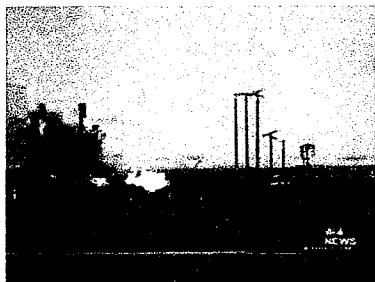




Producers obligated to ship gas, lawyers say



by Bill McAllister
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ANCHORAGE, Alaska -- "Move it or lose it."

That's what one of the top trial lawyers in the country says North Slope producers will have to do with the natural gas they have under lease if TransCanada proceeds with a commercially-viable pipeline project.

The Palin administration's three-day forum on the natural gas pipeline wrapped up Friday. (KTUU-TV)

Attorneys retained by the Palin administration say that the leases come with a duty to produce.

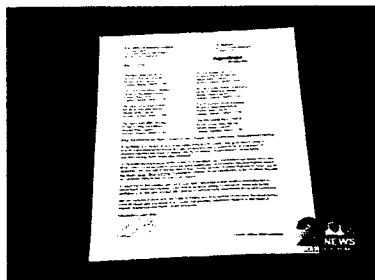


And it turns out that one of the three major producers already has committed to selling gas at the wellhead or shipping it through a commercially reasonable pipeline project, a fact that is said to strengthen the state's legal position if the other two refuse to do so.

Attorneys retained by the Palin administration say that the leases come with a duty to produce. (Jason Borough/KTUU-TV)

It might have been the most critical expert commentary during the Palin administration's three-day forum on the natural gas pipeline, which concluded Friday.

A renowned trial lawyer from San Francisco and two attorneys from a Washington, D.C., firm agreed that North Slope producers would be obligated legally to sell gas on commercially reasonable terms, no matter who builds the line to take the gas to market, even if it's Palin's choice, TransCanada.



Exxon executive Craig Haymes agreed in a May 12 letter to ship gas through a TransCanada line. (Jason Borough/KTUU-TV)

"They weren't willing to build the pipeline, someone else comes in and does the thing they weren't willing to do, and then they still refuse to ship?" said trial attorney Spencer Hosie with Hosie Rice LLP. "I don't think so."

"The Congress has said twice in the last three years that we do not want to tolerate any form of manipulation in our energy markets," said Allan Van Fleet of Greenberg Traurig LLP.



Patrick Galvin, state revenue commissioner (Jason Borough/KTUU-TV)

"We're not trying to bash producers here, but we are saying on this particular issue, they can do better and in fact have a legal obligation -- it would appear under some of the principles that Spencer and Allan have outlined -- a legal obligation to do better," said Kenneth Minesinger, also with Greenberg Traurig.

And Hosie said BP and ConocoPhillips, which have proposed their own pipeline project, are in a newly weakened position if TransCanada's project goes forward because of a letter written by Exxon Mobil.

Exxon executive Craig Haymes responded May 12 to a letter written in February by eight Democratic legislators.

The legislators asked all three producers if they would commit to



Rep. Les Gara, D-Anchorage (Jason Borough/KTUU-TV)

sell gas into a pipeline, and Haymes said yes.

"It helps the state," Hosie said, "and here's why: Exxon has said that if TransCanada builds a pipeline, Exxon will ship under commercially reasonable terms. That's a commitment that I think it had to make, because if the producers weren't willing to build a pipeline, how can they refuse to ship over a line built by someone who did the very thing the producers weren't willing to do?"

It seems that there's a rift developing now between the major oil companies, said Rep. Les Gara, D-Anchorage. "And there's an indication, at least, from the letter that BP and Conoco might be more resistant and more opposed to an independent line than Exxon," Gara said.

BP and Conoco have proposed their own pipeline project, called the Denali Project, but TransCanada CEO Hal Kvisle says he hopes for a joint venture.

"We see a five-way arrangement including the state of Alaska, the three producers and TransCanada," Kvisle said. "We think that's what it will take to get the project built."

"What we wanted to make sure in this analysis is that the TransCanada pipeline would be attractive as a project to the producers," said Patrick Galvin, state revenue commissioner. "And so it has good economics, and it has a good pipeline company associated with it."

So while the state's legal position might be strong, supporters of the TransCanada project hope it'll never be tested.

Kvisle says while his company and the producers might appear to be in adversarial positions now, the companies have worked well together in Canada. And Kvisle says he intends to open negotiations with them as soon as the Legislature approves the gas line license for TransCanada.

BP and Conoco spokespeople, who did not want to go on camera, say the companies would consider selling gas for a commercially viable project, but they didn't commit to it.

The state's legal position might be good, according to the consultants, but there's the risk that litigation could delay the project for years and years.

That's why former Gov. Frank Murkowski said he ended up negotiating only with the producers. And state Rep. Bob Roses still envisions a seven-to-10-year court battle if things go that far.

But Hosie says he thinks it could be wrapped up in two years, because the state would have such a decisive edge.

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