications leave open a loophole for later submission of critical project components later:

"The only permanent access roads may be for valves located at the point of tie-ins of production or oil fields, and at each site of streams or rivers that require remotely operated valves (ROVs) for shut-offs. The exact location of permanent roads, if any, has not been determined at this time. Should any permanent roads be deemed necessary for the project, they will be applied for under the appropriate DNR application process (i.e. AS 38.35 amendment to this application or A.S. 38.05 if not located entirely within the right-of-way.)" (p.4).

Does ADNR believe that it could "amend" the application after the Best Interest Finding was done and Commissioner's decision made, without a new Best Interest Finding and Decision, or after the relevant public comment periods have closed? This approach would piecemeal essential elements of the project.

The maps of the proposed natural gas and pipeline rights-of-ways show it starting roughly at the Endicott oil field road and pipeline, roughly parallels the existing Badami Pipeline and then goes east to the Point Thomson Unit to about 5 miles from the Staines River boundary of the Arctic National Wildlife Refuge. The maps do not show how it would be routed within the Prudhoe Bay Unit to Pump Station 1.

We understand that ExxonMobil and Shell Oil have been meeting with ADNR but the nature of how these rights-of-ways would benefit their projects is not explained in the applications. What other companies or Is this project intended to provide transportation of oil or gas from the federal Outer Continental Shelf from Hammerhead, Kuvlum, or other fields? Does the State intend to promote hypothetical development from the Arctic National Wildlife Refuge coastal plain area that is closed by law to exploration and development, and how would this be accomplished with these pipeline ROWs? How much oil quantity, if any, is the state assuming from the federal waters of the Beaufort Sea OCS or from the Arctic National Wildlife Refuge? The impacts from all of the potential production facilities that would rely on these pipelines need to be analyzed by ADNR. Will we end up with a proliferation of sprawling facilities on the Eastern North Slope as a result of lack of coordination or planning, thereby repeating earlier mistakes in the oil fields. How can the State ensure that its investment brings in greater revenue to the State of Alaska, and that its interests in protecting the environment are adequately taken into account? If the oil companies have not believed oil or gas projects in the Eastern North Slope to be economically viable to date, how will these pipeline ROWs change that situation?

There are numerous oil and gas development projects in the Eastern North Slope in various stages of pre-development activities. Do each of the oil companies with such projects (BP's Liberty Offshore field, Exxon's Pt. Thomson gas condensate), or known reserves onshore or offshore support these pipeline routes and ADNRs process? Do they support the Bullen Point Road? The potential direct, indirect, and cumulative effects of the oil and gas field developments that would feed into the proposed ADNR gas and oil pipelines need to be analyzed.

The permitting process. The State of Alaska is improperly segmenting this project by just looking at one state authorization, and not all the required state and federal permits that development of oil and gas common carrier transmission lines would require. ADNR is also providing incomplete information on

necessary bridge, staging or support sites, operating pads, potential trenching for buried gas pipelines and sites of potential roads in ways that could undermine consideration of state or federal environmental laws and permitting.

Coastal Zone Management Act. There is a need for review of oil or natural gas pipeline projects under the Coastal Zone Management Act's requirements including the Alaska Coastal Management Plan and the North Slope Coastal Management Plan. Other Conditional Right-of-way leases given to pipeline companies, such as the Trans-Alaska Gas Project, and ANGTA involved required both EISs (now outdated) and Coastal Zone Management Program reviews.

National Environmental Policy Act. Exxon proposed a Pt. Thomson gas condensate project for which the EPA began an Environmental Impact Statement, which is currently on hold at Exxon's request because they said that development of that project was not economic. It is evident from the scoping process for that project that there are significant impacts expected from oil and gas development projects in the Eastern North Slope to wetlands, navigable waters, migratory birds, and the marine environment from a port proposed by Exxon (see EPA's scoping report on the Pt. Thomson EIS, hearing transcripts, and supporting information. It appears that ADNR is proposing to permit pipelines to connect to Pt. Thomson fields. In this case, the on-going EIS process should be restarted, not ignored by ADNR. Given that the federal Department of Transportation has jurisdiction over common carrier pipelines, that is another federal tie triggering the need for an environmental impact statement for such a major project.

The proposed pipelines and potential roads that may be added will cross wetlands and navigable waters that will require Section 10/404 permits under the Clean Water Act and Rivers and Harbors Act, thereby setting in motion the need for public review under the National Environmental Policy Act. By submitting a vague and incomplete application regarding the facilities needed for oil and gas pipelines, ADNR may be downplaying the potential excavation or fill triggering such permitting.

The ADNR has segmented the pipeline projects from the oil and gas production facilities necessary for transporting crude oil or natural gas. The state explains this connection: "the Eastern North Slope Oil and Gas pipelines originate at oil and gas processing plants to be constructed in the vicinity of Point Thomson." (Environmental Report, p. 1). The natural gas pipeline ROW application said the natural gas is "conditioned and processed to remove other substances... prior to transport," (p. 5), so it is clear that the natural gas conditioning and processing facilities are integral parts of this project. Therefore the environmental impact needs to be analyzed at the same time. The state cannot set into motion the oil and gas pipeline ROW lease process either for itself if it is going to own and build the pipelines or on behalf of Exxon or another company in order to try to avoid the NEPA requirements for an Environmental Impact Statement. Furthermore, the ADNR's vagueness regarding the project's need for fill or excavation for staging pads, HDD launch sites, bridges, does not eliminate the need for NEPA review.

Alternative Routes Need to be Evaluated. By issuing a Conditional gas and oil pipeline ROW lease based on incomplete information, the ADNR would be precluding a meaningful analysis of alternatives, which is at the heart of the NEPA process. How does it know that the proposed route is the best river crossing sites if it has not conducted site specific studies of soils, permafrost, water quality, hydrology, wetlands, fish spawning, migratory and overwintering habitats? How can it document that the pipeline routes best avoid or minimize impacts to those resources, as well as migratory birds, polar bear denning, and caribou calving, post-calving, insect-relief, and other habitat use by the Central Arctic Herd, and Porcupine Caribou Herd, subsistence hunting and fishing, etc.?

Significant engineering and design information is needed prior to decision on these ROW lease applications. The applications and supporting documentation provide an insufficient basis for ADNRC to make a best Interest Finding or Decision on these leases, or to conduct a meaningful environmental impact review.

The applications fail to include description of all necessary activities, infrastructure, and essential processing facilities such as pumping, compressing, heating or refrigeration stations (Gas and Oil pipeline ROW applications, p. 5).

The application discusses burying of oil pipelines for river crossings, wildlife access, and economics, but does not contain any information regarding the adequacy of pipeline standards, leak detection requirements. Although these are contained in the Design Basis, that information is also insufficient upon which to evaluate the project and its potential safety, and environmental impacts.

Pipelines may be installed below the channel of rivers and streams, according to the Oil Pipeline ROW application (no. 23, page 7). What exactly does this mean, will they be drilled using HDD technology, or trenched into the 45 rivers, streams, and creeks the route crosses?

There are no maps showing where bridges, HDD, trenched crossings, culverts, or elevated pipelines are proposed for the oil pipeline. This is necessary for evaluating environmental risks. The state application requires that if pipelines mix above ground, partially buried, or completely buried, that the applicant provide a map showing which portions are planned to be over the surface, on the surface, partially, or wholly buried (natural gas pipeline ROW application, p. 6). Therefore, the natural gas pipeline application is incomplete. These are fundamental differences in the nature of natural gas pipelines. Furthermore, there are safety considerations related to handling of natural gas and oil in the same vicinity that need to be discussed.

This project application makes it sound like there will be no tundra fill for facilities related to the pipeline project, yet this is unrealistic based on other North Slope pipeline transportation projects, especially given that processing plants are needed. When permanent gravel pads are placed on top of the vegetation, it destroys the vegetation. These impacts need to be analyzed.

The leak detection systems need to be state of the art. The current state requirements for "detecting loss of 1% of volume per day" (Oil ROW application, p. 8) are not be adequate, as BP's recent North Slope spill shows. At any rate, the proposed project application and design basis do not explain the leak detected system proposed for these pipelines.

The project application needs to provide oil spill prevention, response, and an oil spill contingency plan for review, not just state "spill containment personnel and equipment will be stages as necessary and prescribed by state law" (Oil ROW application, p. 8). It states that "oil-spill response support is available from Prudhoe, Badami, and the Alyeska Northern section," (p. 8), yet this project extends roughly 20 miles further east from Badami into a very remote region with no support facilities. The application needs to contain specific review of oil spill prevention and response measures and spill impacts. Furthermore, if this project's goal is to foster offshore oil and gas development projects such as Kuvlum, Hammerhead,

and the Shell's prospects near Kaktovik, spill response, clean up and impacts from those oil and gas field exploration and developments that would rely on this project for transportation are needed.

The applications do not provide site-specific information about where valves would be located, how they would be monitored, and the quantity of oil that could leak in segments of the pipeline between valve shutoffs.

Other basic information about facilities and activities for these oil and gas pipeline projects is lacking, contrary to ADNRs requirements. For example (in most cases the comments apply to both the oil and natural gas ROW applications:

"Logistical facilities for construction and operation of this pipeline cannot be determined at this time... size, location and types of field camps cannot be estimated at this time... The size, number and location of housing for personnel cannot be estimated at this time." (Oil Pipeline ROW Application, p. 9.)

There is no information about planned start dates for construction, construction timing, start date for operations, or estimated costs of the project, operations or maintenance, nor the economic and technical feasibility of providing delivery facilities along the proposed pipeline (Oil Pipeline ROW Application, p. 9). What assurance can ADNR provide that construction would be limited to winter, as is stated in the public notice? Furthermore, operations would occur year-round, with requirements for access by personnel, supplies, etc. by road or aircraft.

The applications do not describe how planned field gathering systems will connect with the proposed pipeline, nor the technical and economic feasibility of providing connections with other in-field gathering system at intermediate points along the pipelines, all requirements of the state. (Gas and Oil Pipeline ROW applications, p. 9-10). It does not include potential tank farm locations for oil or gas.

The applications fail to provide necessary submissions on safeguards for persons, property, the public, and the environment. They state that plans will be submitted later, including Safety Program Plan, Public Information Program, vegetation mitigation, Environmental Protection Programs to address fish and wildlife protection, restoration plans, management and audit systems plan, and subsistence plan. It does not contain any plans or stipulations to require compliance by contractors and subcontractors with the safeguards and stipulations of the ROW lease, if issued.

Plans for Dismantling, Restoration, and Restoration (DR&R) are not included. ADNR should require that sufficient funds be escrowed for DR&R of the gas and oil pipeline projects so that regulatory agencies can ensure that the corridor is restored to its original condition as facilities are taken out of service.

Significant environmental information is lacking.

Is the ADNR's Office of Pipeline Coordinator's Office who prepared these applications and will also review them is going to conduct detailed site-specific environmental studies prior to completion of the Best Interest Finding and issuance of two right-of-way leases? We believe this should be done prior to issuance of any right-of-way leases, including the Conditional leases.

Hydrology. Attachment B, Legal Description, Eastern North Slope Oil Pipeline, and the parallel description for the Gas Pipeline indicates that the oil pipeline would cross 45 rivers, creeks and streams.

Attachment B states that "a hydrological report for the entire pipeline route will be complete prior to final route and pipeline design. The final crossing locations will be selected based upon the results of the hydrological report."

Water quantity and quality. The public notice states, "The pipelines will be constructed in winter and will be built from temporary ice roads. Water withdrawal sites will be identified when the final design of the pipelines are completed." The site specific analysis of water source locations, and impacts to fish, birds, and hydrology is needed give that lakes are far less numerous in the Eastern North Slope than elsewhere on the coastal plain where development has occurred.

Fish and Wildlife. There is no site-specific information provided.

Subsistence resources. There is no site-specific baseline information provided, nor an analysis of the impacts to Inupiat, Gwich'in, other Alaska Native communities, and other rural residents from these projects or the cumulative impacts of these projects.

Global Warming. There needs to be information on the integrity of the project facilities for the next 50 years in light of changes in permafrost melting, beach erosion, changes in vegetation, etc. Greenhouse gas emissions resulting from these projects, as well as the ultimate burning of the natural gas need to be evaluated, and plans for reducing greenhouse case emissions should be presented. Cumulative impacts to wildlife and their habitats from global climate change and oil and gas production projects should also be considered.

Restrictions on Judicial Review. The public notice describes a situation of restricted judicial review on the Commissioner's decision regarding this application wherein the public may have limited, if any, opportunity to evaluate whether these pipeline rights-of-ways are in the Best Interest of the State, and we question the accuracy of this process, as well as the legitimacy of the state submitting an application under this process. The public notice states, "in accordance with AS 38.35.200(a), a person will have standing to seek judicial review of a decision of the Commissioner of the Department of Natural Resources on this application only if: (1) the person is an applicant, competing applicant or a person who has a direct financial interest affected by the lease that is subject of this notice of application; and (2) the person delivers a written objection to the application to the State Pipeline Coordinator's Office not later than 60 days from the date of initial publication of this notice.

So, in the first instance under (1), ADNR as the applicant can appeal to ADNR. Other "competing" pipeline projects can appeal, but given the vague nature of the pipelines described in the application, it is unclear which companies exactly would have the right to seek judicial review. We believe that And what about the public who wishes to ensure that the decision is in the Best Interest of the State with respect to fiscal issues, or maintenance of the public trust resources such as water, fish, wildlife, and other aspects of the environment.

Objection filed. We are filing an objection to this application because we believe it is incomplete and based on the information provided do not believe that approval of this application would be in the best interest of the citizens of the State of Alaska for reasons described above. Our membership represents hundreds of Alaskans living in diverse parts of the state, including the North Slope. We object to approval of this application and the issuance of these two rights-of-ways based on this application because we believe there is inadequate information in the supporting documents posted by ADNR upon which the

Commission could find that these ROW leases are in the Best Interest of the State. The documents we have reviewed include the Public Notice, Map, Legal Description, Design Basis, Environmental Report for the Eastern North Slope Oil and Gas Pipelines. We find this a necessary action given the unconventional application process by the State of Alaska. We do not believe that the legislature intended for the State of Alaska to file applications itself under the process described in AS 38.35.200(a). It is not clear who the ultimate pipeline developer will be but the state could use this process to give unfair advantage to one oil company through a non-competitive process even though the actual project or other information about that company is not provided at this time and also have less transparency in the public review process.

ADNR should stop the clock on review of this application until a complete oil or natural gas pipeline project is submitted with complete design, engineering, and environmental documentation. Therefore, the 60-day period described by the state for standing for judicial review should not begin until a complete application is submitted.

We request hearing in Fairbanks, Kaktovik, and Nuiqsut on these proposed oil and gas pipeline ROWs in order for the public to better understand ADNRs process for these pipeline ROWs.

Thank you for this opportunity to comment.

Sincerely,



Pamela A. Miller
Arctic Coordinator