

ALASKA FEDERATION OF NATIVES, INC.

1577 C Street, Suite 300, Anchorage, Alaska 99501
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August 20, 2002

BLM TAPS Renewal EIS
Argonne National Laboratory EAD/900
9700 S. Cass Avenue
Argonne, IL 60439

To Whom It May Concern:

Attached, herewith, please find the following:

1. Copy of Julie Kilka's August 20, 2002 cover letter to Jerry Brossia on the Draft EIS for the renewal of the grant right-of-way for the Trans-Alaska Pipeline System.
2. Copy of Alaska Federation of Natives' (AFN) comments on Draft EIS for the renewal of the grant right-of-way for the Trans-Alaska Pipeline System in form of attachment to item 1.

It is our hope that AFN's comments and recommendations will be incorporated into the final EIS.

If you have any questions concerning the attachments, please call me at the Alaska Federation of Natives.

Sincerely,



Nelson N. Angapak, Sr.
Executive Vice President

ALASKA FEDERATION OF NATIVES, INC.

1577 C Street, Suite 400, Anchorage, Alaska 99501
907-274-3611 Fax 907-276-7989

August 20, 2002

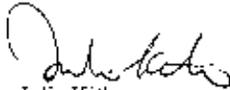
Bureau of Land Management/BPO
Attn: Jerry Brossia, Authorized Officer
411 West 4th Ave., Suite 2
Anchorage, Alaska 99501

Dear Mr. Brossia:

The Alaska Federation of Natives has reviewed the Draft Environmental Impact Statement (DEIS) for the renewal of the grant of right-of-way for the Trans-Alaska Pipeline System. Our comments follow as General Comments, Page-Specific Comments and Attachments. Our General Comments present our overall concerns with the DEIS, recommendations on the content of the Final Environmental Impact Statement, and recommended additional mitigation measures which we believe should be included in the grant renewing the right-of-way. Our page-specific comments contain references to those sections of the DEIS which we believe need to be corrected or improved and are supplemented by information in three Attachments.

We appreciate the opportunity to comment on the DEIS

Sincerely yours,



Julie Kitka
President

General Comments
Page-Specific Comments w/Attachments 1-3

cc:

BLM TAPS Renewal Team
AFN Right-of-Way Renewal Committee
Steve Jones, Alyeska Pipeline, TAPS Right-of-Way Renewal Team
John Shively, Jade North, LLC

**General Comments
of the
Alaska Federation of Natives
on the
Draft Environmental Impact Statement
for the
Renewal of the Federal Grant of Right-of-Way
for the
Trans Alaska Pipeline**

August 20, 2002

Introduction

The Alaska Federation of Natives (AFN) offers the following comments on the Draft Environmental Impact Statement (DEIS) for the renewal of the grant of right-of-way for the Trans-Alaska Pipeline System (TAPS). The AFN represents the interests of Alaska Natives throughout our state and has as members Native Corporations, Native non-profit organizations, and village organizations.

Our comments are presented in two parts. This first document presents our overall concerns with the DEIS, recommendations on the content of the Final Environmental Impact Statement (FEIS), and recommended additional mitigation measures which we believe should be included in the grant renewing the right-of-way. The second section contains page-specific references to those sections of the DEIS which we believe need to be corrected or improved.

First, we want to express our concern with the short 45-day period which the Bureau of Land Management (BLM) allowed for public comment on the DEIS. The DEIS is a long and complex document and the review period comes at a time when most Alaska Natives are either pursuing vital subsistence activities or are involved in seasonal employment which presents the only opportunity many Alaska Natives have to generate any cash income. AFN is disappointed that BLM did not grant our requested extension of time.

In reviewing our comments BLM and Argonne Laboratories (Argonne) need to keep in mind that Alaska Natives have a special relationship with TAPS. Indeed, most of the pipeline right-of-way was set aside from potential Native Corporation ownership under the provisions of the Alaska Native Claims Settlement Act and some of the right-

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of-way currently crosses land owned by Alaska Native Corporations. In giving up land ownership rights, Alaska Natives expected that they would receive special consideration for recruiting, employment and training of Natives, contracting with Native-owned companies, and protection of subsistence resources. We believe that a TAPS renewal EIS should address these issues, but our review of the DEIS leads us to believe that more work needs to be done, particularly on the subject of subsistence.

Preferred Alternative

Before we present further discussion of the DEIS, we would like to comment on the preferred alternative. We support the alternative of renewing the grant of right-of-way for 30 years under certain conditions that are presented in these comments. We recommend some additional mitigation measures be added to the grant or that our concerns supporting the necessity of these mitigation measures be addressed in some other manner.

The original Federal grant of right-of-way contained two stipulations which recognize the special relationship of Alaska Natives to the Trans-Alaska Pipeline. Those are:

- 1) Section 29 – relating to Native employment, and
- 2) Section 30 – relating to subsistence.

AFN is pleased that both of these stipulations are to be retained under the preferred alternative in the DEIS.

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Federal Grant Section 29 – Native Hire

Section 29 worked reasonably well during construction of the pipeline, but ceased being honored after the pipeline went into operation. It was “rediscovered” in 1995 and Alyeska and their contractors have made remarkable progress in recruiting, hiring, and training Alaska Natives. AFN’s concern is what happens if Alyeska, for whatever reason, loses its commitment to Section 29. Should this occur, currently the only penalty available to the Federal government to enforce compliance is to shut down the pipeline. We believe this is an unrealistic penalty and do not believe that the government would take such a drastic step to enforce Section 29. Therefore, we would like to see some alternative form of enforcement mechanism.

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In this case, compliance can be measured using the Alaska Native Utilization Agreement (ANUA). While reviewing compliance, BLM should consider strengthening the language of Section 29. The lesson learned from the original Native Utilization Agreement is that there must be, at the outset, clear and effective ways of monitoring and enforcing compliance. We suggest that BLM consider an additional provision in the ANUA to provide for an enforcement mechanism for non-compliance with that agreement.

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Recommendation: That Alyeska Pipeline Service Company (Alyeska) and its owners negotiate with BLM an amendment to the Alaska Native Utilization Agreement which provides financial penalties or some other appropriate enforcement mechanism if Alyeska does not meet the goals in the Agreement. If financial penalties are agreed to, such penalties should be based on some multiple of income lost to Natives as a result of Alyeska not meeting its targets.

Federal Grant Section 30 - Subsistence

Section 30 is more problematic. There is no question there have been impacts on subsistence resources as a result of the development of oil on the North Slope and the operation of the pipeline. From the macro issue of the increase in Alaska's population due to the wealth that North Slope oil has brought to Alaska to the micro issues of the effect on individual species important to subsistence and individual villages, there have been many negative changes. The growth of the state's population has brought in more hunters. The construction of the haul road and airstrips along the right-of-way has increased the accessibility for hunters from urban areas and from outside of Alaska.

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The result has been predictable. The moose population around our villages is disappearing. Caribou migration patterns along the upper Koyukuk River and in other areas have been changed. Stevens Village has seen an important pike fishery virtually wiped out. Subsistence resources in Prince William Sound were severely impacted by the Exxon Valdez Oil Spill.

Unfortunately, the DEIS seems to take great pains to minimize or ignore these impacts. There is no question the document suffers from the severe handicap of being written by people who had no understanding of this very complex and politically

sensitive issue when they began the project. In addition, the authors were further handicapped by the inability of the state and Federal governments to provide the data that is necessary to analyze the impacts the pipeline has had on subsistence.

What the DEIS lacks in quality, it tries to make up for in quantity by devoting more pages to this subject than any other. The volume of material indicates some acknowledgement by the authors of the importance of this subject. Unfortunately, the product fails to adequately capture either the role subsistence plays in the lives of Alaska Natives or the adverse impacts of the changes which have occurred over the past 30 years.

On the other hand, the view of the DEIS that renewal will not significantly affect the current situation (a situation that we find unacceptable) is probably correct, absent a major spill into any of the major river systems or a repeat of the Exxon Valdez spill in Prince William Sound. However, the fact that the future impact may be limited does not excuse the past. In fact, if the FEIS would view the subsistence issue through the eyes of the Alaska Natives who are most affected by the changes which have taken place, AFN holds some hope that the government agencies involved in the management of fish and game will effectively manage fish and game to protect subsistence.

It is important to note here that it is not necessarily the management practices of Alyeska that have created this problem. AFN believes that the fault lies primarily with a fish and game management regime which has not sought local peoples' knowledge of the habits and population of game and fish and which has not been willing to adjust seasons and harvest regulations to accommodate the needs and the wisdom of the people who live closest to the resources. The State of Alaska must take the lion's share of the blame for this situation, as it has been unwilling to change its constitutional structure to accommodate the needs of the people who most rely on these resources for their cultural and dietary sustenance. In addition, decisions by the state, such as the opening of the Dalton Highway to the public, have exacerbated an already difficult situation.

It is more than ironic that the very organization given the responsibility for protecting subsistence, the Alaska Department of Fish and Game, was apparently unable to provide meaningful data to Argoone that might have allowed them to make a more realistic assessment of the impacts of the pipeline on subsistence over the last 30 years. In our attachments to our page-specific comments, we provide additional information

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sources which, we believe, support the conclusion that there have been major impacts on subsistence resources since the construction of TAPS. We believe Alyeska also may be submitting supplemental information that supports our conclusions. However, even this additional material will not overcome the problem presented by a lack of a systematic approach to collecting data on subsistence despite, or perhaps because of, the high profile of this issue in the state. Therefore, we make the following recommendation.

Recommendation: That the grant of right-of-way contain a new stipulation requiring the collection of data which can clearly show the trends in subsistence taking of fish and game and the impact of non-subsistence hunting and fishing on those subsistence trends. Tribal governments and other Native organizations should be directly involved in the gathering of this data. (Note: Our attachments to our page-specific comments contain AFN recommendations for a subsistence data collection program.)

ANILCA 810 Subsistence Analysis

As required by Section 810 of the Alaska National Interest Lands Conservation Act (ANILCA), the DEIS includes an evaluation of impacts of the various alternative actions and whether they "may significantly restrict" subsistence uses. We find the DEIS severely flawed in terms of the analysis completed, the conclusions reached, and the inaccurate omissions of findings, including mitigation measures required by, and subject to public review and comment under, ANILCA.

The DEIS evaluation concludes that none of the alternative actions "may significantly restrict" subsistence uses. The evaluation of impacts was limited by the authors' conclusion that there is a lack of reliable, quantitative evidence necessary to make conclusive final evaluations. As noted above, we agree that there is a need for additional baseline data collected in a systematic fashion and have recommended a grant mitigation measure to address the problem of gaps in quantitative data necessary for impact evaluations. However, there has been ample testimony by local people that over the life of the pipeline there have been adverse impacts on their ability to harvest subsistence resources from increased competition for subsistence resources and the resulting decline in resource availability. That testimony constitutes traditional

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knowledge and should have been given considerable weight, especially in the absence of reliable baseline data to the contrary.

There is also ample evidence that the state has accommodated the increased demand for those resources from non-local hunters and fishermen by placing increasingly restrictive bag limits and seasons on local subsistence users.

We believe there is clear evidence that competition for potential subsistence resources has led to restrictions on some subsistence hunting and fishing. Had the appropriate analysis been applied, the DEIS would have been compelled to conclude that a significant restriction to subsistence activities might occur as a result of competition for potential subsistence resources and the attendant decline in the amount of harvestable resources available to local residents. Such a conclusion would have triggered requirements for findings under ANILCA § 810(a)(3)(A)-(C) as is the case in the Cumulative Impacts Evaluation section of the DEIS.

The Cumulative Impacts section concludes that there may be significant restrictions to subsistence uses. However, the DEIS does not contain the above referenced findings, including the requirement to mitigate. Simply documenting the potential harm to subsistence resources and uses is not enough. The BLM must actually alter their plans to *avoid*, to the maximum extent possible, the harm that may inevitably result from implementation of the preferred alternative set forth in the DEIS or take reasonable steps to minimize the adverse impacts on subsistence uses.

ANILCA's requirement that mitigation measures be implemented is not discretionary. The federal agency must develop and implement adequate measures to minimize the admittedly harmful cumulative effects of the renewal of the pipeline ROW upon Native subsistence uses. These measures should have been developed and published for review within the DEIS.

Although Section 30 of the federal grant is aimed at mitigating the potential damage to the subsistence way of life, as noted above, that Section would be difficult to implement because of the lack of baseline data. We believe our recommendation for additional data collection program is supported by the requirements of ANILCA for mitigation. Future collection of data that can clearly show the trends in subsistence taking of fish and game and the impact of non-subsistence hunting and fishing on those trends is critical. Otherwise, Section 30 will be virtually meaningless since there will be

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no baseline data against which one can measure alleged negative impacts to subsistence. Collection of adequate baseline data should be added to the grant as a "reasonable step" needed to minimize potential adverse impacts on subsistence uses and resources and to give meaning to Section 30.

AFN would like to raise one additional comment relating to Section 30. Section 30 is also limited by the lack of a clear process for making a claim under § 204(a) of the Trans-Alaska Pipeline Authorization Act. To our knowledge there has never been a successful claim using this process. We believe that Section 30 would be more understandable if there were regulations in place describing how the process would work.

Recommendation: That the Bureau of Land Management promulgate regulations that clearly set out the process Alaska Natives would follow in filing a claim under the Act, as contemplated by Section 30 of the Right-of-Way grant and agreement.

Socio-Economics

The DEIS takes great pains to gloss over the problems Alaska Natives face in harvesting subsistence resources, while stretching beyond any reasonable bounds positive impacts relating to TAPS. For instance, the DEIS uses what is a statistically insignificant difference in family size between Native and non-Native families to indicate that any loss of subsistence resources will be made up by a larger share of the Permanent Fund Dividend. This conclusion is reached without any data discussing the major differences in cost of living between Native villages and the urban areas, the places where most of the people competing with villagers for fish and game resources live. That difference is significant (30% to 100%) according to surveys referenced in our attachments. Although the DEIS does discuss unemployment rates in communities along the pipeline corridor and notes that in some places the "real" unemployment rates may be much higher, no attempt is made to connect the higher unemployment rates to villages and the need for subsistence.

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Recent figures from the Alaska Department of Labor show the following unemployment rates for March 2002:

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|---------------------|-------|
| Alaska Statewide | 7.4% |
| Anchorage | 5.7% |
| Fairbanks | 6.4% |
| Yukon-Koyukuk | 19.2% |
| North Slope Borough | 9.5% |

In addition, Table 3.29.1 in the DEIS presents a stark picture of the economics of Native villages. With one exception, every community listed which has a higher than average minority population (which in small villages means Native population) has a higher than average low-income population. The DEIS also discusses the high suicide rates, problems with substance abuse, and some of the other social and health problems found in Native villages. It is our belief that many of these problems can be attributed to the economic problems associated with living in Native villages and to the increasing pressure on subsistence resources by urban sportsmen.

The economic problems of a high cost of living combined with high unemployment and low per-capita incomes can not be remedied by getting a few 10's of dollars more from the Permanent Fund dividend. Not only is this finding inaccurate, it is insulting. As we point out in more detail in our page-specific comments, it is likely that some of the earnings from the Permanent Fund will have to be used to help solve the State's impending fiscal crisis. Therefore, it is also quite likely that the Permanent Fund Dividend will be reduced or eliminated in the future. As if the above is not enough, we have already seen the urban-dominated Alaska Legislature look first to state programs in rural Alaska when searching for ways to reduce the state's budget.

A person unfamiliar with Native villages in Alaska could easily draw the conclusion from the DEIS, that living in places such as Stevens Village, Copper Center, Chenega, Nuiqsut, or any of the other Native villages designated as impacted by the TAPS renewal is not much different from living in a small community in New Jersey or Nebraska. One might draw the incorrect conclusion that whatever economic problems the residents in these communities might face are taken care of by having larger families and thus claiming a greater share of the Permanent Fund Dividend. The reality is quite different and the FEIS should reflect that reality.

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Recommendation: The FEIS should contain information relating to village economies and a discussion of how they differ from urban economies. This discussion should include the following findings: that subsistence is a way of life in rural Alaska that is vital to the preservation of community, Tribal cultures, and economies; and that subsistence hunting and fishing exist as part of a mixed economy in rural Alaska, where harvest of wild foods and cash incomes are both essential. The finding that larger Native families receiving a larger share of the Permanent Fund Dividend will make up for any decrease in subsistence take should be removed from the FEIS.

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Tribal Governments

We would like to commend the Joint Pipeline Office (JPO) for recognizing the role Tribal governments have to play in the EIS process. Both federal and state officials are obviously making an extra effort to get out of the urban areas and meet with Tribal governments on their home ground. The Tribal governments of affected villages have already raised, and will continue in the future to raise, a number of issues that directly affect the lives of their members. These issues include but are not limited to:

- a) environmental protection,
- b) the negative effects of the opening of the Dalton Highway,
- c) spill response along river systems,
- d) social and economic impacts on villages, particularly alcohol abuse and suicides,
- e) access to opportunities for small local contractors,
- f) the value of having a JPO person stationed in the offices of the Native corporations located along the pipeline,
- g) the age of the pipeline,
- h) water quality, and
- i) whether the affected villages are getting a fair share of the revenues the State of Alaska receives as a result of the pipeline.

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Although there have been many positive impacts of the pipeline and oil development, almost all of the negative impacts have been borne by the Native

villages along the pipeline and the marine transportation corridor. Therefore, AFN urges you to pay close attention to these Tribal governments.

In addition, AFN believes that Tribal governments can play a more active role in the oversight of TAPS. In the past the federal side of the JPO has not met the obligations that we believe they have for consulting with Tribal governments. There are several ways to accomplish this goal. Tribal governments could be represented on the JPO Executive Committee. Tribal governments could be represented in the JPO office or there could be regularly scheduled meetings between the JPO and Tribal governments.

Recommendation: That the JPO find a more effective means of involving Tribal governments in the oversight of TAPS.

Spill Response

Throughout the scoping process, at the various government-to-government meetings held during the EIS process, and at public hearings on the DEIS, representatives of Native villages have pointed out the need for more aggressive spill response along the many rivers transected by TAPS. A great deal of attention has been paid to Prince William Sound and the Yukon River, but TAPS crosses dozens of other rivers and streams which are vital habitat for subsistence fish. The DEIS points out that damage from an oil spill to fish in slow moving rivers and streams would most likely be greater than the damage done in faster, large-volume rivers.

Suggestions for addressing this problem have repeatedly concentrated on two activities. The first suggestion is to place more spill response equipment in communities and along some of these rivers. The second suggestion is to train and certify more Alaska Natives for oil spill response. There is a model, which has been in place for decades, for using Alaska Natives in emergency situations. That model is the village fire-fighting teams which have been used by BLM and the Alaska Division of Forestry to combat forest fires. These teams are led by a village person and the members are recruited locally. They are deployed on fire assignments as a team, a concept that is more in keeping with the value Native cultures place on the "group" as opposed to the traditional western approach of hiring one individual at a time.

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We know that TAPS has had some experience with training and employing village crews for spill response. We are suggesting that this experience be expanded to other villages.

Recommendation: That the FEIS recognize the need for additional spill response equipment along some of the waterways crossed by TAPS. In addition, the FEIS should recommend the training and certification of additional village crews for oil spill response.

Native Lands

The state and federal governments own most of the land over which the pipeline right-of-way is granted, but some of the right-of-way crosses Native-owned land. The DEIS completely ignores the dual role that the Department of Interior must play in extending the grant over lands owned by Natives. The BLM has its traditional land management role, but the Secretary of Interior maintains a trust relationship to Alaska Natives. The DEIS incorrectly implies that the Alaska Native Claims Settlement Act extinguished Native rights in Alaska. Native land claims over virtually the entire state of Alaska were extinguished by that act, but other rights, particularly the Department's trust responsibilities to Natives, were not.

As BLM renews the right-of-way grant, it must be guided by the principle that Native owned lands may need to be treated differently in order for the Secretary of the Interior to meet these trust obligations. AFN is not prepared to state what those differences might be, as we believe that the Native Corporation landowners are in a better position to do that than we are. However, we are quite disappointed that the DEIS does not include a discussion of this important point.

In addition there are a number of Native allotments within close proximity to TAPS. Some of these allotments are crossed for access to the pipeline. Although AFN is not familiar with the specifics of each allotment, we do know that the FEIS should contain a discussion of the issues, including TAPS access, affecting these allotments. Tanana Chiefs Conference has done the most work on this issue, and we refer you to their comments on this subject.

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Exxon Valdez

No discussion of TAPS would be complete without a discussion of the Exxon Valdez Oil Spill. Although the effects of the spill are discussed in some detail in the DEIS, AFN does not believe that the DEIS captures the psychological damage which was done to the Native people living in communities affected by the spill. Many people have lingering doubts about whether certain foods are edible. More importantly, many people have not recovered from seeing the places where they live covered with crude oil. This situation is exacerbated by the continuing and growing frustration over the inability of the judicial system to bring closure to the issue of the damage claims against Exxon. We realize that the DEIS will not fix a judicial system that seems to be imploding. However, neither should it ignore the psychological damage done by the spill, nor the continuing damage being done by not having closure on the Exxon Valdez judgment for damages.

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The DEIS captures little of these effects. The minimizing of the impacts of the Exxon Valdez oil spill by Argonne does a tremendous disservice to those people who have suffered most from one of the most tragic events in Alaska's history. In addition, the DEIS insults most Alaskans by indicating that the positive economic impacts resulting from the clean-up of the Exxon Valdez oil spill equaled or outweighed the negative economic impacts. People reading the DEIS could easily get the impression that Alaskans should be hoping for numerous spills if we want a healthy economy. The Alaskans we know would give back every penny contributed to our economy by the Exxon Valdez spill, if we could turn back the clock and have Joe Hazelwood steer his ship around Bligh Reef.

Conclusion

In closing, we think it is important to reiterate that Natives have a different relationship to the pipeline than other groups who will comment on the DEIS. The renewed federal grant of right-of-way should protect and enhance that relationship. It should in no way be used to dismantle the relationship. The FEIS should also reflect accurately the economic situation in Native villages and provide a more realistic assessment of subsistence.

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The comments in this document identified our major concerns with the DEIS and presented recommendations regarding these major concerns as well as specific

recommended mitigation measures for the federal grant. Our page-specific comments follow and identify specific sections in the DEIS which we believe require changes or clarification in the FEIS. Attachments to the page-specific comments include data and information which we believe support changing some of the conclusions drawn in the DEIS.

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We also draw your attention to comments submitted by other Native organizations. At one time AFN had hoped to lead a coordinated effort to respond to the DEIS, but the short comment period imposed upon us has made that goal an impossibility. Unfortunately, Argonne will need to make substantial revisions in the DEIS, to achieve a goal of an accurate FEIS. Although the job is imposing, we hope the information AFN and other Native organizations have provided will give Argonne the impetus to make these changes. We assume that BLM and Argonne will dedicate the resources necessary to complete this task.

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In conclusion, we would like to reiterate that we are supporting the preferred alternative, but we do that with the reservation that our concerns about subsistence, Native hire, Tribal involvement, and oil spill response are addressed in the FEIS or by the appropriate government agency or agencies. In addition, we would expect that the FEIS would reflect the changes we are suggesting in our page specific analysis of the DEIS.

**Alaska Federation of Natives
Page-Specific Comments on the Draft EIS
For The Trans Alaska Pipeline System Renewal**

The majority of our page-specific comments relate to presentations throughout the DEIS on socio-economic and subsistence issues, including the required ANILCA 810 analyses. Examples of the topics we address in our comments are population trends, cost of living in villages, historical context and use patterns of subsistence, impacts to subsistence over the past 30 years, and the approach reflected in state fish and game management regimes. Many of our comments identify errors in the information presented in the DEIS which appear to be the result of incomplete use and/or review of existing source material. To assist the authors in making corrections to the FEIS, we have produced a Source List of additional reference materials, which are included as Attachment 1. This list is categorized by topical area. The sources listed contain information which supports our comments and recommended corrections.

AFN recognizes that the DEIS publication schedule constrained the time available to the authors to locate and thoroughly review available sources relevant to Alaska Native socio-economics and subsistence. However, we strongly encourage the authors' thorough review of the materials listed and believe that such a review will result in a more accurate presentation of these issues in the FEIS. As noted in Attachment 1, where possible, AFN has compiled the referenced source materials at AFN, where they are available for the authors' review.

| <u>Section Title</u> | <u>Section Number</u> | <u>Page Number</u> | <u>Paragraph Number</u> |
|----------------------|-----------------------|--------------------|-------------------------|
| Affected Environment | 3.23 | 3.23.1 | 2 |
| | Economics | | |

The paragraph indicates that the DEIS considers the economic effects of TAPS on the state as a whole. This approach allows the DEIS to ignore the substantial economic differences between the relatively wealthy urban areas such as Anchorage and Fairbanks and the economically disadvantaged areas, which are primarily Native villages. The FEIS needs to give some consideration to the economics of the villages determined to be impacted by the pipeline.

As information provided in Attachment 2 shows, the cost of living is significantly higher in Native villages than it is in urban Alaska. The information in Attachment 2 comes from a Cost of Food Survey conducted quarterly by the Alaska Cooperative Extension of the University of Alaska. Although only 20 communities in the state are surveyed we believe the information is useful for looking at village economics. We would call your attention to the information on Galena and McGrath because we believe it is reflective of the situation found in other off road villages such as Stevens Village, Rampart, Alakaket, Nuiqsut, and others. The survey shows that the cost of food can be 80% to 100% higher in these communities than in Anchorage and Fairbanks. The cost of energy shows a similar disparity.

The decision to look at the economic impacts to the state as a whole leads one to the false assumption that all of Alaska's citizens have been impacted similarly by the development of oil in Alaska. This assumption is false.

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It is essential that the FEIS contain some discussion of the disparity of wealth between urban and rural Alaska, which persists despite the vast amount of wealth brought to Alaska by oil.

| <u>Section Title</u> | <u>Section Number</u> | <u>Page Number</u> | <u>Paragraph Number</u> |
|--------------------------------------|-----------------------|--------------------|-------------------------|
| Affected Environment Unemployment | 3.23.4.2.2 | 3.23-14 | 2, line 9 |

95-14

We recommend that the following sentence be added to this paragraph.

"The underreporting of unemployment is likely most severe in isolated Native communities along the pipeline corridor."

| <u>Section Title</u> | <u>Section Number</u> | <u>Page Number</u> | <u>Paragraph Number</u> |
|---|-----------------------|--------------------|-------------------------|
| Affected Environment Personal Income | 3.23.4.3 | 3.23-16 | 1, line 4 |

We recommend that a new paragraph be added stating as follows:

"The Yukon Koyukuk Census Area is probably most reflective of village Alaska. It is noteworthy that the lowest per capita income of any of the districts listed along the pipeline is in this region. The per capita income in this census area is 56% of the per capita income in Anchorage.

95-15

"In addition, the southeast Fairbanks census area also contains a number of small Native communities and this has the second lowest per capita income along the pipeline corridor."

| <u>Section Title</u> | <u>Section Number</u> | <u>Page Number</u> | <u>Paragraph Number</u> |
|--|-----------------------|--------------------|-------------------------|
| Affected Environment Alaska Regional Economic Issues | 3.23.4 | 3.23-14 | None indicated |

95-16

We were disappointed that there is no discussion of the cost of living in this section. Regional differences in the cost of living are a substantial factor in Alaska. Because of high transportation costs and small population, the cost of living in village Alaska can be anywhere from 30% to

100% more than the cost of living in urban areas. Attachment 2 provides information documenting these differences.

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It is important to include this discussion because it relates directly to the issue of subsistence. Combining high cost of living and high unemployment as key economic factors in villages makes subsistence even more important as an economic issue. The FEIS needs to be expanded to include a discussion of this very important issue.

| <u>Section Title</u> | <u>Section Number</u> | <u>Page Number</u> | <u>Paragraph Number</u> |
|-------------------------------------|-----------------------|--------------------|-------------------------|
| Affected Environment Subsistence | 3.23.5 | 3.23-17 | 1, line 6 |

95-17

We assume that the 2 percent of fish and game harvested noted here is based on weight of resources harvested and not on number of units of fish and animals harvested. It is important to note that this figure is somewhat deceptive because commercial fishing makes up such a substantial amount of the commercial harvest in Alaska. The subsistence harvest of moose and caribou is a far, far higher percentage of the harvest than the 2 percent mentioned here. It is worth noting that moose and caribou are probably the two species on which the most pressure has been placed by urban and sport hunters.

| <u>Section Title</u> | <u>Section Number</u> | <u>Page Number</u> | <u>Paragraph Number</u> |
|-------------------------------------|-----------------------|--------------------|-------------------------|
| Affected Environment Subsistence | 3.23.5 | 3.23-20 | 6, line 4 |

95-18

The values placed on these resources are undoubtedly low. For instance in Anchorage, which has the lowest cost of living in Alaska fish purchased at a grocery store ranges from slightly less than \$5 per pound up to as much as \$10 per pound. There are similar ranges of prices for red meat. Therefore, the value of subsistence resources is most likely understated here. In addition, mention should be made again of the higher cost of living in villages compared with the urban areas which means store-bought food would cost even more..

| <u>Section Title</u> | <u>Section Number</u> | <u>Page Number</u> | <u>Paragraph Number</u> |
|-------------------------------------|-----------------------|--------------------|-------------------------|
| Affected Environment Subsistence | 3.24 | 3.24-1 | 2 |

95-19

This paragraph should contain a discussion of village economics. Reference should be made to the high unemployment rates, low per capita income and the high cost of living which we suggested be reworked in the Economics section.

| <u>Section Title</u> | <u>Section Number</u> | <u>Page Number</u> | <u>Paragraph Number</u> |
|----------------------|-----------------------|--------------------|-------------------------|
| Affected Environment | 3.24 | 3.24-2 | 1 |

95-20

We are pleased to see that the DEIS uses the current federal definition of subsistence and its requirement that subsistence be linked to rural residency. Given that this is a federal document we believe that it is appropriate to use the federal definition.

| <u>Section Title</u> | <u>Section Number</u> | <u>Page Number</u> | <u>Paragraph Number</u> |
|----------------------|-----------------------|--------------------|-------------------------|
| Affected Environment | 3.24 | 3.24-2 | 3 |

95-21

We would suggest that this paragraph also contain a brief discussion of the cost of living, low per capita income, and the high unemployment rate in Native villages. This is part of the economic picture which should be painted when talking about subsistence.

| <u>Section Title</u> | <u>Section Number</u> | <u>Page Number</u> | <u>Paragraph Number</u> |
|----------------------|-----------------------|--------------------|-------------------------|
| Affected Environment | 3.24 | 3.24-2 – 3.24-30 | |

First of all, we would like to state that attempting to analyze subsistence on a community by community basis is a very positive part of the DEIS. As the DEIS indicates, subsistence resources, subsistence harvest patterns, and subsistence seasons vary from place to place and it is important to try to capture these differences. Looking at individual villages is certainly a way to identify these differences.

95-22

Unfortunately, as the DEIS states, the data that is used is not particularly useful, both because it is dated and because it provides only a single year snapshot of activities in the various villages. There clearly has been no systematic approach to data collection on subsistence. This is one of the reasons that the Alaska Federation of Natives (AFN) is recommending a mitigation measure to provide systematic data collection in the future. A recommended protocol for such a system is included in Attachment 3.

AFN does not have the capacity to comment on the village-by-village analysis contained in the DEIS. However, we know that tribal governments, other village organizations and regional organizations will be commenting on this material. We believe these comments are very important and will reflect a good deal of local and traditional knowledge.

| <u>Section Title</u> | <u>Section Number</u> | <u>Page Number</u> | <u>Paragraph Number</u> |
|----------------------|-----------------------|--------------------|-------------------------|
| Affected Environment | Figure 3.24.3 | 3.24-29 | |

This figure is interesting. Unfortunately the information included in it does not go back to pre-pipeline days. However, even looking at the information from 1984 forward for sport fishing north of Atigun Pass, we see a general increase in the number of angler days over that period and a general decrease in total harvest. This chart would seem to indicate that fishing pressure from people living outside the area and who are non-subsistence users has had an impact on the resource. The testimony received during the scoping process in a number of the villages certainly would support this conclusion.

95-23

| <u>Section Title</u> | <u>Section Number</u> | <u>Page Number</u> | <u>Paragraph Number</u> |
|----------------------|-----------------------|--------------------|-------------------------|
| Affected Environment | 3.25 | 3.25-1 - 3.25-15 | |

The DEIS contains discussions of the various Native cultural groups found along the Trans Alaska Pipeline route. AFN is not going to comment on the analysis of each of these cultures in the DEIS. However, we do recognize that some of the Native groups disagree with the analysis as presented, and we would recommend that you adopt their explanations of the current status of their various cultures.

95-24

| <u>Section Title</u> | <u>Section Number</u> | <u>Page Number</u> | <u>Paragraph Number</u> |
|----------------------|--|--------------------|-------------------------|
| Affected Environment | 3.25.1.2 Alaska Native Claims Settlement Act | 3.25-15 | 2 |

The discussion of the Alaska Native Claims Settlement Act should include a discussion of the impact of the discovery of oil in Prudhoe Bay and the proposal to build TAPS. We believe that authors you have cited in your bibliography would concur that the discovery of oil in Prudhoe Bay was a major factor in the desire of the State of Alaska and the United States Congress to settle Alaska Native land claims. This would also be an appropriate place to discuss the fact that the corridor for the pipeline was set aside and was not allowed to be selected by Alaska Native corporations. This also might be the place to discuss the fact that certain Native groups gave up potential claims on areas such as the marine terminal for the Trans Alaska Pipeline.

95-25

It was because of the relationship of the Alaska Native Claims Settlement Act to the Trans Alaska Pipeline that there are special provisions, such as Section 29 and Section 30 in the Grant of Right of Way. These two issues should be linked either in the discussion in this section or some other section.

In addition, the pipeline currently crosses some land owned by Native corporations and crosses or is close to a number of Native allotments. There is no discussion of those issues in this

section or what the implications of that Native land ownership might be, but there should be such a discussion.

95-25
(cont.)

| <u>Section Title</u> | <u>Section Number</u> | <u>Page Number</u> | <u>Paragraph Number</u> |
|----------------------|--|--------------------|-------------------------|
| Affected Environment | 3.25.1.2 Alaska Native Claims Settlement Act | 3.25-16 | 2 |

95-26

There is no requirement in the Alaska Native Claims Settlement Act that a regional corporation operate at least one business on a for-profit basis. However, since the Act required that regional corporations be for-profit organizations we suppose it could be interpreted that they had to invest in at least one for-profit business. Of course regional corporations have all invested in dozens, if not hundreds of ventures that were intended to make profits.

| <u>Section Title</u> | <u>Section Number</u> | <u>Page Number</u> | <u>Paragraph Number</u> |
|----------------------|--|--------------------|-------------------------|
| Affected Environment | 3.25.1.2 Alaska Native Claims Settlement Act | 3.25-16 | 3 |

The phrase "disbursing cash" could be a little bit misleading. The only way that village corporations can make cash payouts is by paying dividends or to may payments from their capital base, which was intended to be used for investment purposes. The regional corporations had direct cash distribution responsibilities initially to all shareholders and continually to At-large Shareholders.

95-27

It also might be noted here that all villages chose to incorporate as for-profit corporations. The main reason for this decision was that under Alaska State law non-profit corporations cannot make distributions to their members, whereas profit corporations can make payouts as dividends.

| <u>Section Title</u> | <u>Section Number</u> | <u>Page Number</u> | <u>Paragraph Number</u> |
|----------------------|-----------------------|--------------------|-------------------------|
| Affected Environment | 3.25.1.2 | 3.25-16 | 4 |

We believe that the phrase "maintain vestiges of their traditional social cultural system" understates the cultural values and norms still found in Native communities today. Despite the overwhelming pressures placed on Native cultures by western cultures, the basic concept of group being more important than the individual remains today. Other traditional cultural values and activities and norms are practiced, although often they are missed by Westerners who do not understand these cultures. In addition, Natives have often had to hide their language and cultural practices from Westerners whose main goal was to either eliminate all vestiges of Native culture or to ridicule it.

95-28

| <u>Section Title</u> | <u>Section Number</u> | <u>Page Number</u> | <u>Paragraph Number</u> |
|----------------------|-------------------------------|--------------------|-------------------------|
| Affected Environment | 3.29 Environmental Justice | 3.29-7, 8 | |

Table 3.29-1 is particularly striking when one looks at the relationship between communities that have a substantial number of Natives and communities that have a high percentage of low-income people. In every case except Port Graham, communities which have a greater percentage of Natives than the average in the state also have a higher percentage of low-income people. This kind of economic analysis should be referenced back to the Subsistence section, because, as with high unemployment and high cost of living, low income also increases the reliance on subsistence.

95-29

We recognize that these figures will be updated in the FEIS. However, we would be very surprised if there was any substantial change in the relationship between communities that have a large number of Natives, and communities that also have a high percentage of low-income people.

| <u>Section Title</u> | <u>Section Number</u> | <u>Page Number</u> | <u>Paragraph Number</u> |
|----------------------------|-------------------------------------|--------------------|-------------------------|
| Environmental Consequences | 4.3.17.4 Obstruction to Movement | 4.3-58 | 1 |

We believe there should be some mention in this section that roads give access to people for hunting. A number of people commented during the scoping process that hunting practices from roads which allow sport hunters to shoot at the lead animals in a migrating herd can, and usually do, change the migration pattern of that herd.

95-30

The traditional Native method of hunting caribou is to allow the lead animals to pass and to hunt the herd from behind. Non-Native hunting practices tend to be the opposite of this approach.

| <u>Section Title</u> | <u>Section Number</u> | <u>Page Number</u> | <u>Paragraph Number</u> |
|----------------------------|--|--------------------|-------------------------|
| Environmental Consequences | 4.3.19.1.2 Assumptions Relating to Other Activities in the Alaska Economy | 4.3.66 | 2 |

95-31

Although the DEIS states that the economic impacts of the various policy options available to solve the state's fiscal situation is beyond the scope of the analysis, we believe that a couple

comments should be contained in the FEIS. The first is that the state faces about a billion-dollar deficit. No matter what the source of funds to make up this billion-dollar deficit (e.g. personal income tax, sales tax, Permanent Fund earnings, or some combination of these) it will have a definite negative impact on the state economy because it will reduce the spending power of residents of Alaska. In addition, recent history has shown that the urban-dominated legislature views reductions in spending programs in rural Alaska as part of the solution to budget shortfalls. Further reduction of spending in rural Alaska will have a disproportionate affect on Native communities which are also disproportionately low income according to Table 3.29-1 of the DEIS.

95-31
(cont.)

We believe that the FEIS can provide a discussion of the above issues without coming to any final determination about what the solution to the state's fiscal situation might be.

| <u>Section Title</u> | <u>Section Number</u> | <u>Page Number</u> | <u>Paragraph Number</u> |
|----------------------------|-------------------------------|--------------------|-------------------------|
| Environmental Consequences | 4.3.19.3.4 Personal Income | 4,3-73 | 2 |

95-32

This paragraph should include a sentence that indicates that the Permanent Fund Dividend could decline and, perhaps even decline substantially, if earnings from the Permanent Fund are used as a partial or main means for solving the state's fiscal situation.

| <u>Section Title</u> | <u>Section Number</u> | <u>Page Number</u> | <u>Paragraph Number</u> |
|----------------------------|--|--------------------|-------------------------|
| Environmental Consequences | 4.3.19.3.5 State and Local Tax Revenues | 4,3-73-74 | 3 |

95-33

The assumption that state transfers to local government will not be affected by declining state oil revenues has already been proven false. State programs, particularly those with a rural emphasis, have already been reduced by the legislature. AN anticipates that the state legislature, which will almost surely remain dominated by urban legislators throughout the period of renewal, will continue to look for ways to reduce expenditures in rural Alaska while minimizing any reductions in urban Alaska.

| <u>Section Title</u> | <u>Section Number</u> | <u>Page Number</u> | <u>Paragraph Number</u> |
|----------------------------|---------------------------------------|--------------------|-------------------------|
| Environmental Consequences | 4.3.19.5 Regional Economic Impacts | 4,3-79 | 1 |

95-34

We are not sure how the DEIS comes to the conclusion that a "steady growth in population and income in the Alaska Native community" will provide additional spending power independent of

TAPS. As most Natives live in the most economically depressed communities in the state, this conclusion would seem to be wrong. In fact, increases in population might well exacerbate the problems of the Alaska Native community if rural economies continue to be as disadvantaged as they are today.

95-34
(cont.)

| <u>Section Title</u> | <u>Section Number</u> | <u>Page Number</u> | <u>Paragraph Number</u> |
|----------------------------|---------------------------------------|--------------------|-------------------------|
| Environmental Consequences | 4.3.19.5 Regional Economic Impacts | 4.3-79 | 2 |

95-35

Assuming that state transfers to local government would not be affected by reductions in state oil revenues, as we stated in an earlier comment, has already proven to be incorrect. In fact, as reflected in AFN's Briefing (to the Alaska Advisory Committee of the U.S. Commission on Civil Rights) on Hate Crimes against Alaska Natives and Other Acts of Discrimination (April 2001), state aid to local governments has been cut by almost 60% in the past 7 years – a situation that has harmed all communities but has rendered many rural villages incapable of providing even the most basic of government operations.

| <u>Section Title</u> | <u>Section Number</u> | <u>Page Number</u> | <u>Paragraph Number</u> |
|----------------------------|--|--------------------|-------------------------|
| Environmental Consequences | 4.3.19.6 Alaska Native Corporations | 4.3-82 | 1 |

95-36

We would note again that the size of the Permanent Fund Dividend could be reduced substantially if income from the Permanent Fund is used to resolve the state's financial situation.

| <u>Section Title</u> | <u>Section Number</u> | <u>Page Number</u> | <u>Paragraph Number</u> |
|----------------------------|-------------------------|--------------------|-------------------------|
| Environmental Consequences | 4.3.19.7 Subsistence | 4.3-82 | 1 |

95-37

Since the DEIS assumes an increase in the Alaska population, it should also assume that that population increase will have potential adverse impacts on subsistence. The more people compete for fish and wildlife resources, the more potential problems there are for people who rely on those resources for subsistence. A greater number of eligible users potentially equates to a larger harvest and to a reduction in harvestable resources, which means there necessarily will be restrictions on subsistence uses in affected areas by virtue of ANILCA's §804 requirements.

| <u>Section Title</u> | <u>Section Number</u> | <u>Page Number</u> | <u>Paragraph Number</u> |
|----------------------------|-------------------------------|--------------------|-------------------------|
| Environmental Consequences | 4.3.20 Subsistence Impacts | 4.3-82 – 4.3-86 | |

The section attempts to look at some of the difficulties that the residents of Native villages along the pipeline have experienced as a result of the Trans Alaska Pipeline System opening up a fair amount of country which was closed or at least difficult to access before construction of the pipeline. Some recognition is given to "traditional ecological knowledge," which during the scoping process overwhelmingly supported the concept that there has been substantial impact on subsistence resources in the past.

As stated previously, AFN does not believe that the problems with subsistence resources are due to the management of the Trans Alaska Pipeline System. Rather, they result from a doubling of the state's population, a significant contributing factor to which was the development of oil and the shipping it along the Trans Alaska Pipeline. The state and federal governments' fish and wildlife management practices, for one reason or another, have not kept up with that impact and the result has been a reduction of available resources for subsistence needs for Alaska Natives.

95-38

AFN also agrees with the concept that assuming only a small growth in the state's population may result in the future impact on subsistence resources being relatively limited. Unfortunately, however, the status quo presents a problem for most Alaska Natives. We believe that the FEIS should be stronger in its finding that there have been previous impacts on subsistence resources. Absent the data that should be available from the state Department of Fish and Game, we believe that the EIS must default to traditional knowledge on this subject.

In addition we believe that the recognition in the DEIS that appropriate data has not been kept supports AFN's position that development of baseline subsistence data should be required as a condition for renewal of the TAPS Right-of-Way grant. This data collection is vital both for management and subsistence, and for the implementation of Section 10, should it be necessary to invoke the process of determining the value of lost subsistence resources.

| <u>Section Title</u> | <u>Section Number</u> | <u>Page Number</u> | <u>Paragraph Number</u> |
|----------------------------|-------------------------------|--------------------|-------------------------|
| Environmental Consequences | 4.3.20 Subsistence Impacts | 4.3-86 | 2 |

95-39

Mention should be made in this paragraph of the use of airstrips developed along the Trans Alaska Pipeline during construction and their continuing use by sport and commercial hunters. This is an issue that was raised by a number of tribal representatives during the scoping process.

| <u>Section Title</u> | <u>Section Number</u> | <u>Page Number</u> | <u>Paragraph Number</u> |
|----------------------------|-------------------------------|--------------------|-------------------------|
| Environmental Consequences | 4.3.20 Subsistence Impacts | 4.3-86 | 6 |

95-40

The word "possibly" in the second bullet point should be removed from the last sentence in this paragraph as there is little dispute that continued use of the Dalton Highway to maintain TAPS operations and continued human activity will disrupt the movement of some terrestrial animals.

| <u>Section Title</u> | <u>Section Number</u> | <u>Page Number</u> | <u>Paragraph Number</u> |
|----------------------------|---|--------------------|-------------------------|
| Environmental Consequences | 4.3.21.1 Alaska Native Social Cultural Systems | 4.3-87 | 2 |

95-41

This paragraph should recognize that some of the programs described as being currently funded through revenues from the oil industry have already been reduced or eliminated in rural Alaska.

| <u>Section Title</u> | <u>Section Number</u> | <u>Page Number</u> | <u>Paragraph Number</u> |
|----------------------------|---|--------------------|-------------------------|
| Environmental Consequences | 4.3.21.1 Alaska Native Social Cultural Systems | 4.3-88 | 4 |

95-42

The indication that some Alaska Natives cannot compete in the job market because of cultural differences should be supplemented by the comment that some are also hampered by educational deficiencies. The education system in rural Alaska has been the source of numerous studies and, for the most part, rural education outcomes are much lower than those of urban areas.

| <u>Section Title</u> | <u>Section Number</u> | <u>Page Number</u> | <u>Paragraph Number</u> |
|----------------------------|---------------------------------|--------------------|-------------------------|
| Environmental Consequences | 4.3.25 Environmental Justice | 4.3-97, 99 | |

95-43

The discussion of the Permanent Fund Dividend and its "disproportionate benefit" for Native people is at best misleading. First of all, the difference in the Dividend, even if it stays at its current rate, will be a matter of \$300 or \$400 per family. That amount of money does not make up for the high cost of living in villages which we have referenced earlier in these comments, nor the low incomes and high unemployment rates that the DEIS itself documents.

Renewal of TAPS does not guarantee in any way the continuation of the Dividend. As has also been referenced earlier in our comments, the Permanent Fund's earnings are one of the primary

potential sources for resolving the state's fiscal situation. Using Permanent Fund earnings for this purpose would clearly reduce the Dividend, and, in the worst case, might eliminate it. Therefore it is our belief that the entire discussion of the disproportionate benefit of the Permanent Fund Dividend to minority people should be dropped from the FEIS.

95-43
(cont.)

| <u>Section Title</u> | <u>Section Number</u> | <u>Page Number</u> | <u>Paragraph Number</u> |
|----------------------------|-------------------------|--------------------|-------------------------|
| Environmental Consequences | 4.4.4.14 Subsistence | 4.4-120 – 4.4-123 | |

The discussion of potential spill scenarios and its relationship to subsistence is of particular importance to AFN. As the DEIS points out, one of the biggest risks to subsistence is a large spill on a smaller river. Repeatedly during scoping comments, people from Native villages suggested that additional spill response equipment should be placed near or on these rivers and that Alaska Natives should be trained to respond to an oil spill should one occur. AFN believes that using the system that the State of Alaska and the Bureau of Land Management use for recruiting and training firefighters from villages also could be used for spill response.

95-44

| <u>Section Title</u> | <u>Section Number</u> | <u>Page Number</u> | <u>Paragraph Number</u> |
|----------------------------|------------------------|--------------------|-------------------------|
| Environmental Consequences | 4.6.2.0 Subsistence | 4.6-71 | 3 |

We believe that the assumption in the DEIS that the Dalton Highway would remain open under the No Action Alternative is incorrect. Because of the state's fiscal situation, the state is already actively eliminating road maintenance and snow plowing on highways which serve greater populations and are shorter in length than the Dalton Highway. It is our assumption that with the closing of the Prudhoe Bay oil fields, the main economic driver for the highway would be gone and that the state's declining fiscal situation would force closure of the highway.

95-45

| <u>Section Title</u> | <u>Section Number</u> | <u>Page Number</u> | <u>Paragraph Number</u> |
|----------------------------|-------------------------|--------------------|-------------------------|
| Environmental Consequences | 4.6.2.20 Subsistence | | 4 |

We have several comments on the conclusions drawn in this paragraph. First of all, the statement that Natives would account for a disproportionately large percentage of the anticipated population growth and this growth would therefore increase subsistence harvest doesn't make sense. The shutting down of the pipeline should not significantly affect Alaska Native birthrates. Therefore, the increases in Native populations should be the same regardless of the renewal alternative selected by BLM. The hunting and fishing pressure from population growth should remain the same relative to the subsistence use by the Native population.

95-46

The DEIS goes on to state that a reduction in income to subsistence users would reduce their access to modern technology needed for subsistence and thus reduce subsistence pressure. Although this statement is probably correct in terms of purchasing power, we believe the larger driving force would be that the reduction in income would increase the need for subsistence resources. Therefore, we would anticipate increased subsistence activity because of the decrease in financial resources available to buy alternative foods.

95-46
(cont.)

| <u>Section Title</u> | <u>Section Number</u> | <u>Page Number</u> | <u>Paragraph Number</u> |
|----------------------------|-----------------------------------|--------------------|-------------------------|
| Environmental Consequences | 4.6.2.25 Environmental Justice | 4.6-86 | 2 |

95-47

Some mention of the North Slope Borough should be made in this section. The North Slope Borough has funded its development through the taxation of the oil industry. The shutting down of the pipeline would clearly mean the shutting down of Prudhoe Bay and the dismantling of the facilities on which the North Slope Borough bases the bulk of its taxation. The impact in lost revenue to the borough would be substantial.

| <u>Section Title</u> | <u>Section Number</u> | <u>Page Number</u> | <u>Paragraph Number</u> |
|----------------------------|------------------------|--------------------|-------------------------|
| Environmental Consequences | 4.7.8.1 Subsistence | 4.7-108 | 1 |

95-48

We believe that there should be a sentence in this paragraph which states that, based on what little data is available and on the information received from traditional knowledge, significant major adverse impacts to subsistence have already taken place.

Also, in the second sentence of this paragraph, the term "extremely small" should be replaced with "relatively limited". There should also be a sentence stating, "these assumptions are made based on the likelihood that there will be no major oil spills affecting subsistence resources."

| <u>Section Title</u> | <u>Section Number</u> | <u>Page Number</u> | <u>Paragraph Number</u> |
|----------------------------|-----------------------|--------------------|-------------------------|
| Environmental Consequences | 4.7.8.1 | 4.7-109 | 3 |

95-49

There should be some statement in this paragraph that traditional ecological knowledge has attributed changing migration patterns to the hunting practices of non-local hunters of killing the lead caribou during migration. This is an issue that was discussed a number of times during the scoping meetings. Traditional Native hunting practices allow the lead caribou to pass by and the herd is then hunted from the back, thus allowing the animals to pursue their migration patterns.

Non-Native hunting practices generally are based on shooting the first animal one sees. Although this Western hunting practice is not directly related to the management of TAPS, it has become a major problem because the Dalton Highway and new airstrips along the TAPS corridor served to open a vast amount of subsistence hunting areas to non-local hunters.

Further down in this paragraph there is a statement that suggests that the Alaska Department of Fish and Game has successfully regulated harvests to protect subsistence. AFN believes that there is ample evidence on the record from traditional ecological knowledge that would dispute this assumption (See Attachment 1). The AFN believes that the ADF&G has been biased toward sport hunting and fishing at the expense of subsistence. For example, after the state enacted the 1992 Subsistence law, which made all Alaskans subsistence users, the Board of Game refused to limit moose hunting in GMLU 13 to local subsistence users. Instead it imposed antler restrictions, a short 7-day season, and individual bag limits, in order to ensure an opportunity for hunters from Anchorage and Fairbanks.

95-49
(cont.)

| <u>Section Title</u> | <u>Section Number</u> | <u>Page Number</u> | <u>Paragraph Number</u> |
|----------------------------|--------------------------------------|--------------------|-------------------------|
| Environmental Consequences | 4.8.1 Unavoidable Adverse Impacts | 4.8-1 | 2 |

We would replace the second and third sentences of this paragraph with the following.

“As previously indicated, major adverse impacts to subsistence resources have occurred in the past because of increased competition from non-subsistence users and from some disruption of migration patterns due to activities associated with TAPS and the Dalton Highway. On the other hand, increased access to financial resources has assisted some subsistence users in improving their ability to engage in subsistence activities. It is not anticipated that the current situation will change significantly in the future. However, an improvement in government management practices relating to subsistence could have a positive impact on the situation.”

95-50

| <u>Section Title</u> | <u>Section Number</u> | <u>Page Number</u> | <u>Paragraph Number</u> |
|----------------------------|---|--------------------|-------------------------|
| Environmental Consequences | 4.8.3 Irreversible and Irrecoverable Commitment of Resources | 4.8-2 | 3 |

The last sentence in this paragraph does not seem to make sense. We suggest it might be replaced by something to the effect that state and federal governments have the authority, but not always the desire, to allocate adequate subsistence resources to subsistence users.

95-51

| <u>Section Title</u> | <u>Section Number</u> | <u>Page Number</u> | <u>Paragraph Number</u> |
|----------------------------|--|--------------------|-------------------------|
| Environmental Consequences | 4.8.4 Mitigation of Adverse Affects | | |

AFN recommends a mitigation measure that requires collection of adequate and accurate subsistence data (See Attachment 3). The DEIS repeatedly points out the problem of the lack of adequate data to make an assessment of subsistence impacts. We believe this situation should be remedied in the future. It would also seem to be essential that these baseline data be available in case there was ever a claim made using the process spelled out in Section 30 of the grant.

95-52

We believe the responsibility for collecting these data rests more with government than with the TAPS owners. However, the FEIS should recognize that these data need to be collected.

AFN also recommends a mitigation measure requiring some enforcement mechanism if Alyeska Pipeline Service Company does not meet its responsibilities under both Section 29 and the Alaska Native Utilization Agreement. We recognize that the BLM may not have the authority to require this recommendation at this point. However, we believe that there is an opportunity to address this situation in the Alaska Native Utilization Agreement and suggest a mitigation measure proposing such a mechanism be placed in that document.

| <u>Section Title</u> | <u>Section Number</u> | <u>Page Number</u> | <u>Paragraph Number</u> |
|----------------------|-----------------------|--------------------|-------------------------|
| Appendix D | D.1 | D-3 | 1 |

95-53

We believe that the last sentence in this paragraph should be expanded upon. As we have commented previously for other DEIS sections, mention should be made of the high cost of living in villages combined with high unemployment rates and low income.

| <u>Section Title</u> | <u>Section Number</u> | <u>Page Number</u> | <u>Paragraph Number</u> |
|----------------------|-----------------------|--------------------|-------------------------|
| Appendix D | D.1 Introduction | D-3 | 3 |

95-54

Mention should be made in this paragraph of the fact that increases in the state's population, particularly the non-Native population, also play a major role in increasing competition for the resources upon which subsistence users rely.

| <u>Section Title</u> | <u>Section Number</u> | <u>Page Number</u> | <u>Paragraph Number</u> |
|----------------------|--|--------------------|-------------------------|
| Appendix D | D.3.1 Challenges in the Study of Subsistence Patterns | D-5 | 4 |

95-55

The FEIS should state in this paragraph that subsistence areas may have been forced to expand both because of competition from outside of the community for subsistence resources and also because of growth in populations in some subsistence communities.

| <u>Section Title</u> | <u>Section Number</u> | <u>Page Number</u> | <u>Paragraph Number</u> |
|----------------------|--|--------------------|-------------------------|
| Appendix D) | D.3.3 Descriptions of Community Subsistence Pattern | D-8 | 1 |

95-56

We are pleased that the DEIS attempts to identify subsistence patterns by community. We think this is the appropriate approach. AFN does not have the capacity to analyze whether the data presented for each community and the explanatory information at the beginning of the section on each community is correct. We know that individual communities and some regional organizations will be commenting on these sections. We urge you to pay close attention to these comments as we believe they may more accurately reflect the situation in those communities than information that is currently in the DEIS.

| <u>Section Title</u> | <u>Section Number</u> | <u>Page Number</u> | <u>Paragraph Number</u> |
|----------------------|-----------------------|--------------------|-------------------------|
| Appendix E | All | E-3 through E-14 | |

These comments apply to the entire Appendix E.

While Appendix E describes the Section 810 requirements for evaluating impacts of proposed management decisions on subsistence uses and resources, this section should be strengthened by adding a description of the legal requirements of ANILCA Title VIII as follows:

95-57

Legal Requirements. Title VIII of ANILCA expresses an overriding Congressional policy of protecting Native and rural subsistence rights. This policy is expressed in a number of ways. The Act declares that "the utilization of the public lands in Alaska is to cause the *least adverse impact possible* on rural residents who depend upon subsistence uses . . ." 16 U.S.C. §3112(1). It also states that all land management decisions affecting public lands must allow, to the maximum extent possible, "the opportunity for rural residents engaged in a subsistence way of life to do so." *Id.* It further ensures that subsistence hunting and fishing is accorded maximum

protection by providing that the nonwasteful subsistence harvest of fish and game is the priority consumptive use on public lands in Alaska. 16 U.S.C. §3114. Finally, in order to ensure that Alaska Natives play a meaningful role in the regulation of fish and game resources, the Act creates local and regional fish and game advisory councils which are authorized to participate in land management decisions that might result in significant restrictions of subsistence uses of resources. 16 U.S.C. §3115; 16 U.S.C. §§3120(a)(1)-(2).”

We suggest the evaluation description on page F-3 be revised to reflect the actual language used by Congress in Section 810 of ANILCA. Our suggested language is as follows:

“Section 810 requires that federal land managers carefully evaluate the impact of the proposed management decisions on subsistence uses and resources. It prohibits any use of federal lands which “may significantly restrict” subsistence uses of those lands unless the responsible federal agency first determines that:

- (A) such a significant restriction of subsistence uses is necessary, consistent with sound management principles for the utilization of the public lands;
- (B) the proposed activity will involve the minimal amount of public lands necessary to accomplish the purposes of such use, occupancy, or other disposition; and
- (C) reasonable steps *will be taken* to minimize adverse impacts upon subsistence uses and resources resulting from such actions.

16 U.S.C. §3120(a)(3)(A)-(C)” (emphasis added).

There are several problems with the Evaluation of Impacts Section (Sections E.2.1-E.2.3) and the Cumulative Impacts Section (E.2.4)

E.2. Evaluation of Impacts

Each “Evaluation of Impacts” of the various alternative actions discussed in the DEIS concludes that “the impacts of the proposed action on subsistence will not reach the threshold of “may significantly restrict” subsistence uses.”

The analysis of the potential impacts on subsistence is severely undermined by the authors’ conclusion that there is a lack of reliable, quantitative evidence necessary to make conclusive final evaluations. As we point out in numerous locations in our comments, the DEIS evaluation conclusion in E.2.1.1 that “there is no evidence to support the assertion that there has been a decline in the populations or amounts of harvestable resources” is incorrect. There has been ample testimony by local people that over the life of the pipeline there have been adverse impacts on their ability to harvest subsistence resources from increased competition for subsistence resources and the resulting decline in resource availability. That testimony constitutes traditional knowledge and should have been given considerable weight, especially in

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(cont.)

the absence of reliable baseline data to the contrary. There is also ample evidence that the state has accommodated the increased demand for those resources from non-local hunters and fishermen by placing increasingly restrictive bag limits and seasons on local subsistence users.

In fact, in analyzing the various alternatives for subsistence management for the public lands in Alaska following the *McDowell* decision (holding that the State could not provide a priority for subsistence uses to rural Alaska residents), the responsible federal agencies rejected several alternative definitions of "rural" precisely *because* they would have enlarged the pool of individuals eligible for rural status thereby increasing the competition for the resources. The FEIS developed for the Federal Subsistence Management Program concluded that those alternatives would likely result in some local restrictions on subsistence uses. Those restrictions, required by ANILCA § 804, would in turn limit subsistence opportunities to only those who could meet the criteria specified in Section 804. As a result, the EIS concluded that such a result "may significantly restrict subsistence uses." *Subsistence Management for Federal Public Lands in Alaska, Final EIS, Vol. 1, Chapter IV-J-3. (Alternative III Finding)*. The same standard and analysis should have been applied in this case where there is clear evidence that competition for potential subsistence resources, caused by increased access to remote areas, primarily as a consequence of opening the Haul Road/Dalton Highway to the public and the construction of numerous airstrips in remote areas along the pipeline, has led to restrictions on some subsistence hunting and fishing. Had the same standard and analysis been applied in this case, the DEIS would have been compelled to conclude that a significant restriction to subsistence activities might occur as a result of competition for potential subsistence resources and the attendant decline in the amount of harvestable resources available to local residents.

Such a conclusion would have triggered requirements for findings under ANILCA § 810(a)(3)(A)-(C) as is the case in the Cumulative Impacts Evaluation section. Our comments below on the Cumulative Impacts Evaluation findings (Section E.2.4) therefore also apply to the general Evaluation of Impacts Section (E.2.1-E.2.3).

As we have stated before in our comments, we do not attribute these declines to the management of TAPS, but rather to the management of fish and game resources and the allocation of those resources by the appropriate government entities, combined with a large increase in the state's population and the competition for subsistence resources. However, even though the declines in resources could not and should not be directly attributable to the management of TAPS, that decline should not be ignored in this analysis.

E.2.4 Cumulative Impacts

The DEIS finds that additional oil exploration, development and production and the construction and operation of a natural gas pipeline "would add to the disruption of game mobility, particularly on the North Slope, where many of these activities would be concentrated." DEIS E.2.4.1 at E-9. The DEIS further concludes that the "changing movement of large numbers of animals with respect to traditional harvest areas would have important implications for subsistence." *Id.* The analysis of the cumulative impacts further acknowledges that access to remote areas would likely increase because of reasonably foreseeable actions, *id.*, and that limits

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(cont.)

on access to subsistence areas or restrictions on hunting and fishing in certain areas are the likely consequences especially with respect to the harvest areas of Anaktuvuk Pass and Nuiqsut. DEIS E.2.4.1 at E-10. The DEIS concludes that the cumulative impacts associated with the proposed action on subsistence "may significantly restrict" subsistence uses. DEIS Appendix E., 2.4. at E-10. This finding clearly triggers Section 810's requirement that the responsible agency make the determinations required by 16 U.S.C. §3120(a)(3)(A)-(C).

The DEIS does not contain the three critical findings required by ANILCA § 810(a)(3)(A)-(C) once there has been a conclusion that there may be significant restrictions to subsistence uses as a result of a proposed federal action.

We believe the DEIS authors erred in assuming that the above required findings are not required to be published in the DEIS for public review and comment. In fact, these findings *must* be included in the DEIS for public review and comment. See 16 U.S.C. §3120(e). Unlike NEPA, ANILCA imposes substantive obligations on federal agencies. See *Sierra Club v. Marsh*, 872 F.2d 497, 502 (1st Cir. 1989). In other words, simply documenting the potential harm to subsistence resources and uses is not enough. The responsible agencies must actually alter their plans to *avoid*, to the maximum extent possible, the harm that may inevitably result from implementation of the preferred alternative set forth in the DEIS or take reasonable steps to minimize the adverse impacts on subsistence uses.

Mitigation Measures

Even though The DEIS acknowledges that a significant restriction to subsistence uses could result from the *cumulative* impacts associated with the proposed action due to an increase in potential disruption of subsistence resource movement and an increase in the area closed to subsistence, DEIS E.2.4.2, there are no additional mitigation measures proposed that might be taken to minimize those potential adverse impacts or to remedy the perceived need for quantitative evidence which is cited throughout the DEIS as a problem. The analysis of the potential impacts on subsistence in this DEIS is severely undermined by the lack of reliable, quantitative evidence necessary to make conclusive final evaluations. That will continue under the renewal agreement unless it is cured with additional mitigation measures.

ANILCA's requirement that mitigation measures be implemented is not discretionary. The federal agency must develop and implement adequate measures to minimize the admittedly harmful cumulative effects of the renewal of the pipeline ROW upon Native subsistence uses. Although the original agreement and grant of Right of Way for the Trans-Alaska pipeline between the U.S. and the oil companies contains Section 30 which is aimed at mitigating the potential damage to the subsistence way of life of those villages located along the pipeline, that Section may have been ineffective due to lack of baseline data and the lack of a clear process for making a claim under § 204(a) of the Trans-Alaska Pipeline Authorization Act. We believe regulations should be promulgated that clearly set out the process Alaska Natives would follow in filing a claim under the Act, as contemplated by Section 30 of the Agreement.

In addition, future collection of data that can clearly show the trends in subsistence taking of fish and game and the impact of non-subsistence hunting and fishing on those trends is critical. Otherwise, Section 30 would be virtually meaningless if there is no baseline data against which one can measure alleged negative impacts to subsistence. Collection of adequate baseline data should be added as a "reasonable step" needed to minimize potential adverse impacts on subsistence uses and resources and to give meaning to Section 30.

With these concerns in mind, AFN has recommended inclusion of two additional mitigation measures to the Federal Grant of Right-of-Way. The recommendations in our general comments referencing these measures are:

1. That the grant of right-of-way contain a new stipulation requiring the collection of data which can clearly show the trends in subsistence taking of fish and game and the impact of non-subsistence hunting and fishing on those subsistence trends. Tribal governments and other Native organizations should be directly involved in the gathering of this data.
2. That the Bureau of Land Management promulgate regulations that clearly set out the process Alaska Natives would follow in filing a claim under the Act, as contemplated by Section 30 of the Right-of-Way grant and agreement.

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(cont.)

| <u>Section Title</u> | <u>Section Number</u> | <u>Page Number</u> | <u>Paragraph Number</u> |
|----------------------|------------------------------------|--------------------|-------------------------|
| Appendix 1: | E.1 Subsistence Evaluation Factors | E-3 | |

Section 810 does not restrict its required analysis to the five impact categories used to assess whether any of the proposed alternatives may result in a significant restriction to subsistence uses. The DEIS should clearly set forth an explanation of the methodology it used in selecting the five impact categories used for deciding whether the proposed action would significantly restrict subsistence uses. Although Appendix A purports to explain the methodology used for the subsistence evaluation, it does not fully explain how the five potential negative impact categories were selected. The only explanation we have found is contained at 4.3.20 (page 4.3-85), where it is suggested that the impact categories relate to the issues identified by individuals who pursue a subsistence way of life and were based in part on traditional ecological knowledge. While we do not necessarily disagree with the five factors, we believe a better explanation of their selection should have been provided.

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| <u>Section Title</u> | <u>Section Number</u> | <u>Page Number</u> | <u>Paragraph Number</u> |
|----------------------|-----------------------|--------------------|-------------------------|
| Appendix E | E.2.1.1 Evaluation | E-4 | 1 |

95-60

In this paragraph we believe the term "extremely small" should read "relatively limited (assuming no affects from a major oil spill)".

| <u>Section Title</u> | <u>Section Number</u> | <u>Page Number</u> | <u>Paragraph Number</u> |
|----------------------|-----------------------|--------------------|-------------------------|
| Appendix E | E.2.1.1 Evaluation | | 2 |

95-61

In sub-paragraph of "2." we would suggest that mention be made of the comments by many local people that Western hunting practices have changed migration patterns of caribou. This again is not a management issue for TAPS, but clearly has had an impact on the resource.

As we explained earlier, Natives traditionally hunt caribou by letting the lead animals go by and hunting from behind the leaders of the herd. Western practices tend to be to shoot the first animal that one sees. If this animal happens to be one of the leaders of the herd, migration patterns are easily changed.

| <u>Section Title</u> | <u>Section Number</u> | <u>Page Number</u> | <u>Paragraph Number</u> |
|----------------------|-----------------------|--------------------|-------------------------|
| Appendix E | E.2.1.1 Evaluation | E-5 | 1 |

The word "possibly" in line 9 should either be deleted or replaced by the word "clearly".

95-62

Further on the statement is made that, "Thus, access-related competition with non-locals for subsistence resources is either not related to TAPS ROW renewal or appears to have great limitations." We believe the second part of this sentence is incorrect. Public access allowed along the Dalton Highway has had a clear and substantial impact on both moose and caribou, and in some cases fish. Although there may not be statistics from the Department of Fish and Game that clearly show this situation, there are certainly enough data available to infer this conclusion and combining these data with traditional local knowledge gives a clear picture of the problems that have resulted from the non-local access to these lands for hunting and fishing.

| <u>Section Title</u> | <u>Section Number</u> | <u>Page Number</u> | <u>Paragraph Number</u> |
|----------------------|-----------------------|--------------------|-------------------------|
| Appendix E | E.2.1.1 Evaluation | E-5 | 2 |

In the second paragraph on this page numbered "4." there is a statement that the Dalton Highway would remain open even if TAPS was not renewed. As we have previously stated in these comments, we do not believe that is a correct conclusion. The State of Alaska is currently reducing maintenance and snow plowing on a variety of roads even with the revenues that result from the operation of TAPS. If North Slope production were shut down, it is our assumption that one of the first things that the state would stop doing is maintaining the Dalton Highway.

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This comment also applies to the paragraph numbered "4." on page E-7.

| <u>Section Title</u> | <u>Section Number</u> | <u>Page Number</u> | <u>Paragraph Number</u> |
|----------------------|-----------------------------|--------------------|-------------------------|
| Appendix E | E.2.4 Cumulative Impacts | E-8 | 1 |

The word "small" in line 11 should be changed to "limited".

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| <u>Section Title</u> | <u>Section Number</u> | <u>Page Number</u> | <u>Paragraph Number</u> |
|----------------------|-------------------------|--------------------|-------------------------|
| Appendix E | E.2.4.1.1 Evaluation | E-8 | |

In sub-paragraph number "1." of this paragraph, we believe it is important to point out that there is a difference between population decline of subsistence resources and the ability of subsistence users to harvest those resources. Although populations in some cases have increased and in others have decreased, there is clear evidence that there has been a problem with competition for subsistence resources and that should be noted in this paragraph, even though it is more completely discussed in sub-paragraph "3." of this paragraph on page E-9.

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Responses for Document 00095

00095-001: Although 45 days is understandably a short time to review a document of this size, the time period is consistent with the Council on Environmental Quality regulations for implementing the National Environmental Policy Act regarding the review of draft environmental impact statements. Significant effort was made to advise people of the schedule and duration of the review well in advance (one year). The DEIS was published on schedule and many substantive comments on the content of the DEIS, including yours, were received during the 45-day period.

While comments on the DEIS had to be received by the end of the 45-day comment period in order to be addressed in the Final EIS, additional provisions for involvement in the decision-making process apply to Tribal governments and Native organizations. The process of government-to-government consultation allows these groups to continue dialogue with the Bureau of Land Management.

00095-002: Thank you for your comment.

00095-003: The concerns of the commentor have been noted. Section 2.5 of the FEIS discusses alternatives and issues considered but not analyzed in the document, including financial penalties. In general, changes to the Federal Grant and future policy decisions are beyond the scope of the EIS.

00095-004: These extensive comment on Section 30 and recommendation for new subsistence monitoring research are acknowledged. The DEIS sections on subsistence received many critical public comments, and as a result, have undergone substantial revision. A small number of additional sources were identified, including the map of Cordova subsistence use areas and North Slope studies of impacts on subsistence economies from oil development. Previous sources were considered more closely, as when time-series data were derived from the ADFG Division of Subsistence studies; and harvest permit data were broken down further to distinguish patterns of rural and non-rural residents. With additional analysis of this data, the EIS draws reasonable conclusions concerning the renewal of the TAPS right-of-way, on the basis of existing information. As a result, the proposal for a stipulation in the grant right-of-way requiring a new studies program is not incorporated.

00095-005: The DEIS sections on subsistence, including the Section 810 analysis found in Appendix E, received many critical public comments, and as a result, have undergone substantial revision. A small number of additional sources were identified, including the map of Cordova subsistence use areas and North Slope studies of impacts on subsistence economies from oil development. Previous sources were considered more closely, as when time-series data were derived from the ADFG Division of Subsistence studies; and harvest permit data were broken down further to distinguish patterns of rural and non-rural residents. With additional analysis of this data, the EIS draws reasonable conclusions, on the basis of existing information

The comment requesting development of clear procedures for filing a claim under Section 30 of the right of way grant is noted. However, existing procedures provide for claims to be filed through a letter to the Secretary, and such claims have been filed. No additional procedures are proposed as part of this EIS.

00095-006: The discussion of the permanent fund dividend refers to disproportionately greater benefits when the per capita dividend is in effect, but also notes the disproportionately greater negative impacts were the dividend to be discontinued. Studies that have appeared in refereed academic literature characterize rural Alaska economies as mixed, which means that cash plays a role as well as subsistence. To ignore the role of cash, or a key source of cash such as current payment levels received from the permanent fund dividend, would be to characterize the mixed economies of rural communities in Alaska incompletely.

Additional discussion has been added to Section 3.23 to discuss different economic and employment conditions in rural Alaska, including Native villages, and Section 3.24 to address differences in cost of living. The discussion of subsistence impacts under the proposed action (Section 4.3.20) also has been expanded to examine subsistence impacts in greater detail, and how these impacts extend into the sociocultural fabric of Alaska Native (especially) society. However, the discussion of positive impacts to subsistence under the proposed action is preserved, to provide a balanced discussion of all consequences of the proposed action.

The EIS discusses social problems faced by Alaska Natives. It also cites possible explanations about these problems that have appeared in refereed journal articles and elsewhere in the academic literature. Preparers of the EIS found no research to support the comment assertions as to the cause of social problems among Alaska Natives.

Statistical significance of the difference between family sizes of Alaska Natives and non-Natives was not calculated. The issue is, of course, not appropriate, as the comparison is not one between samples.

00095-007: The BLM and member agencies of the JPO are committed to ongoing government-to-government consultations and welcome invitations to participate in meetings and dialogues with Native Tribes (see Section 5.3).

In accordance with Executive Order 13175, "Consultation and Coordination with Indian Tribal Governments," the BLM has involved Tribal governments during the preparation of the EIS. As the lead federal agency associated with this EIS, the BLM established government-to-government exchanges with all Tribal governments in Alaska and more focused exchanges with 21 Tribes directly affected by the TAPS. These 21 communities received more detailed mailings explaining the proposed ROW renewal, the EIS process, and the various sources of additional information. Meetings were held with all Tribal organizations and Native groups that requested them, to discuss the EIS process and related issues in greater detail. At the meetings, specific emphasis was placed on how Tribal organizations and Native groups can participate effectively in the EIS and ROW renewal processes. Section 5.3 was rewritten to clarify the extensive government-to-government consultation process BLM used. While comments on the DEIS had to be received by the end of a 45-day comment period in order to be addressed in the Final EIS, additional provisions for involvement in the decision-making process apply to Tribal governments and Native groups. The process of government-to-government consultation allows these organizations to continue dialogues with the Bureau of Land Management and for their comments to be considered in the Record of Decision.

00095-008: Recommendation to increase the training and certification of additional village crews for oil spill response is noted. However, recommending specific methods for mitigating future oil spill should be done as part of the C-plan review.

00095-009: Access, land use, and trespass issues related to Native lands are addressed in the EIS in Section 4.3.23.1, "Land Use." The BLM recognizes the concerns of Tribal governments and Native allottees related to land use issues adjacent to TAPS. Although these concerns do not directly affect renewal of the Federal Grant of Right-of-Way, the BLM will continue to work with these groups on these issues, as it has in the past.

The Bureau of Land Management is the lead federal agency for the preparation of this EIS and for considering requests for participation by others. The BLM has consulted with affected Tribal and Native organizations throughout the TAPS ROW renewal and EIS process. Regardless of the assistance provided in preparation and review of the EIS, the BLM is responsible for its content.

00095-010: It is clear that there were significant economic benefits following the Exxon Valdez spill, with spending by the large number of cleanup workers involved producing additional employment and income impacts in the local area and in the state as a whole. While the long-term effects of the spill on the environment in Prince William Sound have yet to be fully established, the costs of the spill measured in terms of losses to the recreation, tourism and fishing industries have been outweighed by the economic benefits associated with clean-up activities.

The spill response capability in Prince William Sound developed after the Exxon Valdez accident means that it is unlikely that a spill of the same magnitude would occur again, and that the local and state economic benefits of spill response and clean-up activities for any spill would be as significant. The possibility of compensatory claims following any long-term damage to the environment resulting from a spill, however, may still increase the monetary cost of even a relatively small spill, although there may be economic benefits if cash from compensation payments is spent inside the state.

All this stated, the issues raised in the comment concerning persisting psychological impacts, and impacts concerning the safety of subsistence harvests from the area affected by the Exxon Valdez Oil spill, are worth noting. Sections 4.7.8.1 and 4.7.8.2, focusing on cumulative impacts of the three alternatives considered in the EIS, have been expanded to discuss effects of the Exxon Valdez Oil Spill on subsistence activities and sociocultural systems in the Prince William Sound area in greater detail. This does not discount any economic benefits that the spill may have brought to the area, but it does help serve to place those benefits in perspective for this unfortunate event.

00095-011: Sections 3.23 and 3.24 have been revised to provide more complete summaries of economic conditions in rural Alaska and a fuller discussion of subsistence harvest patterns. Sections 4.3.20, 4.4.4.14, 4.5.2.20, and 4.7.8.1 all have been expanded to discuss subsistence impacts of the proposed action (or the less-than-30-year renewal alternative) in greater detail.

The conclusions of the EIS with regard to subsistence remain substantively unchanged. There have been many changes in the Alaskan economy and society over the past 30 years, including impacts on subsistence in Alaska Native villages. However, most of these are not due to TAPS itself but rather to other factors such as general population growth or the opening of the Dalton Highway to general public access in 1994.

00095-012: Although 45 days is understandably a short time to review a document of this size, the time period is consistent with the Council on Environmental Quality regulations for implementing the National Environmental Policy Act regarding the review of draft environmental impact statements. Significant effort was made to advise people of the schedule and duration of the review well in advance (one year). The DEIS was published on schedule and many substantive comments on the content of the DEIS, including yours, were received during the 45-day period.

While comments on the DEIS had to be received by the end of the 45-day comment period in order to be addressed in the Final EIS, additional provisions for involvement in the decision-making process apply to Tribal governments and Native organizations. The process of government-to-government consultation allows these groups to continue dialogue with the Bureau of Land Management.

00095-013: Text has been added to Section 3.23.5 of the EIS to clarify the scope of the analysis.

- 00095-014:** Text has been added to Section 3.23.5 of the EIS to clarify the scope of the analysis.
- 00095-015:** The text in Section 3.23.4.3 of the EIS has been changed to reflect information provided in the comment.
- 00095-016:** Text has been added to Section 3.23.5 of the EIS to clarify the scope of the analysis.
- 00095-017:** The text in the FEIS (Sections 3.23.5 and 3.24.1) has been changed to reflect information provided in the comment.
- 00095-018:** Differences in the impact of renewal and termination for different parts of the state, presented in terms of population (including migration), employment, and personal income, are included in the EIS. This includes impacts that would occur in three boroughs (Fairbanks-North Star and North Slope), three census areas (Southeast Fairbanks, Valdez-Cordova and Yukon-Koyukuk) and in Anchorage. At this level, it is clear that that the decision to renew or terminate TAPS would have differential impacts in each of these areas, with impacts across the six areas varying according to various factors, in particular, the extent of local employment directly related to pipeline operations and local government reliance on property tax revenues on oil property.

In general, personal incomes in Alaskan Native villages are lower than in the state as a whole and unemployment, especially in smaller villages, is high, particularly during the winter when there is little alternate market-based activity. Because of the key role of subsistence in many village economies, economic data that is collected for these communities may not fully represent their economic well-being. For example, many transactions between individuals involving the exchange of subsistence products that would otherwise provide income if they took place in the marketplace are not reflected in personal income statistics. Similarly, unemployment data may not reflect the extent to which additional economic activity may be required if subsistence activities provide a sufficient alternative to participation in the marketplace. In addition, the large differences in prices between urban and rural Alaska may exaggerate the corresponding differences in economic well-being depending on the extent to which local community members in rural areas have to participate in the local market economy for key consumer items, such as food, clothing, and energy, and the extent to which these items can be obtained through participation in subsistence activities. Because of these problems, the analysis undertaken for the EIS did not estimate the impacts of renewal and non-renewal for areas and villages below the level of the Census Area/Borough.

Additional text has been added to Section 3.23 of the EIS to clarify the scope of the economic analysis. The passage referenced in the comment was only meant to provide a general sense of the monetary value of subsistence harvests in comparison to other sectors of the state economy.

00095-019: Differences in the impact of renewal and termination for different parts of the state, presented in terms of population (including migration), employment, and personal income, are included in the EIS. This includes impacts that would occur in three boroughs (Fairbanks-North Star and North Slope), three census areas (Southeast Fairbanks, Valdez-Cordova and Yukon-Koyukuk) and in Anchorage. At this level, it is clear that that the decision to renew or terminate TAPS would have differential impacts in each of these areas, with impacts across the six areas varying according to various factors, in particular, the extent of local employment directly related to pipeline operations and local government reliance on property tax revenues on oil property.

In general, personal incomes in Alaskan Native villages are lower than in the state as a whole and unemployment, especially in smaller villages, is high, particularly during the winter when there is little alternate market-based activity. Because of the key role of subsistence in many village economies, economic data that is collected for these communities may not fully represent their economic well-being. For example, many transactions between individuals involving the exchange of subsistence products that would otherwise provide income if they took place in the marketplace are not reflected in personal income statistics. Similarly, unemployment data may not reflect the extent to which additional economic activity may be required if subsistence activities provide a sufficient alternative to participation in the marketplace. In addition, the large differences in prices between urban and rural Alaska may exaggerate the corresponding differences in economic well-being depending on the extent to which local community members in rural areas have to participate in the local market economy for key consumer items, such as food, clothing, and energy, and the extent to which these items can be obtained through participation in subsistence activities. Because of these problems, the analysis undertaken for the EIS did not estimate the impacts of renewal and non-renewal for areas and villages below the level of the Census Area/Borough.

Additional text has been added to Sections 3.23 and 3.24.1 to expand the treatment of village economics, including high costs of living and unemployment.

00095-020: Thank you for your comment.

00095-021: Differences in the impact of renewal and termination for different parts of the state, presented in terms of population (including migration), employment, and personal income, are included in the EIS. This includes impacts that would occur in three boroughs (Fairbanks-North Star and North Slope), three census areas (Southeast Fairbanks, Valdez-Cordova and Yukon-Koyukuk) and in Anchorage. At this level, it is clear that that the decision to renew or terminate TAPS would have differential impacts in each of these areas, with impacts across the six areas varying according to various factors, in particular, the extent of local employment directly related to pipeline operations and local government reliance on property tax revenues on oil property.

In general, personal incomes in Alaskan Native villages are lower than in the state as a whole and unemployment, especially in smaller villages, is high, particularly during the winter when there is little alternate market-based activity. Because of the key role of subsistence in many village economies, economic data that is collected for these communities may not fully represent their economic well-being. For example, many transactions between individuals involving the exchange of subsistence products that would otherwise provide income if they took place in the marketplace are not reflected in personal income statistics. Similarly, unemployment data may not reflect the extent to which additional economic activity may be required if subsistence activities provide a sufficient alternative to participation in the marketplace. In addition, the large differences in prices between urban and rural Alaska may exaggerate the corresponding differences in economic well-being depending on the extent to which local community members in rural areas have to participate in the local market economy for key consumer items, such as food, clothing, and energy, and the extent to which these items can be obtained through participation in subsistence activities. Because of these problems, the analysis undertaken for the EIS did not estimate the impacts of renewal and non-renewal for areas and villages below the level of the Census Area/Borough.

Additional text has been added to Sections 3.23 of the EIS to clarify the scope of the economic analysis. Section 3.24.1 has been revised as well to note the mixed subsistence-based economies that dominate rural Alaska, the importance of cash in these economies, and the challenge in acquiring such funds.

- 00095-022:** The original community harvest practice descriptions have been augmented and reorganized into ecological zones to better show regional patterns. Time series data have been added to examine changes in harvest patterns. As a result, the EIS is able to draw reasonable conclusions on subsistence impacts on the basis of existing information.
- Comments regarding the community-specific analysis, and forthcoming comments from individual villages, are duly noted.
- 00095-023:** We are not comfortable making the recommended change. Although the trends suggested in the comment seem to be the case, the variation in both angler days and (especially) total harvest makes the strength of trends weak. Moreover, even if the harvest data are an indication of declining populations for the fishes listed, sport harvest is not the only means of affecting fish populations—heavier subsistence harvests, predation, and environmental variables also play a potentially important role.
- 00095-024:** Thank you for your comment.
- 00095-025:** Section 3.25.1.2 has been revised in accordance with the comment.
- 00095-026:** Section 3.25.1.2 has been reworded to clarify this point made in the comment.
- 00095-027:** The phrase “disbursing cash” refers to the initial phase of ANCSA when Village corporations did disperse settlement payments. This section has been clarified to state that Villages currently disburse any dividends.
- 00095-028:** The text in Section 3.25.1.2 (as well as that in Section 3.25.1) has been changed to describe more accurately the nature of Alaska Native sociocultural systems that persist into the 21st century.
- 00095-029:** Text in Section 3.23 (especially) and 3.24 has been revised to describe more clearly the economic situation facing rural Alaskans.
- 00095-030:** Potential disturbance to caribou migration due to traffic on the Dalton Highway, and from hunters shooting at lead animals in a migration, appear in Sections 3.24 and 4.3.20.
- 00095-031:** Text has been added to the EIS in Sections 4.3.19.1.2 and 4.6.2.19.1 providing additional information on the assumptions used for the analysis of state and local government finances.
- 00095-032:** Text has been added to the EIS in Sections 4.3.19.1.2 and 4.6.2.19.1 providing additional information on the assumptions used for the analysis of state and local government finances.
- 00095-033:** Text has been added to the EIS in Sections 4.3.19.1.2 and 4.6.2.19.1 providing additional information on the assumptions used for the analysis of state and local government finances.
- 00095-034:** The text in Section 4.3.19.5 of the EIS has been changed to reflect information provided in the comment.
- 00095-035:** Text has been added to the EIS in Sections 4.3.19.1.2 and 4.6.2.19.1 providing additional information on the assumptions used for the analysis of state and local government finances.

- 00095-036:** Text has been added to the EIS in Sections 4.3.19.1.2 and 4.6.2.19.1 providing additional information on the assumptions used for the analysis of state and local government finances.
- 00095-037:** The discussion in Section 4.3.20 (impacts on subsistence under the proposed action) is in agreement with the comment, and has been revised to make the connection between growing population and the TAPS clearer. However, Alaska population growth is not exclusively a result of the TAPS.
- In the absence of a clear specific relationship between population growth and overall harvests of subsistence resources in particular areas, it is impossible to project what these impacts might be. In a worst case, as discussed in the comment, harvests could be restricted to subsistence and then further restricted in accordance with ANILCA Section 804 guidelines. However, depending on the relationship of harvests to resource populations in a particular management unit, increased harvests need not invoke restrictions of all uses except subsistence, much less the subsistence uses themselves.
- 00095-038:** The comment is noted, including the position of the Alaska Federation of Natives regarding subsistence impacts and the problems associated with the status quo for Alaska Natives. The problem associated with placing a heavier reliance on traditional ecological knowledge are two: the difficulty in assigning causality of subsistence impacts with traditional ecological knowledge; and the apparent lack of population-level impacts on most subsistence resources during nearly three decades of TAPS operation, as discussed in Sections 3.19, 3.20, 3.21, and 3.22.
- The DEIS sections on subsistence received many critical public comments, and as a result, have undergone substantial revision. A small number of additional sources were identified, including the map of Cordova subsistence use areas and North Slope studies of impacts on subsistence economies from oil development. Previous sources were considered more closely, as when time-series data were derived from the ADFG Division of Subsistence studies; and harvest permit data were broken down further to distinguish patterns of rural and non-rural residents. With additional analysis of this data, the EIS has reached reasonable conclusions, on the basis of existing information.
- 00095-039:** The text in Section 4.3.20 has been changed to mention airstrips.
- 00095-040:** The recommended change has been made to Section 4.3.20.
- 00095-041:** The text in Section 4.3.21 has been changed, and now reflects the point made in the comment.
- 00095-042:** The referenced text in Section 4.3.21.1 has been changed in response to the comment.
- 00095-043:** The comment makes some interesting points, but the fact remains that larger families that Alaska Natives tend to have would yield a disproportionate positive impact. There are several possible futures for the permanent fund dividend, and due to uncertainties the EIS avoids speculating on these.
- 00095-044:** The EIS evaluates impacts based on existing spill response plans. When an EIS predicts significant impacts under normal operating conditions, it offers possible mitigation measures. However, in the case of accidents, mitigation measures are not normally offered—due to the uncertainty of occurrence and particular aspects of occurrence (e.g., location).
- 00095-045:** The hypothesis stated by the comment (and the reasoning underlying it) is entirely possible. By the same token, the Dalton Highway provides the only land access to North Central Alaska, and it is reasonable to assume that every possible measure would be taken to keep it open. At this point, we have no way of knowing the future of the Dalton Highway, should the TAPS be discontinued. In the absence of such knowledge, we have assumed its continued operation.

- 00095-046:** The text in Section 4.6.2.20 has been revised to clarify the identification of likely impacts to subsistence under the no-action alternative.
- 00095-047:** Section 4.6.2.25 has been revised to note likely impacts to North Slope Borough public services and programs under the no-action alternative.
- 00095-048:** The text has been changed, both in Section 4.7.8.1 and in Section 4.3.20 (the portion of the EIS to which the cited passage points), though it does not use the recommended wording. As Section 4.3.20 deals with impacts under normal operations, no caveat is necessary with regard to a major oil spill, as such an event is not part of normal operations.
- 00095-049:** The referenced paragraph discusses impacts on subsistence, including caribou hunting, on the North Slope. We have seen no mention of the problem with hunters shooting the lead animal, from two sets of notes taken at the public scoping meeting in Nuiqsut on 24 September 2001; we held no such meeting in Anaktuvuk Pass, and we have no record of this specific concern being otherwise submitted from these two communities. Such comments certainly were made by members of other villages further south, as noted in Section 3.24.1. The existing paragraph already acknowledges that traditional ecological knowledge associate the pipeline with changes in herd movement, which is stated in more general terms that are consistent with concerns we have from both villages. Data presented in Section 3.24.4 approximating sport vs. subsistence harvests show growing sport harvests, in both absolute and relative terms, though resource populations are reported as maintaining sustainable levels.
- 00095-050:** The text in Section 4.8.1 has been changed to clarify the overall message of the paragraph, though this is not in line with the entire change recommended in the comment. The absence of consistent evidence on the current existence of significant impacts precludes making the recommended change.
- 00095-051:** The text in Section 4.8.3 has been revised.
- 00095-052:** The issue of subsistence impacts under the proposed action and alternatives has been revisited carefully in response to public comments. The revised version of Section 3.24 of the FEIS discusses a variety of subsistence data, including community harvest data, approximated subsistence harvests of selected game by geographic area, information on resource populations (see also Sections 3.19, 3.20, 3.21, and 3.22), and traditional ecological knowledge. Sections 4.3.20 and 4.7.8.1 refer to studies that have focused on impacts related to the oil industry on subsistence, thus providing an interpretation of key situational data on subsistence. The available data are adequate for purposes of evaluating impacts of the proposed action and all alternatives considered in this EIS.
- A variety of impacts on subsistence appear to persist in much of Alaska, but as discussed in the EIS these impacts tend to be consequences of a range of causes (usually not the TAPS). The acquisition of additional subsistence data likely would help to manage subsistence, sport, and commercial harvests more adequately. However, if and how these data would be collected are beyond the scope of this EIS.
- This EIS evaluates the Agreement and Grant of Right-of-Way for Trans-Alaska Pipeline (see Appendix B) as it currently exists. Approaches to enforcement of Section 29 of the agreement are beyond the scope of this EIS (see Section 2.5).
- 00095-053:** The primary purpose of Appendix D is to present additional data to support the analyses contained in the main body of the EIS. As result, we have not added information on village economies to the appendix (which generally has been revised), but we have added such information to Sections 3.23 and 3.24 in the main body of the EIS.
- 00095-054:** A text change has been made in Section D.1 of Appendix D and in Section 4.3.20 of the FEIS.

- 00095-055:** Available data do not indicate that subsistence areas necessarily have expanded, though the possibility certainly exists. If areas had expanded, reasons could also include changing distributions of resources (due to reasons other than changes directly or indirectly associated with the TAPS) and an increased ability to move greater distances with little commensurate kilocaloric cost to the subsistence practitioners.
- 00095-056:** The comment is noted. All comments received on the DEIS receive the same close attention.
- 00095-057:** This comment provides several detailed suggestions for revising Appendix E, the ANILCA Section 810 analysis. The suggestion to add additional language from 16 U.S.C. Section 3112(1) is acknowledged, but is not adopted. The general language concerning the standards for management cited in the comment does not materially change the analysis. The comments regarding the Evaluation of Impacts have been considered, but not incorporated. Additional information has been considered in Section 3.24 on subsistence, and in the subsistence sections of Chapter 4 on Environmental Consequences. However, this additional analysis resulted in the same conclusions in Appendix E. Renewal of the TAPS right-of-way itself is determined not to significantly restriction subsistence activities. However, when cumulative effects are considered, Appendix E concludes that the Proposed Action to renew the lease for 30 years, and the Alternative of renewing the Lease for < 30 years, may significantly restrict subsistence activities.
- Finally, the appropriate findings outlined in 16 U.S.C. Section 120(a)(3)(A) – (C) have now been added to the FEIS. The BLM has an established procedure that such findings are not offered at the DEIS stage, prior to public comments, and can only be finalized in the FEIS.
- 00095-058:** The BLM recognizes that there may be interactions between the TAPS and subsistence resources. The BLM also notes that current information does not show a relationship between TAPS and subsistence impacts. The BLM and State of Alaska within JPO are currently working with industry and others to develop a science-based approach to determine how TAPS and subsistence resources interact.
- 00095-059:** A text change has been made to Section E.1 of Appendix E in the FEIS to explain how these categories were identified.
- 00095-060:** The text has been changed, both in Appendix E (Section E.2.1.1) and in Section 4.3.20 (the portion of the EIS to which the cited passage points), though it does not use the recommended wording. As Section 4.3.20 deals with impacts under normal operations, no caveat is necessary with regard to a major oil spill, as such an event is not part of normal operations.
- 00095-061:** A text change has been made in Section E.2.1.1 of Appendix E.
- 00095-062:** The first recommended (text) change has been made to Section E.2.1.1 of Appendix E. The second issue noted—regarding the limited impacts of TAPS-related access—concerns TAPS service roads. The conclusion that they provide limited increased access is based in part on the extent of the network and in part on limitations on their use, particularly following the attacks of September 11, 2001 (as noted in the same paragraph).
- 00095-063:** The hypothesis stated by the comment (and the reasoning underlying it) is entirely possible. By the same token, the Dalton Highway provides the only land access to North Central Alaska, and it is reasonable to assume that every possible measure would be taken to keep it open. At this point, we have no way of knowing the future of the Dalton Highway, should the TAPS be discontinued. In the absence of such knowledge, we have assumed its continued operation.
- 00095-064:** The current wording in Section E.2.4 is consistent with the conclusions reached in the sections of the document referenced in the passage cited by the comment.

00095-065: A text change has been made in Section E.2.4.1.1 of Appendix E to better incorporate the concept of “harvestable” along with population-related issues.

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**Comments on Application of the Trans-Alaska Pipeline System Owners
 for Renewal of the Federal Grant and State Leases
 for the TAPS Right-of-Way**

My name is Dr. Riki Ott and I have lived in Cordova, Alaska, since 1985. I have served on the board of the Alaska Forum for Environmental Responsibility since its inception, however, these comments are my own. My community is still reeling from the aftershocks of the *Exxon Valdez* oil spill 13 years ago.

I am very concerned that the next major spill will be along the overland—or “overstream”—portion of TAPS. The risk is high for my community—20% of the 500-mile pipeline is within the Copper River watershed and the main pipeline crosses 76 tributaries of the Copper. While spill prevention and response measures have improved significantly since the 1989 spill—almost all due to citizen oversight and pressure, most of those changes are at the Valdez terminal and in Prince William Sound. On the pipeline, reliable spill prevention and response measures still do not exist. The problem is particularly acute at river crossings. TAPS crosses 800 streams and sections of pipeline over rivers have reached design capacity for sag—there is nothing left to give. This seems like an accident waiting to happen.

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My comments are based on my experience living in a community that oil company and government representatives visited in the early 1970s and stated there wouldn't be an oil spill in Prince William Sound. The oil companies made many promises such as tankers would have double hulls and we would have a state-of-the-art traffic control system in the Sound. Had these promises been kept, we might not have had the *Exxon Valdez* oil spill.

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Some, but not all, of the oil companies' promises were stated as a set of conditions and stipulations in the original agreements and right-of-way grants. The Interior Department and its designees were assigned the job of ensuring those promises to the American people were kept. Even a brief review of history shows that many of these promises were broken and that the companies were allowed to operate for literally years in noncompliance with their federal grant and state lease.

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For example, the ballast water treatment (BWT) facility at the tanker terminal has not been reviewed at least once every 5 years to ensure state-of-the-art equipment and technology as promised the federal grant and state lease. Some improvements at the

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BWT facility occurred only recently and through citizen involvement and oversight. The vapor recovery system at the tanker terminal didn't work for decades—since startup until 1998 when vapor controls were built into two of the four berthing docks. When it didn't work it dumped literally tons of benzene into the air and jeopardized public and worker health and safety in violation of the federal grant, state lease, and operating permits. In 1993, concerned industry employees testified in Congress that the quality control program was nonexistent—since startup—and, as a result, the entire TAPS had been so poorly maintained that it posed an imminent threat to the public, workers, and the environment. Subsequent audits validated the whistleblowers' concerns. Operating without an independent quality control program is in direct violation of the federal grant and state lease.

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(cont.)

More recent examples occurred after the *Exxon Valdez* oil spill. Still now over 13 years later, most of the species studied by the Trustee Council have not recovered from the spill. Yet the federal grant and state lease promise that damages to public lands will be promptly repaired or replaced and that damages to public fish and wildlife resources, and their habitat, will be rehabilitated. This has not happened.

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The oil companies also promised in stipulations attached to the federal grant and state lease to "take all measures necessary to protect the health and safety of all persons affected by their activities..." (Stipulation 1.20.1). I believe this promise includes taking care of residents and cleanup workers after a spill. Yet, after the *Exxon Valdez* spill, Tatituk villagers observed that Exxon was willing to spend \$800,000 on each sea otter for rehabilitation, but nothing or very little on mental health care for people traumatized by the spill. Further, thousands of cleanup workers got sick during 1989, despite Exxon's worker safety program. I am just learning that hundreds of people may still be sick from overexposure to oil vapors, fumes, and aerosols during the cleanup. All the oil companies promised to "immediately abate any health or safety hazards" (Stipulation 1.20.1); it seems all the companies, not just the spiller, are responsible to ensure that people don't get sick during the cleanup—and to take care of the ones who do as per the original promise.

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I think that the oil companies are now currently in noncompliance with the federal grant and state lease. For example, the fire-fighting ability at the tanker terminal is virtually nonexistent. Oily sludge (hazardous waste) has collected several feet deep in tanks at the BWT facility—and the sludge incinerator was never built as per the original facility design. There is still no independent quality assurance program. The contingency plans for river spills are grossly inadequate—drills show the plans won't work to contain and cleanup oil spilled into rivers. I'm sure this list is incomplete and pipeline regulators could add to it if they were to seriously look for problems and not just respond to ones brought to their attention by citizens or concerned employees.

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In light of these past and still ongoing problems, I strongly disagree with statements made by both the state and federal regulators in the draft EIS documents. The Alaska Department of Natural Resources found the oil companies to be in compliance with the state lease. This determination is obviously a requirement for reauthorization as it has nothing to do with reality.

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Federal and state regulatory agencies also stated that the aging 800-mile pipeline and its support systems that were originally built to last 30 years “can be sustained for an unlimited duration” with minimal costs and change in the operating and maintenance procedures. This statement demonstrates a lack of credibility—and no grasp of reality. The recent spate of accidents including the failed response to the Livengood bullet hole spill, and the 21-inch shift in a section of pipeline that went undetected for several months show that both industry and the regulators are ill-prepared for serious problems along the overland section of TAPS. The 3 spills at pump stations on pipeline startup after routine maintenance last fall clearly demonstrate this pipeline is aging and not aging well as frequent spills on startup are one sign of increasing problems that should be anticipated—not ignored—in an aging pipeline.

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I was further shocked and offended by the following statement in the draft EIS. “While the Exxon Valdez oil spill was a significant event in the operation of TAPS, creating significant benefits to the state and local economy that more than offset the economic damage to the fishing and tourism industries in Prince William Sound, it is unlikely that a spill of such magnitude, even if it occurred again would create the same level of economic activity” (DEIS, page 4-7-116).

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This offensive statement clearly shows that the government regulators have a completely different perspective of their job of pipeline oversight than we were all led to believe by the federal grant and state lease. The original right-of-way documents do not mention that economics of spill cleanup would be weighed against economic damages to the few communities at risk—I don’t think the right-of-way would have been granted with such a discriminatory approach. Instead the oil companies promised to protect, repair, replace, rehabilitate, etc. fish and wildlife resources, and their habitat (Sections 13, 14, 15, 19, 20, and 21)—and the regulators are supposed to hold the companies to this promise. Specifically, the companies also promised to protect subsistence resources, lands, and users, which have a zero dollar economy and can’t be compared to economics of spill cleanups at all.

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Oil spills are expensive to clean up—I’m sorry that I can’t see this as good for the economy, but that’s really irrelevant. Even if there was zero economy as measured by exchange of dollars, the oil companies are authorized to operate only if they take steps to minimize risk of oil spills and damage from spills. It’s the government regulators’ job to see the oil companies are held to this standard—the statement in the draft EIS seems to indicate that the regulators are not doing their job and are out of compliance themselves with the federal grant and state lease.

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Finally, I must state that I feel this 45-day public comment period for a project of such national and state significance is counterproductive at best and a sham at worst. I did not have time to thoughtfully review the 1,700 page draft EIS because I have been busy trying to earn a living and put up winter food during Alaska’s short summer. It appears from statements in the draft EIS that the government regulators did not have time to thoughtfully review nearly 30-years of TAPS history and compare performance with promises, conditions, and stipulations in the federal grant and state lease. Why the rush on a project of such significance? Over a year ago, the Joint Pipeline Office stated that the comment period would run from July to September, but in keeping with 25

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years of broken promises by TAPS operators and government regulators, the regulators have broken that promise too.

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(cont.)

State and federal regulators have further shown their disregard for public comments by trying to dismiss the Alaska Forum's key recommendations without any consideration on their part, which seems to be in violation of the spirit of the NEPA process. Despite all the obstacles for public testimony, I offer the following recommendations for improving TAPS operations for the next 30 years—and I believe all my comments are well within the scope of this National Environmental Policy Act hearing process.

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I support reauthorization for another 30 years only if these recommendations are fully addressed through the NEPA process and included in the next federal grant and state lease.

Recommendation #1: Stiff meaningful penalties for failure to comply.

Background of Concern. It is often said that TAPS is the most regulated pipeline system in the world, but while the regulators and industry speak to the quantity of oversight, I am more concerned with the quality of oversight. There are three parts to meaningful oversight: setting standards and stipulations; monitoring compliance; and enforcing compliance. We have out-of-date standards, questionable monitoring, and virtually nonexistent enforcement. I don't care if TAPS is the most regulated pipeline system in the world. I care whether the regulation works: it doesn't—and it hasn't for 25 years.

The regulatory system is broken largely because of questionable monitoring, no meaningful enforcement, and hobbled regulators. By questionable monitoring, I mean that I question the validity of industrial self-monitoring. And I also question whether the regulators are monitoring enough, whether they are monitoring the right things, whether they are doing so in a timely manner, and whether they enforce compliance with original promises and stipulations.

The problem with enforcement is lack of meaningful penalties for failure to comply with the leases and stipulations. Monetary fines are dwarfed by enormous profits, and the regulators are certainly not going to shut down the oil flow as a penalty for noncompliance—the nation has become too dependent upon this energy source.

And finally, regulators are hobbled because they discouraged from doing their jobs. For example, the State of Alaska has a long history of firing or reclassifying employees who take their regulatory and oversight role seriously. ADEC employee Dan Lawn's decade-long battle with the state to regain his oversight position of TAPS terminal operations received international attention. This year, ADEC employee Susan Harvey made statewide news when the state fired her, basically, for reviewing North Slope operating permits too closely.

Federal regulators frequently fail to follow through with enforcement. The criminal investigation by the US Justice Department (DOJ) into the 1993 file-stuffing incident by Alyeska during the Owen Thero audit was quietly dropped after months of work. In 1996, another criminal investigation occurred when it was disclosed that BP had reinjected hazardous waste down one of its wellheads. The DOJ levied \$25 million in fines and civil penalties against BP and its contractors and put BP on probation. The penalties were trivial in terms of North Slope profits. More importantly: now BP is in apparent violation of its probation because of safety issues, yet the federal government has not yet enforced the probation terms.

All the laws, regulations, stipulations, and oversight in the world are forever inadequate without meaningful penalties and enforcement. These examples send a clear message to the oil company permittees that the laws and regulations don't matter and are secondary to economic considerations. This was not what the American public was originally promised or led to believe would happen.

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Recommended Solution. Some possibilities for meaningful penalties for noncompliance by the oil companies are as follows.

✓ Oil companies in noncompliance could be required to report the circumstances of their noncompliance to their shareholders in quarterly newsletters as the events unfold (not after the fact). This is similar to the requirement for reporting violations under the federal Racketeering and Conspiracy Act—and it would help the public understand that a contract has been broken and public trust breached.

✓ CEOs and other responsible officers of oil companies in noncompliance could be required to conduct public service in the TAPS corridor communities most at risk from the consequences of the noncompliance. This is similar to the public service required of Joe Hazelwood as part of his penalty for grounding the *Exxon Valdez* and spilling oil, but this requirement should not be predicated on a trial. Every instance of monetary fines for noncompliance should also include a public service component.

✓ Penalties should be accrued with interest on a daily basis as long as the infraction occurs.

✓ Penalties should be set higher and tied in with the cost of the fixing the problem: penalties should be 10 times the money saved by failure to do the maintenance work in a timely manner. This will force owners to change perspective and view maintenance as a *cost savings* compared to prospective penalties.

Such requirements might help improve oil companies' compliance with the TAPS operating permits, but another approach is needed to deal with government noncompliance or breach of the public trust.

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Recommendation #2: Establish a TAPS Citizens' Oversight Group.

Background of Concern. Following the *Exxon Valdez* tragedy in 1989, the State of Alaska created the Alaska Oil Spill Commission to investigate the root causes of the spill and recommend changes to the oversight system. One of the Commission's central findings was that institutional complacency, both in industry and government, was a root cause of the spill. The Commission found that citizens were essential to an effective oversight system because they bring urgency to protecting the resources they care about and depend upon for their livelihoods. Distant bureaucrats, despite their best efforts, do not share this local perspective. To prevent future complacency, and thereby prevent future disasters, the Commission recommended creation of citizens' advisory councils for the marine and overland segments of Alaska's oil transportation system.

The federal Oil Pollution Act of 1990 created Regional Citizen Advisory Councils (RCAC) to oversee marine transportation in Prince William Sound and Cook Inlet. However, citizen oversight of the 800-mile pipeline was ignored. A decade of experience with the RCACs, combined with other citizen efforts, has proven the wisdom of the Commission's finding. Citizen involvement does indeed strengthen oil spill prevention and environmental protection efforts. Some of the accomplishments driven by citizen oversight at Valdez include: state-of-art tractor tugs as escort vessels in Prince William Sound; installation of vapor recovery system at the loading docks and terminal; reduction of hydrocarbons in terminal discharge; and elimination of hazardous wastes discharge through ballast water treatment facility. It is time to apply the lessons learned to the overland pipeline.

Recommended Solution. The Grant and Lease should establish a TAPS COG that would operate completely independently of government regulators and industry: incorporating government and industry into "citizen oversight" creates an oxymoron. Establishment of a TAPS COG should be required as a condition of TAPS and permits. The TAPS COG should make recommendations directly to the Department of Interior (DOI) and to the Department of Natural Resources (ADNR) or their designees. The COG should be funded through the DOI by the permittees as part of the cost of TAPS operations, and all members of the TAPS COG and their staff should be paid for their services. The COG contract should be negotiable on the same timeframe as the right-of-way permit; i.e., 30 years, with audits required as frequently as they are required for the overall TAPS (annually, 5 years, etc.).

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Recommendation #3: Charge penalties if more than 10% of employees are afraid to speak out.

Background of Concern. These first two solutions—meaningful penalties and citizen oversight—are insufficient to address the increased risk of environmental damage and to public and worker health and safety from accidents due to industry and bureaucratic noncompliance and/or complacency.

The original Grant and Lease promise the American public that the TAPS will have a comprehensive quality assurance program “to assure that the environmental and technical Stipulations in this Agreement will be fully complied with throughout all phases of construction, operation, maintenance, and termination” (Section 9, p. 5).

We’ve never had that—and I don’t believe we do now. During TAPS construction we had falsification of x-ray welds and harassment of industry whistleblowers that made national news at the time and were the subject of congressional oversight hearings. In the mid 1980s, whistleblowers reported that the vapor incinerators at the Valdez terminal weren’t working correctly (and never had been). Regulators confirmed that the air pollution (benzene) from the terminal had increased the cancer risk to local residents and workers. After the 1989 oil spill, whistleblowers again stepped forward to report massive corrosion, massive electrical deficiencies, and complete breakdown of the Quality Control and Assurance Programs along with other system-wide problems. Their concerns became the subject of more congressional oversight hearings, several audits, and multiple lawsuits from employees who suffered extreme harassment, intimidation, retaliation, discrimination, and wrongful termination.

Industry employees are the public’s front line of defense in reducing oil spills. The workers know what is wrong and how to fix it. They need to be allowed to do their jobs free of harassment and intimidation. All personnel—and particularly the quality control inspectors—need to be independent of pressure from Alyeska and its owners to be the reliable comprehensive program promised to the public. Such a program is critical to TAPS integrity as the pipeline ages, because increased maintenance costs will compete with oil company profits: workers need to be able to report maintenance problems without fear of reprisal.

Recommended Solution. The nuclear regulatory industry closes facilities if more than 10% of plant employees are afraid to speak out because of reprisals, harassment and intimidation. A similar standard should be adopted for TAPS operations, with annual independent surveys of workers to determine work conditions. Instead of closing facilities, stiff penalties should be applied, and public service by company officials and reporting of noncompliance to shareholders required (see Rec. #1, above).

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Recommendation #4: Require independent, long-term epidemiology studies, and short- and long-term treatment of physical and mental health effects, for workers and affected residents after major TAPS spills.

Background of Concern. Stipulations attached to the original documents promise the American people “permittees shall take all measures necessary to protect the health and safety of all persons affected by their activities performed in connection with the construction, operation, maintenance, and termination of the Pipeline System, and shall immediately abate any health or safety hazards” (Stipulation 1.20.1). Further, the original documents promise a quality assurance program to try to prevent damage to public and worker health and safety from occurring in the first place by adopting procedures to promptly detect and abate any conditions that could lead to such damages (Section 9, federal right-of-way agreement).

Oil spills were—and still are—an anticipated side effect of TAPS construction, operation, maintenance, and termination. Therefore, these promises apply to TAPS oil spills and TAPS oil spill cleanups. Oil spills are hazardous waste cleanups under the US Occupational Safety and Health Administration (OSHA) *Hazardous Waste Operations and Emergency Response* standard (29 CFR 1910.120; 54 FR 9294, 3/6/89).

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Physical Health Effects. There is evidence from oil spills around the world that nearby residents get sick from exposure to oil aerosols from wind and wave action and from volatilized oil vapors. In 1989, residents of Tatitlek became nauseous and dizzy when the fumes from the *Exxon Valdez* test burn permeated their village (*Anchorage Times*, 3/28/89). Researchers found residents exposed to oil aerosols, mists, and fumes from the *Braer* spill in Shetland in 1992 suffered more incidences of headaches, throat irritation, skin irritation, itchy eyes, and mood changes, and to a lesser extent fatigue, diarrhea, nausea, wheezing, cough, and chest ache, than unexposed individuals.¹ Researchers found residents exposed to oil aerosols, mists, and fumes from the *Sea Empress* oil spill in Milford Haven harbor in southwest Wales in 1996 suffered similar symptoms to a greater extent than unexposed people.²

There is also evidence that *Exxon Valdez* cleanup workers got sick from exposure to oil aerosols, mists, and fumes. Court records (now sealed) revealed that cleanup workers filed over 6,700 claims with Exxon in 1989 for respiratory illnesses.³ Exxon did not report these claims to state or federal OSHA oversight agencies and so dodged the long-term health monitoring requirements of hazardous waste cleanup regulations. Health symptoms of cleanup workers described in media coverage, 1989 congressional oversight hearings, and medical records from toxic tort cases filed by sick workers

1. Campbell, D. M. and 5 others. 1993. Initial effects of the grounding of the tanker *Braer* on health in Shetland. *BMJ* 307: 1251-1255; and Campbell, D. M. and 4 others. 1994. Later effects of the grounding of tanker *Braer* on health in Shetland. *BMJ* 309: 773-774.

2. Lyons, R. A. and 4 others. 1999. Acute health effects of the *Sea Empress* oil spill. *J. Epidemiol. Community Health* 53: 306-310.

3. *Stubblefield, Garry, and Melissa Stubblefield v Exxon, Veco, and Norcon*, 3AN-91-6261, Superior Court for the State of Alaska, Third Judicial District of Anchorage (1994).

include respiratory and sinus problems, headaches, cough, nausea, dizziness, sore throats, burning eyes, and mood swings among others. *Exxon Valdez* cleanup workers filed nearly 1,800 claims with the Alaska Workers' Compensation Board in 1989: respiratory claims were by far the leading illness among cleanup workers.⁴

Mental Health Effects. Besides affecting the physical health of workers and residents, researchers have documented acute and prolonged mental health effects on residents of affected communities. I believe that the original promises to protect the health and safety of all persons affected by the owners' activities included mental as well as physical health.

Seminal studies by sociologist Dr. Steve Picou and others on communities impacted by the *Exxon Valdez* spill found that models developed from natural disasters for community response and relief of emotional trauma did not work for man-made disasters. In natural disasters, community impacts were known to be short-term and response was therapeutic-social bonds actually improved when people worked together to rebuild their community. But in technological disasters such as Bhopal, Chernobyl, Three Mile Island, Love Canal—and the *Exxon Valdez* spill, sociologists observed pervasive and debilitating stress, and chronic social and psychosocial impacts. These impacts were prolonged by divisive litigation—still unsettled in the *Exxon Valdez* spill—that further destroyed social bonds and hindered the healing process.⁵

In communities struggling with disaster-induced psychological trauma, there is little opportunity to work collectively to rebuild and recover. Speeding recovery by mitigating social damage is addressed through Federal Emergency Management Act, but this law only applies to natural disasters. Picou and his co-workers developed a method of reducing emotional trauma from the *Exxon Valdez* spill: this "peer listening circle" is now being used to relieve mitigate emotional harm in oil spill impacted communities and other communities experiencing trauma from technological disasters.⁶

96-19
(Cont.)

4. Alaska Department of Labor. 1990. Prince William Sound oil spill. Chapter 3 in *Occupational Injury and Illness Information—Alaska 1989*. Pp. 25-34.

5. Freudenberg, William. 1997. "Contamination, Corrosion and the Social Order: An Overview." *Current Sociology* 45(3):19-39, 1997.

Gill, Duane and Steven Picou. 1998. "Technological disaster and Chronic Community Stress," *Society & Natural Resources* 11:795-815.

Picou, Steven. 2001. *Toxins in the Environment, Damage to Community: Sociology and the Toxic Tort*. In Steve Kroll-Smith and Pamela Jenkins (eds.), *Witnessing for Sociology: Reflexive Essays of Sociologists in Court* (New York: Greenwood Press).

Picou, Steven and four others. 1998. "Technology, Disaster and Litigation: Evaluating a Model of Chronic Community Impacts." Presented at the American Sociological Assoc., San Francisco, CA, August 1998.

Picou, J. Steven, Duane A. Gill and Maurie J. Cohen, eds. 1997. *The Exxon Valdez Disaster: Readings on a Modern Social Problem* (Dubuque, IA: Kendall-Hunt).

6 Picou, Steven. 2000. The "Talking Circle" as Sociological Practice: Cultural Transformation of Chronic Disaster Impacts." *Sociological Practice: A Journal of Clinical and Applied Research*, 2(2): 77-97.

The *Exxon Valdez* oil spill, the 2001 Livengood spill, the spate of spills in fall 2001 at pump stations during restart after maintenance are just examples of the inevitable consequences of TAPS operations. All the TAPS owners are liable for public and worker health and safety from spills along the TAPS corridor, while single owners are assumed to be responsible parties for tanker spills. However, I maintain that worker and public health and safety for all TAPS spills—whether along the overland or marine portion—are addressed through the original TAPS right-of-ways. I further maintain that additional stipulations are necessary in light of law changes (oil spills declared hazardous waste cleanups), and evidence that people and workers exposed to oil aerosols, mists, and fumes, and oil spill emotional trauma, get physically—and mentally—sick.

Recommended Solution. TAPS owners should be required to pay for increased mental health care in the years during and immediately after a spill in all affected communities. This care should include focused peer listening circles to mitigate community-level emotional trauma. Since oil spill cleanups are considered a hazardous waste cleanup, long-term health care studies should be required as the health symptoms associated with crude oil exposure (long-term respiratory damage; disorders of the central nervous system, liver, kidney, blood, and skin; endocrine disruption; and immune suppression) could take years to manifest as physical health problems. Oil companies should also be required to provide chemical decontamination treatments for individuals with acute health symptoms from high body levels of crude oil and other substances present during the cleanup. Individuals who become disabled from overexposure to chemicals present during the cleanup should be compensated by the oil companies, as should the estate of individuals who die from overexposure to chemicals present during the cleanup.

Any spill-related epidemiology studies and treatment for mental and/or physical health impacts should be contracted through the citizen oversight groups or independent professional facilities and should be paid for by the TAPS owners (or in the case of a tanker spill, by the responsible party) through the DOI. The TAPS owners or oil shippers should not be allowed to participate in any studies or treatments in any way (i.e., study or treatment design or conduct, review of draft results, sharing of confidential health data, etc.).

96-19
(Cont.)

Recommendation #5: Require independent verification of spill volume as a condition of lease renewal.

Background of Concern. Spill penalties for damages to natural resources such as fish, wildlife, public lands held in the public trust are based on the volume of oil spilled—as reported by the spiller. This is ludicrous. Obviously the incentive to underreport spills and thereby reduce spill penalties is very high. One way to reduce the risk of spills and resulting damage to the environment and worker and public health and safety—one of the promises of the original agreement and right-of-way leases—is to penalize TAPS owners, or responsible parties in the case of a TAPS tanker spill, for the correct amount of oil spilled.

For example, Exxon underreported how much oil it spilled. In an unpublished investigation on file at the Alaska Resources Library and Information Services, the State of Alaska found Exxon spilled about 35 million gallons.⁷

Records show the three Exxon tankers used to lighten the *Exxon Valdez* went to Exxon refineries to recover what Exxon insisted was pure "oil," but there was so much water in some of this "oil" that the refineries refused to offload all of it. The refineries recovered what oil they could and returned the wastewater to each tanker. The oily water was ballast for the return trip to the Valdez terminal, where the amount of water—and approximate oil content—was duly recorded on ballast water survey forms.

96-20

These forms show that the *Baton Rouge* carried about 10.14 million gallons of water from the Exxon Valdez; the *San Francisco* about 9.17 million gallons; and the *Baytown* about 5.01 million gallons. This is 24.32 million gallons of water, which Exxon claimed was oil: 24.32 plus 11 million gallons shows Exxon actually spilled closer to 35 million gallons (28 to 42 million gallons with a 20% error margin).

That's more than three times as much oil as Exxon reported. Exxon's figure for oiled coastline, 1,300 miles, is low too. NOAA reported that 3,240 miles were oiled—2 1/2 times as much oiled coastline as reported by Exxon.⁸ Exxon paid the American public one billion dollars for damage to public resources from a supposedly 11 million-gallon spill: by underreporting its spill by one-third, the company only paid for one-third of the damages and essentially saved itself two billion dollars.

Recommended Solution. Independent verification should be required as a new condition of lease renewal. Further, stipulation should specify that government regulators and citizen oversight councils, either separately or jointly, conduct the assessment and agree upon the volume spilled before spill penalties are assessed.

7. State of Alaska. Unpublished "ACE" investigation, 1989-1991. On file at Alaska Resources Library and Information Services, Anchorage, AK.

8. Mearns, A. 1996. *Exxon Valdez Shoreline Treatment and Operations: Implications for Response, Assessment, Monitoring, and Research.* *American Fisheries Society Symposium* 18 (1996): 309-328.

Recommendation #6: Thoroughly review and update the original Grant, Lease, and stipulations in light of past experience, current science, new technology, new laws, and public comments.

Background of Concern. The federal grant and state lease, and the attached stipulations, are seriously out-dated as evidenced by over 30 years of experience with TAPS construction, operation, maintenance, and spills, discussed above. The sections and stipulations designed to protect the environment, fish, wildlife, subsistence resources and habitat, and worker and public health and safety are all inadequate. The Grant and Lease and stipulations need to be strengthened to provide assurances to the American public that the oil companies and government will live up to their original promises.

Further, these original documents are three decades old and no longer reflect current science, technological advances, and law changes. For example, global warming and melting permafrost threaten to make at least one-third of the 77,000 vertical support members of the TAPS unstable with potentially catastrophic effects on the pipeline. Studies from the *Exxon Valdez* spill show that oil is 1,000 times more toxic previously thought, and that it can cause long-term environmental damage. Federal laws are still based on outdated research from the 1970s and 1980s and are grossly under-protective of fish and wildlife. This makes the original promises to protect fish, wildlife, and habitat even more important as basically this agreements mean the owners and TAPS regulators will take measures *beyond existing laws* in order to protect fish and wildlife, habitat, and other subsistence needs.

Further, the original grant and lease agreements were signed by some companies that no longer exist because of mergers and buyouts. I assume, but would like proof, that the new companies are signatories to the current right-of-way Grant and Lease.

Recommended Solution. As stated above: the original stipulations and right-of-way Grant and Lease need to be thoroughly reviewed.

96-21

Recommendation #7: Grant and lease renewals should be made conditional on satisfactory completion—within 12-months of the renewal—of an independent field-based evaluation of the entire TAPS including hardware and management.

Background of Concern. In 1993 a series of independent and industry audits found TAPS was in an imminent state of collapse with several major system wide problems including hardware problems, technical issues, and management issues. 1994 was proclaimed to be the “year of fixes” by the Alyeska president at the time, but fixes proved elusive. For example, the highly touted fiber optics cable, which was supposed to replace the old communication system, didn’t work as planned and was quietly shelved.

No one knows how many problems were actually fixed of those disclosed in 1993, or what new problems remain unfixed because there has not been any independent audits of the TAPS since 1993. This is not acceptable for a system that provides a significant portion of the nation’s energy demands and the bulk of the state’s operating revenues, and can wreak environmental, social, and economic havoc on Alaska’s communities, residents, and federally recognized tribes.

Recommended Solution. As stated above: 30-year renewal should be **conditional** upon satisfactory completion of an **independent** field-based audit of the entire TAPS.

96-22

Recommendation #8: Grant and lease renewals should be made conditional on satisfactory completion of annual independent audits of TAPS operations and management and 5-year in-depth independent field-based evaluations of the entire TAPS, including hardware and management.

Background of Concern. In the lease renewal documents, federal and state regulatory agencies stated that the aging 800-mile pipeline and its support systems that were originally built to last 30 years “can be sustained for an unlimited duration” with minimal costs and change in the operating and maintenance procedures. This is not a credible statement given the numerous recent problems with the pipeline—and the anticipated escalation of problems as TAPS approaches its 30-year design life.

96-23

I am concerned that the recommended alternative—to renew the permits for another 30 years—is way too long for this particular pipeline: it is essentially double its design life.

Recommended Solution. Compromise: renew the permit for another 30-years, but make the renewal **conditional** upon satisfactory completion of independent audits every year with in-depth audits every 5 years as stated above. The Prince William Sound Regional Citizens’ Advisory Council has to pass an annual audit and review of operations to be recertified. Nothing less should be expected for the entire TAPS, which has much more at stake than the advisory council!

Recommendation #9: Immediately escrow TAPS DR&R funds and use interest to finance the TAPS COG and other measures to improve protections for environment, fish and wildlife, and worker and public health and safety.

Background of Concern. Funds intended for future dismantling, restoration, and removal of the TAPS have been collected from TAPS oil companies and passed through to parent companies, resulting in enormous profits—and no pot of money for future DR&R. This is a breach of public trust—and yet another example of corporate irresponsibility and accounting fraud. Government regulators need to take immediate action to remedy this problem.

96-24

Recommended Solution. As stated above: **this should be done before any grant and lease renewals** as a sign of good faith efforts and intention by oil companies and government regulators to the American public. The public was promised this once: we don’t need to be promised it twice. The funds simply need to be escrowed as required under the original grant and lease agreements before they expire. Further, earnings from the funds can be pledged towards payment for fulfilling other stipulations under the original agreements—such as protecting the environment, public resources, and worker and public health and safety.

Recommendation #10: Transfer of TAPS operations to single source with no North Slope production.

Background of Concern. The oil company owners consistently cut costs on TAPS operations and maintenance to increase their profits. This dynamic has created an internal conflict of interest, essentially, between the owners and the public interest.

While the oil company permittees promised in the right-of-way leases to take all 'reasonable' or 'appropriate and adequate' steps to protect the environment, fish and wildlife, and public and worker health and safety, these adjectives are relative when viewed from different perspectives. What seems reasonable to the oil companies, who measure the cost of prevention against their profits, may not seem reasonable to the public, especially those who measure the cost of spills against their livelihoods and health.

Under the present management scenario, the public has no opportunity to weigh in with social, environmental, economic, and health costs except once every 30 years during the permit renewal. Obviously this disadvantages the public and leaves our fate in the hands of the oil companies whose performance over the past 30 years shows that the public traded very real permits for paper promises. The oil companies have not been accountable to the American public and have profited handsomely at the public's expense.

Recommended Solution. As stated above: by transferring the operation, maintenance, and termination of TAPS to a single source with no North Slope production, the internal conflict of interest is broken. This operator would take more 'reasonable' steps, from the public perspective, to reduce its liability from spills by attention to TAPS operations and maintenance. Performance bonds could be required for additional protection of the public interest.

96-25

Summary of Concerns

Over 13 years ago, I gave a talk the evening before the *Exxon Valdez* disaster, in which I summarized concerns of the Cordova fishing community by stating that it was not a question of if, but when, the 'Big One' would occur in Prince William Sound. It didn't feel good to be right then, and it still doesn't now. I've witnessed dozens of fishing families forced to leave Cordova because they could no longer make a living after the spill.

Once again I am echoing the concerns of people in Cordova who are concerned about imminent danger from a pipeline spill along the TAPS corridor. More paper promises like the Reliability Centered Maintenance (RCM) program will not avert disaster without independent management and a stable source of funding. The biggest challenge for the next 30 years is to keep oil in that aging pipeline. I wish I could age as well as the oil companies allege that pipeline is aging!

96-26

We are going to have to get very creative to prevent a pipeline spill. We can't keep doing the same thing we have done in terms of TAPS operations and maintenance for the past 25 years. To continue past practices is to steer our TAPS ship straight towards Bligh Reef. We've got to change course.

96-27

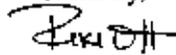
We have simply run out of time for bickering over whether public comments do or do not fall within the scope of the NEPA hearing process. The Alaska Forum is one of your strongest critics—or your staunchest ally, depending on how you chose to take our comments. We have always pointed out genuine problems and realistic solutions. We've even figured out ways to pay for the increased protection from spills without additional costs to the oil industry: the money can come by plugging the leak of profits from TAPS DR&R funds that the oil companies were not entitled to in the first place.

96-28

Listen to us. Believe us. Work with us. We should all be on the same team. We should all be working together to prevent the 'Big One' from happening on the Trans-Alaska Pipeline System. Don't make me right again.

I ask that you give serious consideration to my comments. And I restate my position: I can only support TAPS reauthorization for another 30 years if these recommendations are fully addressed through the NEPA process and included in the next federal grant and state lease.

Sincerely,



Riki Ott, Ph.D.

POB 1430, Cordova, AK 99574

Responses for Document 00096

00096-001: The oil spill planning and prevention effort in the JPO is a large-scale, multi-agency endeavor. Each participating agency (Alaska Department of Environmental Conservation, Environmental Protection Agency, BLM, and the Alaska Department of Natural Resources) has a particular focus, but these are all considered collectively in the JPO TAPS oil spill response and planning group. This inter-agency group generally meets monthly with APSC and maintains a continuous monitoring program on TAPS oil spill planning and related issues. The group also coordinates with the Office of Pipeline Safety, which reviews the Pipeline Oil Spill Contingency Plan.

The emphasis of all agencies is on the prevention of spills. This is accomplished through a combination of: 1) oversight of spill contingency planning (including 64 exercises on TAPS annually) and, 2) through JPO's comprehensive TAPS operations oversight, monitor issues which could contribute to a spill in the future. In the event of a spill, however, JPO has a number of highly-trained individuals who are fully prepared to respond quickly and effectively.

During 1990 and 1992 the JPO agencies worked with APSC to improve the pipeline contingency plan. Personnel response equipment and response training and exercise programs were added to the plan. Access to the pipeline was improved and the Incident Command System was adopted. All this was done without citizen oversight and pressure.

APSC's oil spill response capabilities and plans for TAPS are summarized in Section 4.1.4 of the EIS and explained in detail in the "TAPS Oil Discharge Prevention and Contingency Plan" (APSC 2001g) for the pipeline and in the "Valdez Marine Terminal Oil Discharge Prevention and Contingency Plan" (APSC 2001h) for the VMT. The Plans provide for significant resources, including equipment, trained personnel, and effective organization, to respond if oil does spill from the pipeline or at VMT. They are available to the public through various libraries in several major cities in Alaska when the plan is undergoing public review. Oil spill prevention and response capabilities and related activities specific to the Copper River Drainage area are discussed more fully in the text box in Section 4.4.4.3, "Oil Spill Planning for the Copper River Drainage."

00096-002: Unfortunately, there is always a remote probability of an extreme event such as a very large oil tanker spill. However, based on lessons learned as a result of the EVOS, new legislation, and new regulations, numerous improvements have been made that will reduce the likelihood of a major marine transportation accident and/or the expected outflow given such an accident. These measures fall into two main classes: (1) Improvements in spill prevention and response capability for Prince William Sound (PWS) made by APSC, including the creation of the Ship Escort Response Vessel System (SERVS) and (2) Phase-in of double-hull tankers.

The recent National Research Council study (NRC 1998) offers estimates of measures of effectiveness of double-hull tankers compared to existing single-hull tankers. This study estimates that the probability of a spill would be reduced by an "improvement factor" ranging from 4 to 6, and the expected spill outflow reduced by an improvement factor of between 3 and 4. Together, improvements in prevention and phase-in of double-hull tankers should reduce spill probabilities and spill outflows at PWS appreciably.

00096-003: The State of Alaska and the BLM have evaluated the compliance issues and have determined that the applicant currently is in compliance with the terms of the Federal Grant and State Lease. The BLM recognizes that there have been past compliance problems, but these have been corrected.

00096-004: The JPO produced TAPS engineering report No. 00-E-018, Valdez Marine Terminal Ballast Water Treatment Plant: Compliance with Agreement and Grant Section 23 (May 24, 2000). The report satisfies the 5-year review process.

00096-005: The federal action addressed in this EIS is renewal of the right-of-way for the TAPS. While renewal would result in continued operation of oil tankers in Prince William Sound, that activity is beyond the limits of the right-of-way corridor and is not under the jurisdiction of the BLM. Moreover, the BLM has no authority over oil spill cleanup and damage assessment within Prince William Sound. Regulation of activities associated with the transport of oil by tankers in Prince William Sound is under the jurisdiction of the U.S. Coast Guard and the U.S. Department of Transportation. Analysis of impacts to fish and wildlife in Prince William Sound is included in the EIS to provide a perspective within which the direct and indirect impacts of the proposed action and alternatives are addressed.

The BLM and member agencies of JPO enforce a number of stipulations that are protective of fish and wildlife resources within the right-of-way corridor. The EIS analysis did not find any significant impact to fish or wildlife resources associated with TAPS operations and maintenance within the right-of-way corridor.

00096-006: Section 4.4.4.7 provides a detailed analysis of the potential effects of oil spills on human health.

The BLM and member agencies of the JPO are committed to the protection of human health and the environment. The Federal Grant and authorizing legislation (TAPAA) provide unprecedented authority to BLM in assuring the protection of human health and the environment. Stipulations (the guiding conduct of operations for the operator of TAPS) within the Federal Grant contain numerous provisions that are protective of human health and the environment.

00096-007: Any information regarding potential hazards associated with TAPS should be provided to the JPO.

The Valdez Marine Terminal (VMT) has a number of fire protection systems, and fire protection capability was considered in preparing the EIS. See the text box in Section 4.3.13.1 for a complete description of VMT fire control features.

Buildup of waxy solids in tanks at the Ballast Water Treatment Facility has received considerable attention by the JPO and APSC, as well as by citizen groups such as PWS RCAC. There is concurrence on an appropriate course of corrective action. See the text box in Section 4.3.13.1.3.

APSC's oil spill response capabilities and plans for TAPS are summarized in Section 4.1.4 of the EIS and explained in detail in the "TAPS Oil Discharge Prevention and Contingency Plan" (APSC 2001g) for the pipeline and in the "Valdez Marine Terminal Oil Discharge Prevention and Contingency Plan" (APSC 2001h) for the VMT. The plans provide for significant resources, including equipment, trained personnel, and effective organization, to respond if oil does spill from anywhere along the pipeline, including the river crossings or at the VMT. The plans are available to the public through various libraries in several major cities in Alaska. These documents are updated and reviewed by various state and federal agencies periodically ranging from every year to every 5 years. The substantive elements of the contingency plans are controlled by ADEC rules (18 AAC75), which include provisions for public review and comment as part of the plan update procedures. The lessons learned from occurrences, such as Exxon Valdez oil spill and the MP 400 bullet hole incident, are incorporated into the documents when they are updated.

APSC substantially revised its quality control procedures after the 1993 testimony. APSC's quality control program undergoes review by the JPO under its comprehensive monitoring Program. See Section 4.1.3.1 of the FEIS.

00096-008: Thank you for your comment.

00096-009: It is correct that the effects of aging have the potential to impact the integrity and reliability of any mechanical system. However, age alone does not dictate reliability or performance. Myriad factors can impact system performance. For example, the manner in which mechanical systems are operated and maintained can greatly influence their long-term integrity, reliability, and performance.

Utilizing its oversight authority, the JPO ensures that APSC's operating and maintenance procedures take all potential impacting factors into account and are sufficient and appropriate to maintain TAPS integrity. The JPO also has the authority to direct APSC to undertake changes, repairs, or upgrades when that is not the case. Under the reliability centered maintenance (RCM) program, all TAPS subsystems are being carefully evaluated for the consequences of their failure and will have maintenance regimens or remanufacture, overhaul, or replacement schedules established that preclude such failures from occurring, if they would have an adverse impact on public safety or the environment.

The text box in Section 4.1.1.8 provides a synopsis of the MP 400 bullet hole incident. Details of the spill and the response are provided. Changes to the pipeline's spill contingency plan that are being made as a result of lessons learned are also discussed.

Each of the three spills that occurred on start-up after a maintenance-related shutdown have been carefully evaluated, and causal factors have been identified. The JPO has required APSC to revise its shut-down and start-up procedures to prevent reoccurrence. APSC is also required to conduct drills on its procedures to ensure they are correct and complete. Also, APSC has made modifications to piping at pump stations to enhance cold restart capabilities. Summaries of the three incidents are included in CMP Report #11, issued in April 2002. See also Section 4.1.1.4.

00096-010: Text has been added to Section 4.7.8.3 of the FEIS providing additional sources of information about the impact of the Exxon Valdez oil spill (EVOS) on communities, including intangible impacts, such as psychological stress, and in the fisheries, recreation, and tourism industries in the Prince William Sound area. In addition, compressed overviews of selected impacts of the EVOS have been added to Sections 4.7.8.1 and 4.7.8.2.

00096-011: Text has been added to Section 4.7.8.3 of the FEIS providing additional sources of information about the impact of the Exxon Valdez oil spill (EVOS) on communities, including intangible impacts, such as psychological stress, and in the fisheries, recreation, and tourism industries in the Prince William Sound area. In addition, compressed overviews of selected impacts of the EVOS have been added to Sections 4.7.8.1 and 4.7.8.2.

00096-012: Text has been added to Section 4.7.8.3 of the FEIS providing additional sources of information about the impact of the Exxon Valdez oil spill (EVOS) on communities, including intangible impacts, such as psychological stress, and in the fisheries, recreation, and tourism industries in the Prince William Sound area. In addition, compressed overviews of selected impacts of the EVOS have been added to Sections 4.7.8.1 and 4.7.8.2.

00096-013: Although 45 days is understandably a short time to review a document of this size, the time period is consistent with the Council on Environmental Quality regulations for implementing the National Environmental Policy Act regarding the review of draft environmental impact statements. Significant effort was made to advise people of the schedule and duration of the review well in advance (one year). The DEIS was published on schedule and many substantive comments on the content of the DEIS, including yours, were received during the 45-day period.

00096-014: The BLM employed six methods to receive comments from the public: (1) via a public web site, (2) toll-free fax, (3) toll-free voice mail, (4) six public hearings, (5) standard mail, and (6) hand delivery to JPO offices. To imply that it was difficult to submit comments is incorrect.

00096-015: The JPO consists of 13 federal and state agencies who closely cooperate in TAPS oversight activities. The BLM, as lead federal agency, has been audited by the Government Accounting Office and the Department of the Interior Inspector General and has been found to be doing creditable oversight of TAPS.

The BLM has the necessary authority under the Federal Grant and TAPAA to rigorously enforce compliance with all current and future stipulations.

The BLM and member agencies of the JPO work diligently to ensure the safe operation of TAPS. The BLM is not aware of any action taken against BLM employees for conducting rigorous oversight of TAPS operations and maintenance.

The reader is referred to Section 2.5 of the FEIS, "Alternatives and Issues Considered but Eliminated from Detailed Analysis."

00096-016: The BLM has no authority to require specific corporate reporting to shareholders. The Security and Exchange Commission has authority to compel the reporting of certain corporate activities to the public and shareholders.

The reader is referred to Section 2.5 of the FEIS, "Alternatives and Issues Considered but Eliminated from Detailed Analysis."

00096-017: The reader is referred to Section 2.5 of the FEIS, "Alternatives and Issues Considered but Eliminated from Detailed Analysis."

00096-018: The BLM and the agencies within JPO acknowledge both that there have been legitimate issues related to APSC's Employee Concerns Program (ECP) and that APSC has undertaken considerable efforts to improve and refine its ECP program.

The BLM and JPO expect to continue to evaluate the effectiveness of APSC's ECP through confidential surveys that will seek input from all TAPS employees (see Section 4.8.4 of the FEIS). Like the three prior surveys, these efforts can provide broad measures of the confidence that TAPS workers have in APSC's ECP and can suggest areas needing improvement.

The JPO also notes that a confidential hotline (1-800-764-5070) currently exists for employees or members of the public to report issues and concerns about TAPS. Recorded messages are checked daily by the BLM-Alaska Special Agent's office. The purpose of the hotline is to identify issues relating to pipeline integrity, public safety, environmental protections and regulatory compliance for incorporation into the JPO work program. The BLM also refers employees seeking personal relief (e.g., restoration of employment or lost compensation) to the U.S. Department of Labor or other appropriate authorities for further investigation.

00096-019: Section 4.4.4.7, "Human Health and Safety," provides a detailed analysis of the potential effects of oil spills on human health.

The BLM and member agencies of the JPO are committed to the protection of human health and the environment. The Federal Grant and authorizing legislation (TAPAA) provide unprecedented authority to BLM in assuring the protection of human health and the environment. Stipulations (the guiding conduct of operations for the operator of the TAPS) within the Federal Grant contain numerous provisions that are protective of human health and the environment.

00096-020: The BLM and the member agencies of JPO investigate all significant spills to verify the spill volume. There has been no evidence to date that past spill volumes have been reported inaccurately. If natural resource damage claims occur because of a spill, the U.S. Fish and Wildlife Agency or National Marine Fisheries Service conduct studies to evaluate damage to natural resources.

00096-021: The BLM and member agencies of the JPO use an adaptive management approach to evaluate the effectiveness of stipulations and regulatory oversight. Ongoing monitoring programs, as identified in the 12 Comprehensive Monitoring Reports published since 1996, provide BLM and JPO with the necessary information to evaluate the effectiveness of stipulations in the Grant and Lease.

The reader is referred to Section 4.1.1 (JPO oversight) and specifically to Sections 4.1.1.2 (Adaptive Nature of the Grant in Compliance Monitoring), 4.1.1.3 (Risk-based Compliance Monitoring), 4.1.1.4 (JPO Comprehensive Monitoring Program), and 4.1.1.8 (Coordinated Planning and Response to Abnormal Incidents) for more information on the role of adaptive management as a JPO business practice.

Additional information on VSM monitoring and mitigation can be found under section 4.1.3.2.1 of the FEIS. Human health impacts from oil spills can be found in section 4.4.4.7 of the FEIS, while ecological impacts can be found in sections 4.4.4.10, 4.4.4.11, and 4.4.4.12.

The current Grant is contained in Appendix B. Section 33.B requires prompt notification to the Authorized Officer of all transfer agreements related to Ownership changes. The new owners are required to assume full responsibility for the Federal Grant.

00096-022: The reader is referred to Section 2.5 of the FEIS, in which audits are addressed under Alternatives and Issues Considered but Eliminated from Detailed Analysis.

00096-023: The reader is referred to Section 2.5 of the FEIS, in which audits are addressed under Alternatives and Issues Considered but Eliminated from Detailed Analysis.

00096-024: The reader is directed to the discussion of escrow funds found in Section 2.5.

00096-025: The reader is referred to Section 2.5 of the FEIS, "Alternatives and Issues Considered but Eliminated from Detailed Analysis."

The BLM and member agencies of the JPO are committed to the protection of human health and the environment. The federal grant and authorizing legislation (TAPAA) provide unprecedented authority to BLM in the assuring protection of human health and the environment. Stipulations (the guiding conduct of operations for the operator of TAPS) within the federal grant contain numerous provisions that are protective of human health and the environment.

00096-026: The age and condition of the TAPS were considered in the analysis.

00096-027: The operational history of TAPS, maintenance activities, spill response capabilities, and the potential for spills associated with TAPS were considered in the analysis. Impacts associated with potential spills are discussed in Sections 4.4 of the FEIS.

The oil spill planning and prevention effort in the JPO is a large-scale, multi-agency endeavor. Each participating agency (Alaska Department of Environmental Conservation, Environmental Protection Agency, BLM, and the Alaska Department of Natural Resources) has a particular focus, but these are all considered collectively in the JPO TAPS oil spill response and planning group. This inter-agency group generally meets monthly with APSC and maintains a continuous monitoring program on TAPS oil spill planning and related issues. The group also coordinates with the Office of Pipeline Safety, which reviews the Pipeline Oil Spill Contingency Plan.

The emphasis of all agencies is on the prevention of spills. This is accomplished through a combination of: 1) oversight of spill contingency planning (including 64 exercises on TAPS annually) and, 2) through JPO's comprehensive TAPS operations oversight, monitor issues which could contribute to a spill in the future. The JPO is doing everything possible to prevent and respond to a potential oil spill from TAPS.

APSC's oil spill response capabilities and plans for TAPS are summarized in Section 4.1.4 of the EIS and explained in detail in the "TAPS Oil Discharge Prevention and Contingency Plan" (APSC 2001g) for the pipeline and in the "Valdez Marine Terminal Oil Discharge Prevention and Contingency Plan" (APSC 2001h) for the VMT. The C-Plans provide for significant resources, including equipment, trained personnel, and effective organization, to respond if oil does spill from the pipeline or at the VMT. They are available to the public through various libraries in several major cities in Alaska.

The C-Plans are updated periodically and lessons learned from actual occurrences as well as from regular exercises conducted along the pipeline and at the VMT are incorporated into the Plans. See the text box in Section 4.1.1 for a discussion on how lessons learned in response to the vandalism incident near Livengood in October 2001 have resulted in modifications and improvements to the C-Plans for spills and releases along the pipeline. In addition, the C-Plans are reviewed periodically by the BLM, ADEC, DOT, and EPA. As part of this process, APSC and the federal and state agencies with oversight responsibilities for TAPS make sure that the appropriate emergency response equipment is made available along the TAPS.

00096-028: The reader is directed to the discussion of escrow funds found in Section 2.5.

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LAW

August 19, 2002

BLM TAPS Renewal Team
Joint Pipeline Office 411
W. 4th Avenue, Suite 2

Carl G. Wassile

I request that Bureau of Land Management (BLM-DOI) withhold my address from the public record.

Comments on the Draft EIS

First of all, I would like to request an extension for the public comment period for at least an additional 45 days. I believe that the Joint Pipeline Office (JPO) was completely dysfunctional at my request of documents for the Draft Environmental Impact Statement (DEIS). I specifically asked the JPO, Rob McWhorter, to send the DEIS to my place of employment. Today is August 19, 2002, one day before final comments are accepted for review and I still have not received the DEIS for review. This total lack of public communication by the JPO reflects that both the State of Alaska and Department of Interior are not properly prepared for allowing the public to adequate time to review and comment on the DEIS.

97-1

It is absurd that the decision makers only allow 45 days for such an important and extensive document for public review. An extension for public review does not affect the flow of oil through TAPS. The original EIS was never completed so this DEIS is more important than the DEIS that originated during TAPS construction in the 1970s. At recent public hearings for the Trans-Alaska Pipeline System (TAPS) right-of-way (ROW) renewal I heard many oil industry individuals and spokespersons speak very highly at the owners (Alyeska Pipeline Service Company) of the Trans-Alaska Pipeline System (TAPS) and how very well the owners are doing for the environment, subsistence animals, and maintenance of TAPS. In light of these testimonies, I ask that the Department of Interior allow the entire United States (U.S.) population to review the DEIS and extend the comment period for at least an additional 45 days.

97-2

In reviewing the Draft Environmental Impact Statement (DEIS), I have noticed many flaws and inadequacies of information in various Chapters regarding environmental, social, subsistence and economic impacts. Not only have whole communities been ignored, but also many Alaska Native Tribes have been left out of the consultation process with the U.S. and State Governments regarding the numerous impacts that TAPS imposes. Small rural communities have been left out of the DEIS in the event of a catastrophic or major oil spill from TAPS. Arctic climate changes such as warming in the Alaska region have not fully addressed the impacts on the TAPS infrastructure and TAPS ability to adapt to future climate changes, especially permafrost changes.

97-3

Technological advances in information, equipment, monitoring and maintenance have been made in numerous aspects of the oil industry for the safety of the environment and the peoples that depend on a clean environment to live. This environment includes the whole of Alaska. These technological advances need to be address and implemented on the aging pipeline for the safety and future of Alaskans, United States, and Earth.

97-4

I don't understand how the U.S. Government and State of Alaska can support the TAPS ROW renewal for an additional 30 years when the richest multi-national corporations (TAPS owners) in the world are cutting back on maintenance cost on the croding pipeline. I request that TAPS ROW be renewed every 5 years due to the TAPS age and dramatic climate changes that are occurring at this time and lack of implementing the best available technology.

97-5

In the event of a major oil spill or disaster along TAPS over running waterway systems (stream, river, and creek), the TAPS owners do not have the adequate equipment to respond to a moving water spill. There is no compensation plan for a major spill or disaster for the communities in all of Alaska and U.S. that depend on other natural resources for social, economic and traditional way of life in which a major spill could drastically impact. Native people will have the most adverse impacts to a spill due to the strong ties to the traditional ways of life in the land, air and water. These must be addressed in an oil spill compensation plan and the absolute best measures of technology and prevention must be implemented to protect the Native people of Alaska.

97-6

97-7

The DEIS does not mention that crude oil in the parts per billion affect salmon productivity. This translates to every 1 gallon of oil disrupting salmon productivity in every 1,000,000,000 gallons of water. Salmon spawn in fresh water in areas upstream and downstream from where the pipeline crosses. The salmon is vital to the livelihood of all Native people in Alaska. The productivity of salmon in Alaska is instrumental to the fisheries industry worldwide and feeds many people through out the Earth.

97-8

In the event of a spill on the Yukon River or any of its tributaries, the fisheries of all of Alaska will be severely impacted. This includes the people of the Bering Sea communities that depend on the fish for subsistence and commercial activities. This also includes the fisheries of the people and First Nations of Yukon Territory, Canada. The impacts of oil spills on peoples' livelihoods (socio-economic, cultural, environmental, subsistence) and Native way of life in all regions of Alaska and Canada were not fully addressed in the DEIS. All of these people deserve the opportunity to provide comment and testimony (public hearings) on the DEIS throughout every region of the state.

97-9

It is absurd that the U.S. and State Governments support a 30-year renewal with no review, audit and full public scope of structural changes, maintenance and operation of TAPS from a third and forth-party oversight. The DEIS does not address the full range of communities and the full environmental, subsistence, social and economic impacts that the TAPS imposes in the Arctic and sub Arctic regions of North America and it's water bodies. In order to address these impacts to the full extent that the DEIS misses, I ask for a Citizen's Oversight Group to have regulatory powers and representation similar to the

97-10

97-11

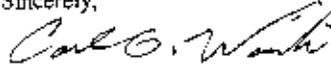
Regional Citizen's Advisory Committees established after the Exxon Valdez Oil Spill in 1989. I also re-emphasize the need for a federal and state permit renewal every 5 years to ensure the safety of transporting oil on TAPS.

97-11
(cont.)

I would like to conclude by supporting each and every recommendation made by Richard Fineberg's latest document, "The Emperor's New Hose", prepared for the Alaska Forum for Environmental Responsibility in June of 2002. I especially support an independent review of TAPS and the need for a Citizens Oversight Group.

97-12

Sincerely,



Carl G. Wassilic

02 03 20 11 14

Responses for Document 00097

- 00097-001:** Although 45 days is understandably a short time to review a document of this size, the time period is consistent with the Council on Environmental Quality regulations for implementing the National Environmental Policy Act regarding the review of draft environmental impact statements. Significant effort was made to advise people of the schedule and duration of the review well in advance (one year). The DEIS was published on schedule and many substantive comments on the content of the DEIS, including yours, were received during the 45-day period.
- 00097-002:** The EIS discusses the impacts of the renewal of the TAPS ROW to communities all along (and in many cases, well beyond) the right-of-way. The criteria for the selection of specific communities is given in Sections 3.25.1.1, 3.25.2, and 5.2 (now revised). Communities had the opportunity to petition for inclusion in the EIS analysis.
- All federally recognized Alaska Native Tribes and Villages were notified that the EIS was being written and given a chance to provide input. In addition, input was solicited a second time from those communities most directly affected by TAPS ROW renewal. No response was received. Further consultations were held with Alaska Native communities after the DEIS was published.
- 00097-003:** Vertical Support Member (VSM) stability is obviously critical to TAPS integrity. As such, it is the focus of extensive monitoring and surveillance. See Section 4.1.3.2.1 for a discussion on the design, monitoring, and repair of pipeline structural supports (including VSMs). See also the analysis of potential impacts on pipeline structures in Section 4.3.2.
- The warming in Alaska in the last several decades is recognized. Evidences of warming in areas surrounding Alaska, including the Arctic Sea, as well as air temperatures, permafrost temperatures, and field observations in thermokarst lakes and glaciers are presented in Section 3.12.7.
- 00097-004:** The BLM and member agencies of the JPO use an adaptive management approach to evaluate the effectiveness of stipulations and regulatory oversight. Ongoing monitoring programs, as identified in the 12 Comprehensive Monitoring Reports published since 1996, provide BLM and JPO with the necessary information to evaluate the effectiveness of stipulations in the Grant and Lease.
- The reader is referred to Section 4.1.1 (JPO oversight) and specifically to Sections 4.1.1.2 (Adaptive Nature of the Grant in Compliance Monitoring), 4.1.1.3 (Risk-based Compliance Monitoring), 4.1.1.4 (JPO Comprehensive Monitoring Program), and 4.1.1.8 (Coordinated Planning and Response to Abnormal Incidents) for more information on the role of adaptive management as a JPO business practice.
- 00097-005:** Thank you for your comment.
- 00097-006:** The operational history of TAPS, maintenance activities, spill response capabilities, and the potential for spills associated with TAPS (to include those over major waterways) were considered in the analysis. Impacts associated with potential spills over waterways are discussed in Sections 4.4.3 and 4.4.4 of the EIS. The TAPS Oil Discharge Prevention and Contingency Plan (C-Plan) is updated periodically and lessons learned from actual occurrences as well as from regular exercises conducted along the pipeline are incorporated into the Plan. In addition, the C-Plan is reviewed annually by BLM, every three years by ADEC, and every five years by DOT. EPA also reviews the plan as it applies to pump stations. The C-Plan provides for significant resources, including equipment, trained personnel, and effective organization, to respond if oil does spill from the pipeline. It is expected that this process would continue throughout the ROW renewal period, if granted, and the C-plan would be kept up to date.

00097-007: Section 4.1.4 describes the steps taken to prevent and respond to spills. Although these plans have not been implemented specifically for the sake of protecting the Alaska Native way of life, Alaska Natives would be among those benefiting from them. The EIS evaluates current provisions of the Agreement and Grant of Right-of-Way for Trans-Alaska Pipeline (see Appendix B). This includes Section 30, which relates to impacts to subsistence and compensation for such impacts. Section 3.24 discusses subsistence and its importance to Alaska Natives, and as such supports several assertions made in the comment.

00097-008: Additional information about the fate and potential effects of aqueous phase oil has been added to the discussion of impacts from spilled oil in Section 4.4.4.10.

00097-009: Section 4.4.4.10 of the EIS discusses the impacts of a spill into the Yukon River on fish; Sections 4.4.4.14 and 4.4.4.15, in turn, discuss impacts of such spill on subsistence and Native sociocultural systems. Although impacts certainly would occur were such a spill to occur, the size of the Yukon River and the volume of water it contains would help to limit the severity of impact in terms of numbers of fish affected, as discussed in Section 4.4.4.10. Perceived damage to subsistence resources may also cause an impact, both above and below the spill, as discussed in the revised version of Section 4.4.4.114. There is no indication that fisheries in all of Alaska (e.g., the Copper River Basin) would be adversely affected by an oil spill into the Yukon River.

People throughout the entire United States were given the opportunity to comment on the DEIS. Because of the impracticality of holding public hearings throughout the United States, comments were accepted by a number of different forms—including public testimony, by letter, fax, Web site, and through telephone calls. All comments were accorded the same level of importance, regardless of their means of submittal.

00097-010: The reader is referred to Section 2.5 of the FEIS, in which audits are addressed under Alternatives and Issues Considered but Eliminated from Detailed Analysis.

00097-011: The reader is referred to Section 2.5 of the FEIS, “Alternatives and Issues Considered but Eliminated from Detailed Analysis.”

00097-012: Thank you for your comment.

