CONDITIONAL RIGHT OF WAY LEASE
FOR THE
GLENNALLEN TO PALMER PIPELINE
BY AND BETWEEN
THE STATE OF ALASKA
AND
THE ALASKA NATURAL GAS DEVELOPMENT AUTHORITY

ADL 229297

July 2006

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CONDITIONAL RIGHT-OF-WAY LEASE

ALASKA NATURAL GAS DEVELOPMENT AUTHORITY FOR THE GLENNALLEN TO PALMER PIPELINE

ADL 229297

This CONDITIONAL RIGHT-OF-WAY LEASE is entered into and made effective this 20th day of July, 2006, by the STATE OF ALASKA, acting through the Commissioner of the Department of Natural Resources, (hereinafter COMMISSIONER), State Pipeline Coordinator's Office, 411 West 4th Avenue, Anchorage, Alaska 99501 and by the ALASKA NATURAL GAS DEVELOPMENT AUTHORITY, (hereinafter CONDITIONAL LESSEE) whose address is 411 West 4th Avenue, Anchorage, Alaska 99501.

Note: Terms having special meaning are capitalized and are defined in Section 9 of this CONDITIONAL LEASE.

Section 1. CONDITIONAL RIGHT-OF-WAY LEASE

Pursuant to AS 38.35 and the regulations promulgated thereunder, the COMMISSIONER has determined that the proposed CONDITIONAL RIGHT-OF-WAY LEASE by the applicant, the CONDITIONAL LESSEE, is in the public interest provided that the terms and conditions of the CONDITIONAL RIGHT-OF-WAY LEASE are met. The requisite determinations required by the aforesaid statutes and regulations are contained in the administrative record of ADL 229297.

If the terms and conditions set forth in the Commissioner's Final Decision and this CONDITIONAL RIGHT-OF-WAY LEASE are met within the specified time limits and prior to TERMINATION or revocation of this CONDITIONAL RIGHT-OF-WAY LEASE, the COMMISSIONER will initiate the public hearing process pursuant to AS 38.35.080 in order to determine whether conversion of the CONDITIONAL RIGHT-OF-WAY LEASE into a RIGHT-OF-WAY LEASE would be consistent with the public interest, requirements of AS 38.35.100, and the requirements of AS 38.35.120 and applicable regulations including, but not limited to, 11 ACC. 80.005. Pursuant to AS 38.35.100(d), each lease requirement and condition of the covenants established in AS 38.35.120 are attached as Exhibit B and those requirements and conditions are incorporated into this CONDITIONAL LEASE. The application for a CONDITIONAL RIGHT-OF-WAY LEASE is granted, subject to the conditions listed in Section 2.

Section 2. Requirements to Convert Conditional Right–of-Way Lease to an Unconditional RIGHT-OF-WAY LEASE

The CONDITIONAL LESSEE shall comply with the following conditions. Upon compliance with these conditions the Commissioner will initiate a pubic hearing process pursuant to AS 38.35.080 to determine if the requirements of AS 38.35 have been met so as to warrant the conversion of the CONDITIONAL RIGHT-OF-WAY LEASE to an unconditional RIGHT–OF-WAY LEASE.

A. The CONDITIONAL LESSEE shall provide PIPELINE alignment location and related facility site locations plotted on available large scale maps, where feasible, or on large scale (1 inch =1,000 feet or greater) aerial photographs for review and approval of the COMMISSIONER for the purpose of locating and describing the RIGHT-OF-WAY on STATE LAND. In addition, where required by the COMMISSIONER the CONDITIONAL LESSEE shall field stake specific portions of the PIPELINE alignment or RELATED FACILITY site locations to the satisfaction of the COMMISSIONER. This information shall be submitted by the COMMISSIONER to the owners or agents of other authorized oil or GAS transportation pipeline(s), or other existing or proposed facilities pursuant to AS 38.05.945 and AS 35.05.035(e) for the purpose of identifying what portions of the PIPELINE or RELATED FACILITIES are proximate to existing or proposed facilities. Those portions identified by such owners as being proximate to the PIPELINE and RELATED FACILITIES shall be reviewed and approved by the COMMISSIONER.

B. The CONDITIONAL LESSEE shall submit evidence to the Commissioner of the Lessee's financial ability, to complete the design and construction of the proposed Glennallen to Palmer Pipeline. Such evidence shall, at a minimum, include documentation of the commitment of shippers to utilize the capacity of the PIPELINE for shipment of GAS in the PIPELINE, such as executed letters of intent for GAS purchase; documentation of the availability of GAS to committed shippers, such as letters of intent for GAS sales, and written preliminary lender commitments for CONSTRUCTION financing. In additional, the Lessee shall provide such financial plans, a summary of project economics, and any other financial information as may be required by the COMMISSIONER.

C. The CONDITIONAL LESSEE shall submit the following technical information relating to the Glennallen to Palmer pipeline project:

(1) Project Development Schedule

a. The CONDITIONAL LESSEE shall submit a Project Development Schedule to the COMMISSIONER for review. The Project Development Schedule shall address, at a minimum, the following:

1. sequence and approximate timing of all PRECONSTRUCTION

activities;

2. submission of all PRECONSTRUCTION permit applications;
3. submission of all other permit applications;
4. environmental constraints on PRECONSTRUCTION scheduling; and,
5. submission of the items in Section 2, paragraphs A, and B.

b. The Project Development Schedule, required by Section 2.C.(1)a., shall be submitted with the scope and content mutually agreed to by the COMMISSIONER and the CONDITIONAL LESSEE annually prior to September 1st for the purpose of preparing the State's budget for the subsequent fiscal year (July 1-June 30).

(2) Project Plans and Programs

a. The CONDITIONAL LESSEE shall submit the following Project Plans and Programs to the COMMISSIONER for review and approval (such plans and programs may be combined and/or cross-referenced where appropriate):

1. Air Quality
2. Blasting
3. Clearing
4. Corrosion Control
5. Cultural Resource Preservation
6. Environmental Briefing
7. Erosion and Sedimentation Control
8. Fire Control
9. Human/Carnivore Interaction
10. Liquid WASTE Management
11. Material Exploration and Extraction
12. Oil and HAZARDOUS SUBSTANCES Control, Cleanup and Disposal
13. Overburden and Excess Material Disposal
14. Pesticides, Herbicides and Chemicals
15. PIPELINE Contingency
16. Quality Assurance/Quality Control
17. RESTORATION
18. River Training Structures
19. Seismic
20. Solid WASTE Management
21. Stream, River and Floodplain Crossings
22. Surveillance and Maintenance
23. Visual Resources
24. Water Quality Monitoring
25. Wetlands Construction

b. The COMMISSIONER will review for approval the scope, content and

schedule of the Project Plans and Programs required in Section 2.C.(2).a.

c. The Project Plans and Programs listed in Section 2.C.(2).a. may be updated at intervals mutually agreed upon by the CONDITIONAL LESSEE and the COMMISSIONER.

d. The Project Plans and Programs or specific Project Performance Standards listed in Section 2.C.(2).a. that may affect FACILITIES that are proximate to the proposed Glennallen to Palmer Pipeline alignment, such as the TRANS-ALASKA PIPELINE SYSTEM, other authorized oil or GAS transportation pipeline(s), PUBLIC ROADS/HIGHWAYS, or the FACILITIES of other third party owners with valid existing rights on STATE LAND, shall be coordinated by the CONDITIONAL LESSEE with the respective owners. Evidence of coordination with such owners shall accompany the submission of applicable Project Performance Standards and the Project Plans and Programs.

(3) CONCEPTUAL DESIGN. Prior to being granted a RIGHT-OF-WAY LEASE, the CONDITIONAL LESSEE shall provide a CONCEPTUAL DESIGN for the PIPELINE and RELATED FACILITIES for review and written approval of the COMMISSIONER. The COMMISSIONER and the CONDITIONAL LESSEE shall mutually agree upon the scope, content and schedule for submission of the CONCEPTUAL DESIGN.

(4) CONDITIONAL RIGHT-OF-WAY LEASE Amendments Required for Project Definition

a. RELATED FACILITIES. The addition of RELATED FACILITIES, the locations of which are not identified yet, including but not limited to access ROADs, communication sites and spoil and WASTE disposal sites, or any substantial re-locations of any RELATED FACILITIES shall require an authorization under AS 38.05. Substantial re-alignments of the PIPELINE shall require amendment to this CONDITIONAL RIGHT-OF-WAY LEASE.

(5) Specific Agreements for Protection of the Public Interest

a. PUBLIC ROADS/HIGHWAYS. The CONDITIONAL LESSEE shall agree to reimburse the STATE for damages to PUBLIC ROADS/HIGHWAYS or airports due to construction and/or overweight loads utilized by the CONDITIONAL LESSEE during PRECONSTRUCTION activities of the PIPELINE SYSTEM.

Section 3. <u>Nature of Interest</u>

A. This CONDITIONAL RIGHT-OF-WAY LEASE conveys no interest in land, property or resources of the STATE, or any preference or priority rights to a particular

right-of-way or alignment. The issuance of a CONDITIONAL LEASE does not prevent the COMMISSIONER from issuing other conditional or final leases for the same Right-of-Way. No CONSTRUCTION activities are authorized by this CONDITIONAL LEASE. Upon receiving an application for any other conditional right-of-way lease or authorization that would vest a property right, for the same right-of-way, the Department of Natural Resources shall consult with the CONDITIONAL LESSEE and offer an opportunity to comment.

B. Any future administrative decision made by the State of Alaska that affects the title to the property described by this CONDITIONAL RIGHT-OF-WAY LEASE is subject to administrative and legal appeal made pursuant to State statutes.

C. This CONDITIONAL RIGHT-OF-WAY LEASE applies to the proposed Right-of-Way on STATE LAND for a PIPELINE as located and described in Exhibit A of the CONDITIONAL RIGHT-OF-WAY LEASE the purpose of which is for the PRECONSTRUCTION of one (1) 24 inch diameter NATURAL GAS transportation PIPELINE and RELATED FACILITIES. The width of the proposed construction RIGHT-OF-WAY shall not exceed 300 feet, 150 feet on either side of the proposed centerline and shall accommodate such other RELATED FACILITIES outside the boundaries of the proposed RIGHT-OF-WAY as may be authorized by amendment to this CONDITIONAL RIGHT-OF-WAY LEASE.

D. PRECONSTRUCTION activities may be authorized under this CONDITIONAL RIGHT-OF-WAY LEASE. Prior to initiating any field activity on STATE LAND pursuant to this CONDITIONAL RIGHT-OF-WAY LEASE, the CONDITIONAL LESSEE must possess a valid permit issued by the COMMISSIONER. Each PRECONSTRUCTION permit shall authorize only PRECONSTRUCTION field activities specific to that permit. A PRECONSTRUCTION permit may contain such site-specific terms and conditions as the COMMISSIONER finds necessary to implement the provisions of this CONDITIONAL RIGHT-OF-WAY LEASE, and the CONDITIONAL LESSEE shall comply in all respects with the provisions of the PRECONSTRUCTION permit shall be accompanied by the following:

1. a description of the proposed activity and its location, including access routes;

2. scaled maps or drawings depicting the exact location of the proposed activities, proximate to existing facilities of third party owners with valid existing rights on STATE LAND, including the TRANS-ALASKA PIPELINE SYSTEM, drainages, trails, or other access routes, and other pertinent information sufficient for identification of potential conflicts with existing land uses and state and private property interests;

3. proposed measures for prevention of significant adverse environmental impact;

4. proposed RESTORATION procedures for areas of surface disturbance;

5. proposed measures for protecting subsistence resources and their uses in the vicinity of the proposed activity;

6. a separate analysis of the effects of the proposed activity and written evidence of coordination with any third party owners with valid existing rights on STATE LAND, including the TRANS-ALASKA PIPELINE SYSTEM, or other authorized oil or GAS transportation PIPELINE whose FACILITIES are proximate to such PRECONSTRUCTION activities.

Section 4. <u>Duration of CONDITIONAL LEASE</u>.

A. This CONDITIONAL RIGHT-OF-WAY LEASE and all rights associated with this CONDITIONAL RIGHT-OF-WAY LEASE or with the COMMISSIONER's finding pursuant to AS 38.35.100(b) shall expire on July 19, 20 16, unless

1. prior to that date the CONDITIOINAL RIGHT-OF-WAY LEASE is relinquished, abandoned or otherwise terminated pursuant to its provisions or any applicable laws or regulations; or

2. prior to TERMINATION, the COMMISSIONER determines that all conditions for conversion to an unconditional RIGHT-OF-WAY LEASE have been met, including a written finding that the CONDITIONAL LESSEE is then fit, willing and able to perform the transportation or other acts proposed in a manner that will be required by the present and future public interest, in a manner consistent with the conditions set out herein and with the applicable laws which are then in effect, and an unconditional RIGHT-OF-WAY LEASE is issued.

B. This CONDITIONAL RIGHT-OF-WAY LEASE may be revoked by order of the COMMISSIONER, without compensation, at any time the COMMISSIONER determines that the applicant or CONDITIONAL LESSEE will not be fit, willing and able to perform during the ten (10) year term of this lease or whenever another applicant or conditional lessee is determined to be fit, willing, and able to perform under an application or lease of all or part of the right-of-way.

C. Upon expiration, relinquishment, abandonment, or other TERMINATION, the provisions of this CONDITIONAL RIGHT-OF-WAY LEASE, intended for the benefit of the STATE and the public, shall continue in effect and shall be binding on the CONDITIONAL LESSEE, or the CONDITIONAL LESSEE's successors and assigns, until the CONDITIONAL LESSEE has fully performed its respective obligations and liabilities accruing before or on account of the expiration, relinquishment, abandonment, or other TERMINATION of the CONDITIONAL RIGHT-OF-WAY LEASE.

D. Prior to expiration, relinquishment, abandonment, or other TERMINATION of the CONDITIONAL RIGHT-OF-WAY LEASE, the CONDITIONAL LESSEE shall remove all temporary and permanent improvements from STATE LAND and shall RESTORE such land, unless otherwise approved by the COMMISSIONER, within a time period specified by the COMMISSIONER.

Section *5.* <u>Transfer, Assignment or other Disposition</u>

A. The CONDITIONAL LESSEE will not transfer, assign, pledge, or dispose of in any manner, directly or indirectly, or by transfer of control of the CONDITIONAL LESSEE, its interest in this CONDITIONAL RIGHT-OF-WAY LEASE, or any rights under this CONDITIONAL RIGHT-OF-WAY LEASE or any rights to the PIPELINE SYSTEM subject to this CONDITIONAL RIGHT-OF-WAY LEASE to any person, except to the extent that the COMMISSIONER authorizes the transfer in a written finding, after considering whether or not the transfer is in the public interest.. The CONDITIONAL LESSEE shall not allow the transfer of control of or redistribution of interests in the CONDITIONAL RIGHT-OF-WAY LEASE without the approval of the COMMISSIONER; as used in this Subsection "transfer of control of the CONDITIONAL RIGHT-OF-WAY LEASE means 30 percent or more, in aggregate, of ownership interest in the CONDITIONAL RIGHT-OF-WAY LEASE in one or more transactions, to one or more persons, by one or more persons. The COMMISSIONER shall not unreasonably withhold consent to the transfer, assignment or disposal. An unapproved transfer does not relieve the CONDITIONAL LESSEE of an obligation assumed under the CONDITIONAL RIGHT-OF-WAY LEASE, is ineffective to transfer interests in and obligations under the CONDITIONAL RIGHT-OF-WAY LEASE, and constitutes a default under the CONDITIONAL RIGHT-OF-WAY LEASE.

B. With respect to any request for transfer under Section 5.A., the COMMISSIONER shall consider whether the proposed transferee will be fit, willing and able to perform the transportation of NATURAL GAS proposed under the terms and conditions established in the CONDITIONAL RIGHT-OF-WAY LEASE and whether the transfer is in the public interest. The COMMISSIONER may impose additional terms and conditions on the transferee that the COMMISSIONER considers in the public interest.

C. A transfer, pursuant to Section 5.A., in whole or in part, of the CONDITIONAL LESSEE's right, title and interest in the RIGHT-OF-WAY and this CONDITIONAL RIGHT-OF-WAY LEASE shall constitute a release of the CONDITIONAL LESSEE's liabilities and obligations (accrued, contingent or otherwise) to the STATE under this CONDITIONAL RIGHT-OF-WAY LEASE only to the extent and limit that the transferee unconditionally assumes with permission of the COMMISSIONER the performance and observance of each such liability and obligation, and provides bonding and insurance to assure such performance and observance of such liabilities and obligation.

Section 6. Indemnification and Liability

A. Indemnity

1. The CONDITIONAL LESSEE assumes all responsibility, risk, and liability for its PRECONSTRUCTION activities and use of or contact with the lands of the CONDITIONAL RIGHT-OF-WAY LEASE. The CONDITIONAL LESSEE shall defend, indemnify, and hold harmless the STATE, its agents and employees, from and against any and all demands, causes of action (whether in the nature of an action for damages, indemnity, contribution, government cost recovery or otherwise), fines, judgments, suits, claims, actions, proceedings, losses, costs (including reasonable attorneys' fees and costs), expenses, charges, forfeitures, liens, liabilities, settlements, penalties, and damages of any kind or nature whatsoever, including, but not limited to those alleging personal injury, wrongful death, nuisance property damage, environmental contamination (including any disposal, release, spill or discharge or any threatened disposal, release, spill, or discharge of or contamination by hazardous materials, but subject to the limitations on CONDITIONAL LESSEE's liabilities expressly provided under Section 6 of this CONDITIONAL RIGHT-OF-WAY LEASE), and environmental noncompliance (including the CONDITIONAL LESSEE's failure to provide all information, make all submissions, and take all steps required by the authority under the environmental laws or any other law concerning any spill, discharge, or contamination), arising out of, in connection with, directly or indirectly from, or otherwise incident to, LESSEE's PIPELINE ACTIVITIES or use of or contact with the LEASEHOLD, except to the extent the sole legal cause of the injury or damage is the negligence or willful misconduct of the STATE or anyone acting on the STATE's behalf.

2. The CONDITIONAL LESSEE shall immediately accept the tender by the STATE of any such cause of action, lawsuit, or other proceeding described in Subsection (a) of this section that is brought against the STATE. Any reasonable attorneys' fees or costs incurred by the STATE prior to such tender of defense shall be the complete and sole responsibility, without limitations, of the CONDITIONAL LESSEE. If the STATE tenders such cause of action, lawsuit, or other proceeding later than twenty (20) days after service on the STATE, and the CONDITIONAL LESSEE informs the STATE that the delay in tendering will require the CONDITIONAL LESSEE to incur additional costs in order to respond in a competent and timely manner, and the STATE is unable to obtain an extension of time sufficient to provide the CONDITIONAL LESSEE with at least one-half (1/2) of the number of days which the STATE originally had to respond, then the STATE shall reimburse the CONDITIONAL LESSEE for documented, reasonable costs incurred by the CONDITIONAL LESSEE that are directly related to the delay in tendering.

3. The obligations of the CONDITIONAL LESSEE to indemnify the STATE under the terms of this CONDITIONAL RIGHT-OF-WAY LEASE shall survive the transfer, assignment, or other disposition of an interest in this CONDITIONAL LEASE as well as the expiration, forfeiture, relinquishment, abandonment or other TERMINATION of this CONDITIONAL RIGHT-OF-WAY LEASE.

Section 7. Insurance

A. Without limiting the CONDITIONAL LESSEE's indemnification, the CONDITIONAL LESSEE hereby agrees to provide and maintain in force throughout the term of this CONDITIONAL RIGHT-OF-WAY LEASE liability and property damage insurance from a company licensed to do business in the state or furnish other security or undertaking upon the terms and conditions the COMMISSIONER considers necessary if the COMMISSIONER finds that the net assets of the CONDITIONAL LESSEE are insufficient to protect the public from damage for which the CONDITIONAL LESSEE may be liable arising out of the PRECONSTRUCTION of the PIPELINE, such as: comprehensive general liability including premises, operations, independent contractors, products and completed operations liability including contractual liability covering the CONDITIONAL LESSEE's indemnification obligation under Section 6 of the CONDITIONAL RIGHT-OF-WAY LEASE, broad form property damage, pollution liability, explosion, collapse and underground (XCU), and fire legal liability endorsements, owned and non-owned (leased or hired) automobile, aircraft and watercraft liability, and architect and engineer professional errors and omissions. Coverage shall, to the reasonable satisfaction of the COMMISSIONER insure the CONDITIONAL LESSEE's liabilities for accidental occurrences imposed on it by operation of the requirement for indemnification of the STATE contained in this CONDITIONAL RIGHT-OF-WAY LEASE. Coverage shall be obtained from a carrier with a rating acceptable to the COMMISSIONER and shall be on an "occurrence" basis. The STATE shall be added to the above-described policies as an additional insured with respect to such Liabilities. Initially, coverage shall be in the minimal amount of one million dollars ($1,000,000) per occurrence and the Lessee shall provide proof of insurance meeting this requirement, acceptable to the COMMISSIONER, prior to the issuance of the first PRECONSTRUCTION permit.

B. In addition, the CONDITIONAL LESSEE shall provide and maintain, for all employees of the CONDITIONAL LESSEE engaged in work under this CONDITIONAL RIGHT-OF-WAY LEASE, Workers' Compensation Insurance as required by AS 23.30. The CONDITIONAL LESSEE shall be responsible for Workers' Compensation Insurance for any contractor or subcontractor who directly or indirectly provides services under this CONDITIONAL RIGHT-OF-WAY LEASE. This coverage must include employer's liability protection not less than one million dollars ($1,000,000) per occurrence. The insurer shall agree to waive all rights of subrogation against the STATE, its officers, agents, and employees for losses arising from the leased premises.

C. Certificates of insurance must be furnished to the COMMISSIONER. The required insurance is subject to annual review and adjustment by the COMMISSIONER, who may require reasonable increases based on increased risk.

D. The CONDITIONAL LESSEE's insurance coverage shall be primary insurance as respects the STATE, its officers, agents and employees. Any insurance or self

insurance maintained by the STATE shall be in excess of the CONDITIONAL LESSEE's insurance and shall not contribute with it.

Section 8. Incorporation by Reference of Terms and Conditions; Changes in Conditions

If there is a significant change in the conditions which necessitates additional terms to protect the public interest, the COMMISSIONER may require the CONDITIONAL LESSEE to agree to additional terms that the COMMISSIONER finds to be in the public interest prior to conversion to a RIGHT-OF-WAY LEASE.

Section 9. Definition of Terms

Terms having special meaning in this CONDITIONAL RIGHT-OF-WAY LEASE document are incorporated into and made part of the CONDITIONAL RIGHT-OF-WAY LEASE are capitalized and are defined in this Section "Definitions".

1. **COMMISSIONER** means the Commissioner of the Department of Natural Resources, State of Alaska or the Commissioner's appointed designee(s).

2. **CONCEPTUAL DESIGN** means design documents that are not yet suitable for bid solicitation, including contract plans and specifications; proposed CONSTRUCTION modes; operational requirements necessary to justify designs; design analysis including summary calculations for a particular design feature; all functional and engineering criteria; summaries of engineering tests conducted and their results; and other considerations pertinent to design

3. **CONSTRUCTION** means all field activities by the CONDITIONAL LESSEE or its contractors located on or in the general vicinity of the PIPELINE RIGHT-OF-WAY which involve more than *de minimis* physical disturbance of the existing natural land features or conditions. CONSTRUCTION includes pre-construction activities and is not limited to mean only the actual construction of the PIPELINE SYSTEM, but also includes other disturbances such as materials movements and stockpiling, development of borrow pit areas, and the establishment of work-camps and communications facilities. CONSTRUCTION excludes such field activities as engineering surveys, soil tests, and biological studies.

4. **CONDITIONAL RIGHT-OF-WAY LEASE** and/or **CONDITIONAL LEASE** means the instrument conditionally granting a RIGHT-OF-WAY for PIPELINE purposes pursuant to AS 38.35 to the CONDITIONAL LESSEE, but granting no rights, including preference or priority.

5. **CONDITIONAL LESSEE** means the Alaska Natural Gas Development Authority or its respective successors or assigns as authorized pursuant to Section 5 of the CONDITIONAL RIGHT-OF-WAY LEASE.

6. **CONTRACTOR** means any contractor or subcontractor at any tier, and the employees, representatives, and agents of such a contractor.

7. **EFFECTIVE DATE** of the lease means the day the lease is executed as set forth on page one of the RIGHT-OF-WAY LEASE.

8. **HAZARDOUS SUBSTANCES or material** means hazardous substances as defined by STATE statute or regulation, as may be amended from time to time, of the Alaska Department of Environmental Conservation (AS 46.03.826(5)), the Environmental Protection Agency (42 USC 9601(14)), or as specified in writing by the COMMISSIONER in consultation with the Alaska Department of Environmental Conservation during the review of the CONDITIONAL LESSEE's oil and HAZARDOUS SUBSTANCES control, cleanup and disposal plan.

9. **HIGHWAY** means the Glenn Highway, the Parks Highway, Trunk Road or other primary or secondary road systems under the jurisdiction of the Alaska Department of Transportation and Public Facilities (ADOT&PF).

10. **LEASEHOLD** means the STATE lands subject to the RIGHT-OF-WAY LEASE as those lands are identified in the RIGHT-OF-WAY LEASE and any amendments, modifications and subsequent renewals.

11. **NATURAL GAS** and/or **GAS** has the same meaning as given in AS 38.35.230(5) and is a gaseous mixture, principally of methane and other paraffinic hydrocarbons suitably conditioned to an acceptable specification for transportation by the PIPELINE.

12. **PIPELINE** means all the facilities including the total system of pipe (whether owned or operated under a contract, agreement, or lease), located in or on the RIGHT-OF-WAY, used by a carrier for transportation of NATURAL GAS, or products for delivery, for storage, or for further transportation, and including all pipe, pump or compressor stations, station equipment, tanks, valves, bridges, terminal and terminal facilities, operations control centers, and fire protection system, cathodic protection system, communication system, and all other facilities used or necessary for an integral line of pipe, taken as a whole, to effectuate transportation, including an extension or enlargement of the line.

13. **PIPELINE ACTIVITIES** means activities involving and related to construction, operation, maintenance, and TERMINATION of the PIPELINE SYSTEM or any part of the PIPELINE SYSTEM.

14. **PIPELINE SYSTEM** means all facilities on STATE LAND that are constructed or used by the CONDITIONAL LESSEE pursuant to a certificate of public convenience and necessity issued pursuant to the Natural Gas Act in connection with the CONSTRUCTION, operation, maintenance or TERMINATION of the PIPELINE.

PIPELINE SYSTEM includes the PIPELINE and RELATED FACILITIES, temporary facilities, temporary use areas and material sites used by the LESSEE for the CONSTRUCTION, operation, maintenance, or TERMINATION of the PIPELINE. PIPELINE SYSTEM does not include facilities such as urban administrative offices, which are only indirectly involved in the transportation of NATURAL GAS; nor does it include facilities used by others in the production, gathering or conditioning of NATURAL GAS.

15. **PRECONSTRUCTION** means all field activities by the CONDITIONAL LESSEE or its contractors located on or in the general vicinity of the PIPELINE RIGHT-OF-WAY which involve *de minimis* physical disturbance of the existing natural land features or conditions. PRECONSTRUCTION includes such field activities as engineering surveys, soil tests, and biological studies.

16. **RELATED FACILITIES** means those structures, devices, improvements and sites other than the pipe, located in or on the RIGHT-OF-WAY, the substantially continuous use of which is necessary for the operation and maintenance of the PIPELINE. RELATED FACILITIES includes, if applicable: supporting structures; compressor stations; valves and other control devices; bridges, culverts and low-water crossings; monitoring and communication devices; retaining walls, berms, dikes, ditches, cuts and fills, including hydraulic and erosion control structures; structures and areas for storing supplies and equipment; cathodic protection devices; and other facilities of a similar nature together with related yards, fences and buildings as the COMMISSIONER, after consultation with the CONDITIONAL LESSEE, shall determine to be RELATED FACILITIES. RELATED FACILITIES does not include structures, devices, improvements, sites, facilities, or areas, the use of which is temporary in nature, such as those used only for CONSTRUCTION purposes. Examples of structures, devises, improvements, sites, facilities or areas that are not RELATED FACILITIES include: temporary camps; temporary landing strips; temporary bridges; temporary access ROADs; temporary communication sites; temporary storage sites; and temporary disposal sites.

17. **RESTORATION** means the return of a disturbed site upon completion of use to a physical and biological condition consistent with applicable State and Federal law, regulations and policies at the time and to the extent acceptable to the COMMISSIONER. RESTORATION includes, where appropriate, erosion and sedimentation control, REVEGETATION, reestablishment of native species and visual amelioration.

18. **REVEGETATION** means the establishment of plant cover on disturbed lands in a manner consistent with applicable State and Federal law and regulations, including Federal Energy Regulatory Commission (FERC) regulations and policies, if applicable. REVEGETATION may include: seedbed preparation, seeding, planting, fertilizing, mulching, and watering.

19. **RIGHT-OF-WAY** means the lands included within the PIPELINE corridor as may be amended from time to time pursuant to the terms of the CONDITIONAL RIGHT-OF-WAY LEASE.

20. **RIGHT-OF-WAY LEASE** means (1) an instrument granting a LEASEHOLD interest in the Right-of-Way for the Glennallen to Palmer Pipeline to the CONDITIONAL LESSEE for the purpose of PRECONSTRUCTION, construction, operation, and TERMINATION of the PIPELINE pursuant to AS 38.35, ADL 229297.

21. **ROAD** means roads or ice roads other than State or public highways that are constructed or used by the CONDITIONAL LESSEE in connection with the construction, operation, maintenance, and TERMINATION of the PIPELINE SYSTEM.

22. **STATE** means the State of Alaska.

23. **STATE LAND** means (1) those lands and interests therein defined as "state land" in AS 38.35.230(9), and (2) any lands and interests therein included in a Federal Right-of-Way Grant to which the State, subsequent to the effective date of the LEASE, obtains an interest sufficient to permit the State to lease such lands and interests under State law, provided that at that time such lands and interests therein are no longer subject to the Federal Right-of-Way Grant, as may be amended or extended from time to time.

24. **State Pipeline Coordinator** means that officer operating under written delegation of authority from the Commissioner with the authority and responsibility of administering a portion or all of the provisions of the RIGHT-OF-WAY LEASE.

25. **TERMINATION** means all activities connected with the expiration, cancellation, or completion of use of the RIGHT-OF-WAY.

26. **TRANS-ALASKA PIPELINE SYSTEM** (TAPS) means that pipeline system referred to in and authorized by the Trans-Alaska Pipeline Authorization Act, Title II, P.L. 93-153, 87 Stat. 584.

27. **WASTE** means all discarded matter other than CONSTRUCTION spoils. It includes, but is not limited to, human waste, trash, garbage, refuse, oil drums, petroleum products, ashes and equipment.

Section 10. <u>Authority to Enter Agreement</u>

The CONDITIONAL LESSEE represents and warrants to the State that it is duly authorized and empowered under the applicable laws of the State of Alaska to enter into and perform this CONDITIONAL RIGHT-OF-WAY LEASE in accordance with the provisions of this CONDITIONAL RIGHT-OF-WAY LEASE.

Section 11. Partial Invalidity

If any part of this CONDITIONAL RIGHT-OF-WAY LEASE is held invalid or unenforceable, the remainder of this CONDITIONAL RIGHT-OF-WAY LEASE shall not be affected and shall be valid and enforced to the fullest extent permitted by law.

Section 12. Acceptance of LEASE

The CONDITIONAL LESSEE's execution of this CONDITIONAL RIGHT-OF-WAY LEASE signifies acceptance of the terms and conditions contained herein. Such acceptance constitutes an agreement between the CONDITIONAL LESSEE and the State that the CONDITIONAL LESSEE, together with the CONDITIONAL LESSEE's respective agents, employees, contractors and subcontractors (at any tier), shall comply with all terms and conditions contained in the CONDITIONAL RIGHT-OF-WAY LEASE and all applicable laws and regulations.

IN WITNESS WHEREOF, the parties hereto have duly executed this CONDITIONAL RIGHT-OF-WAY LEASE as of the first written date.

STATE OF ALASKA

By: _____ Date: 7/20/06
Michael L. Menge
COMMISSIONER
Department of Natural Resources

ALASKA NATURAL GAS DEVELOPMENT AUTHORITY

By: _____ Date: 7/18/06
Harold C. Heinze
Chief Executive Officer
Alaska Natural Gas Development Authority

State of Alaska)
)ss
Third Judicial District)

The foregoing instrument was acknowledged before me this 20th day of July, 20 06, by MICHAEL L. MENGE, COMMISSIONER of the STATE OF ALASKA, DEPARTMENT OF NATURAL RESOURCES.

JANETTA K. PRITCHARD NOTARY PUBLIC STATE OF ALASKA

Notary Public in and for the State of Alaska
My Commission Expires: 12/11/2008

State of Alaska)
)ss
Third Judicial District)

The foregoing instrument was acknowledged before me this 18th day of July, 20 06, by HAROLD C. HEINZE, Chief Executive Officer of the ALASKA NATURAL GAS DEVELOPMENT AUTHORITY.

JANETTA K. PRITCHARD NOTARY PUBLIC STATE OF ALASKA

Notary Public in and for the State of Alaska
My Commission Expires: 12/11/2006

EXHIBIT A
ADL 229297

Township 4 North, Range 4 West, C.R.M. Sections 12, 13, 14, 15, 22, 21, 20, 29, 30;

Township 4 North, Range 5 West, C.R.M. Sections 25, 26, 27, 28, 29, 30;

Township 4 North, Range 6 West, C.R.M. Sections 25, 26, 27, 34, 33, 32;

Township 3 North, Range 6 West, C.R.M. Sections 5, 6;

Township 3 North, Range 7 West, C.R.M. Sections 1, 2, 11, 10, 9, 16, 17, 18;

Township 3 North, Range 8 West, C.R.M. Sections 13, 14, 15, 22, 21, 28, 29, 30 32, 31;

Township 3 North, Range 9 West, C.R.M. Sections 32, 31;

Township 3 North, Range 10 West, C.R.M. Sections 36, 35, 34, 33;

Township 2 North, Range 8 West, C.R.M. Section 6;

Township 2 North, Range 9 West, C.R.M. Sections 1, 2, 3, 4, 5;

Township 2 North, Range 10 West, C.R.M. Sections 3, 4, 5, 8, 7, 18;

Township 2 North, Range 11 West, C.R.M. Sections 12, 13;

Township 21 North, Range 10 East, S.M. Sections 24, 25, 26, 27, 22, 15, 16, 9, 8, 5, 6;

Township 21 North, Range 9 East, S.M. Sections 1;

Township 22 North, Range 9 East, S.M. Sections 36, 35, 26, 27, 28, 29, 30, 20, 19;

Township 22 North, Range 8 East, S.M. Sections 24, 13, 14, 15, 22, 21, 27, 28, 33, 32;

Township 21 North, Range 8 East, S.M. Sections 5, 6;

Township 21 North, Range 7 East, S.M. Sections 1, 12, 11, 14, 15, 22, 27, 28, 33, 32, 31;

Township 20 North, Range 7 East, S.M. Sections 5, 6;

Township 20 North, Range 6 East, S.M. Sections 1, 12, 11, 10, 9, 8, 17, 18;

Township 20 North, Range 5 East, S.M. Sections 13, 14, 15, 22, 21, 28, 29, 30, 31;

Township 20 North, Range 4 East, S.M. Section 36;

Township 19 North, Range 4 East, S.M. Sections 1, 2, 11, 10, 9, 8, 7;

Township 19 North, Range 3 East, S.M. Sections 13, 14, 15;

Township 19 North, Range 2 East, S.M. Section 36, 34, 25;

Township 18 North, Range 2 East, S.M. Sections 4, 5;

Township 17 North, Range 1 East, SM. Sections 15, 22.

EXHIBIT B

ADL 229297

Pursuant to AS 38.35.100(d) the requirements and conditions of the covenants established under AS 38.35.120 shall be included in a conditional lease. The following requirements of AS 38.35.120 are therefore incorporated into the CONDITIONAL LEASE. These requirements and conditions must be met before the CONDITIONAL RIGHT-OF-WAY LEASE may be converted into an unconditional RIGHT-OF-WAY LEASE.

Sec. 38.35.120. Covenants required to be included in lease.

(a) A noncompetitive lease of state land for a right-of-way for an oil or natural gas pipeline valued at $1,000,000 or more may be granted only upon the condition that the lessee expressly covenants in the lease, in consideration of the rights acquired by it under the lease, that

(1) it assumes the status of and will perform all of its functions undertaken under the lease as a common carrier and will accept, convey, and transport without discrimination crude oil or natural gas, depending on the kind of pipeline involved, delivered to it for transportation from fields in the vicinity of the pipeline subject to the lease throughout its route both on state land obtained under the lease and on the other land; it will accept, convey, and transport crude oil or natural gas without unjust or unreasonable discrimination in favor of one producer or person, including itself, as against another but will take the crude oil or natural gas, depending on the kind of pipeline involved, delivered or offered, without unreasonable discrimination, that the Regulatory Commission of Alaska shall, after a full hearing with due notice to the interested parties and a proper finding of facts, determine to be reasonable in the performance of its duties as a common carrier; however, a lessee that owns or operates a natural gas pipeline

(A) subject to regulation either under the Natural Gas Act (15 U.S.C. 717 et seq.) of the United States or by the state or political subdivisions with respect to rates and charges for the sale of natural gas, is, to the extent of that regulation, exempt from the common carrier requirement in this paragraph;

(B) that is a North Slope natural gas pipeline (i) is required to operate as a common carrier only with respect to the intrastate transportation of North Slope natural gas, as that term is defined in AS 42.06.630_, and (ii) is not required to operate as a common carrier as to a liquefied natural gas facility or a marine terminal facility associated with the pipeline, and is not otherwise required to perform its functions under the lease as a common carrier; for purposes of this subparagraph, "North Slope natural gas pipeline" means all the facilities of a total system of pipe, whether owned or operated under a contract, agreement, or lease, used by a carrier for transportation of North Slope natural gas, as defined by AS 42.06.630_, for delivery, for storage, or for further transportation, and including all pipe, pump, or compressor stations, station equipment, tanks, valves, access roads, bridges, airfields, terminals and terminal facilities, including docks and tanker loading facilities, operations control centers for both the upstream part

of the pipeline and the terminal, tanker ballast treatment facilities, fire protection system, communication system, and all other facilities used or necessary for an integral line of pipe, taken as a whole, to carry out transportation, including an extension or enlargement of the line;

(2) it will interchange crude oil or natural gas, depending on the kind of pipeline involved, with each like common carrier and provide connections and facilities for the interchange of crude oil or natural gas at every locality reached by both pipelines when the necessity exists, subject to rates and regulations made by the appropriate state or federal regulatory agency;

(3) it will maintain and preserve books, accounts, and records and will make those reports that the state may prescribe by regulation or law as necessary and appropriate for purposes of administration of this chapter;

(4) it will accord at all reasonable times to the state and its authorized agents and auditors the right of access to its property and records, of inspection of its property, and of examination and copying of records;

(5) it will provide connections, as determined by the Regulatory Commission of Alaska under AS 42.06.340_, to facilities on the pipeline subject to the lease, both on state land and other land in the state, for the purpose of delivering crude oil or natural gas, depending on the kind of pipeline involved, to persons (including the state and its political subdivisions) contracting for the purchase at wholesale of crude oil or natural gas transported by the pipeline when required by the public interest;

(6) it shall, notwithstanding any other provision, provide connections and interchange facilities at state expense at such places the state considers necessary if the state determines to take a portion of its royalty or taxes in oil or natural gas;

(7) it will construct and operate the pipeline in accordance with applicable state laws and lawful regulations and orders of the Regulatory Commission of Alaska;

(8) it will, at its own expense, during the term of the lease,

(A) maintain the leasehold and pipeline in good repair;

(B) promptly repair or remedy any damage to the leasehold;

(C) promptly compensate for any damage to or destruction of property for which the lessee is liable resulting from damage to or destruction of the leasehold or pipeline;

(9) it will not transfer, assign, or dispose of in any manner, directly or indirectly, or by transfer of control of the carrier corporation, its interest in a right-of-way lease, or any rights under the lease or any pipeline subject to the lease to any person other than another owner of the pipeline (including subsidiaries, parents, and affiliates of the owners), except to the extent that

the commissioner, after consideration of the protection of the public interest (including whether the proposed transferee is fit, willing, and able to perform the transportation or other acts proposed in a manner that will reasonably protect the lives, property, and general welfare of the people of Alaska), authorizes; the commissioner shall not unreasonably withhold consent to the transfer, assignment, or disposal;

(10) it will file with the commissioner a written appointment of a named permanent resident of the state to be its registered agent in the state and to receive service of notices, regulations, decisions, and orders of the commissioner; if it fails to appoint an agent for service, service may be made by posting a copy in the office of the commissioner, filing a copy in the office of the lieutenant governor, and mailing a copy to the lessee's last known address;

(11) the applicable law of this state will be used in resolving questions of interpretation of the lease;

(12) the granting of the right-of-way lease is subject to the express condition that the exercise of the rights and privileges granted under the lease will not unduly interfere with the management, administration, or disposal by the state of the land affected by the lease, and that the lessee agrees and consents to the occupancy and use by the state, its grantees, permittees, or other lessees of any part of the right-of-way not actually occupied or required by the pipeline for the full and safe utilization of the pipeline, for necessary operations incident to land management, administration, or disposal;

(13) it will be liable to the state for damages or injury incurred by the state caused by the construction, operation, or maintenance of the pipeline and it will indemnify the state for the liabilities or damages;

(14) it will procure and furnish liability and property damage insurance from a company licensed to do business in the state or furnish other security or undertaking upon the terms and conditions the commissioner considers necessary if the commissioner finds that the net assets of the lessee are insufficient to protect the public from damage for which the lessee may be liable arising out of the construction or operation of the pipeline.

(b) For a right-of-way lease granted under this chapter for an oil or natural gas pipeline valued at $1,000,000 or more to be valid and of legal effect, it must contain the terms required to be inserted under the provisions of AS 38.35.110_- 38.35.140. An oil or natural gas pipeline right-of-way lease granted under this chapter that does not contain the required terms is null and void and without legal effect and does not vest any interest in state land or any authority in the carrier granted the lease.

(c) The commissioner may insert in any right-of-way lease other reasonable provisions and conditions required by the public interest.

(d) The lease will also contain terms and conditions that are reasonably necessary to obligate the lessee, to the extent reasonably practicable, to

(1) prevent conflicts with other existing uses of the land involving a superior public interest;

(2) protect state and private property interests;

(3) prevent any significant adverse environmental impact, including but not limited to the erosion of the surface of the land, and damage to fish and wildlife and their habitat;

(4) restore and revegetate during the term and at termination of the lease; and

(5) protect the interests of individuals living in the general area of the right of way who rely on the fish, wildlife, and biotic resources of the area for subsistence purposes.

(e) In the event the commissioner proposes to offer a lease or leases to two or more lessees for the same pipeline, the commissioner may include terms in the lease or leases which establish the limit of the obligations and liabilities of each lessee arising under this chapter or under the lease or leases.