

**COMMISSIONER’S ANALYSIS
and
PROPOSED DECISION
of
ANCHOR POINT ENERGY, LLC
NORTH FORK PIPELINE
RIGHT-OF-WAY LEASE APPLICATION
ADL 230928**

Nature of the Request

Anchor Point Energy, LLC has applied to the Alaska Department of Natural Resources (ADNR) for an AS 38.35 Right-of-Way Lease for the purpose of constructing dual 7.4-mile long natural gas pipelines, called North Fork Pipeline, with approximately 6.6 miles of the pipeline located on state land. The proposed North Fork Pipeline will begin at the North Fork Production Pad located within the South East ¼ of Section 26, Township 4 South, Range 14 West, Seward Meridian, approximately 8.6 miles east of Anchor Point and will terminate at the South East ¼ of Section 34, Township 4 South, Range 15 West, Seward Meridian, in Anchor Point, Alaska. The Anchor Point Energy, LLC, North Fork Pipeline will tie directly into Alaska Pipeline Company’s proposed Anchor Point Pipeline.

Legal Description

The proposed route for the North Fork Pipeline is within the following described state lands:

Seward Meridian, Alaska

Township 4 South, Range 14 West, Sections 26, 27, 31, 32, 33, 34

Township 4 South, Range 15 West, Sections 34, 35, 36

Township 5 South, Range 14 West, Sections 6

Township 5 South, Range 15 West, Sections 1, 2, 3

Attachments

Attachment A: Map of North Fork Pipeline Route

Attachment B: Public Notice and Public Hearing

Attachment C: Draft Right-of-Way Lease

Attachment D: State and Federal Agencies

Attachment E: Application

Attachment F: Technical Review

Attachment G: Acronyms

Attachment H: Literature Cited

Authorities

The State Pipeline Coordinator’s Office (SPCO) authority derives from AS 38.35 Right-of-Way Leasing Act. In part, AS 38.35.010(a) states,

It is the policy of this state that development, use, and control of a pipeline transportation system make the maximum contribution to the development of the human resources of this state, increase the standard of living for all its residents, advance existing and potential sectors of its economy, strengthen free competition in its private enterprise system, and carefully protect its incomparable natural environment.”

Scope of Analysis

The Commissioner of the Alaska Department of Natural Resources has been given all powers necessary and proper to implement this policy and to grant leases of state land for pipeline rights-of-ways, to transport natural gas under conditions prescribed under AS 38.35.015 and the administrative regulations. The Commissioner is mandated to determine whether the applicant is fit, willing, and able to perform the transportation or other acts proposed in a manner that will be required by the present or future public interest per AS 38.35.100.

I. BACKGROUND

Administrative Actions

Public Notice of Application (AS 38.35.070)

Coordinating state agencies, as defined in AS 38.35.230(2), were furnished copies of the North Fork Pipeline ROW lease application. Interested parties, including other state and local government agencies, towns, and Alaska Native Claims Settlement Act Regional and Village Corporations within the project vicinity were notified as to the availability of copies of the North Fork Pipeline ROW lease application for review. Electronic copies were made available via the SPCO website. Hard copies were made available to the public at cost. Public notices of the receipt of the application were posted in local post offices and libraries. Public notice letters were sent to cities and towns within the vicinity of the proposed pipeline. Public notices were published in the Anchorage Daily News (March 4, 2010), Homer Alaska Tribune (March 10, 2010), and Peninsula Clarion (March 8, 2010).

Administrative Record

The North Fork Pipeline right-of-way lease application (ADL 230928) and documents, maps, figures, and other information contained within the case file constitute the administrative record used in this analysis and proposed decision.

Coordinate Agencies (AS 38.35.230(2))

The SPCO has worked in consultation with a number of state agencies on the proposed North Fork Pipeline right-of-way in accordance with each agency’s specific mandates. Some of the agencies have statutory and regulatory authority that governs certain aspects of the proposed project. Such agencies will maintain their regulatory role over applicable activities. The lease will require Anchor Point Energy, LLC to comply with all applicable statutes and regulations. See Attachment D for a list and description of each of the state and federal agencies.

Description of Project

Anchor Point Energy, LLC proposes to construct dual 7.4-mile long natural gas pipelines located in the Anchor Point area. The applicant proposes to build an underground pipeline that will be contained within a right-of-way across approximately 6.6 miles of state land. The pipeline will originate at an existing gravel pad that is being used to support development drilling at the North Fork Unit (NFU) by Armstrong Cook Inlet, LLC. The pipeline will terminate at a metering station at which point the natural gas will be transferred to a separate pipeline being constructed by Alaska Pipeline Company in the Anchor Point area.

Applicant

Anchor Point Energy, LLC is a newly-formed limited liability company constituted from an established corporation, Armstrong Oil and Gas, Inc. The financial and technical capabilities of Anchor Point Energy, LLC and Armstrong Oil and Gas, Inc. will be examined in this analysis as guarantors for the complete fulfillment of all duties and obligations of Anchor Point Energy, LLC.

General Design

The proposed North Fork Pipeline will have dual natural gas pipelines 7.4 miles long. The first 6.4 miles of the pipeline is located in a Class 1 area, and the last 1.0 mile is in a Class 2 area. The definition of "class area" is provided in 49 CFR 192.5. The segment in the Class 1 area will consist of dual 4.5-inch Fiberspar™ carbon-fiber pipeline that is approximately 33,750 feet (6.4 miles) in length. The segment in the Class 2 area will be a dual 4-inch steel pipeline approximately 5,100 feet (1.0 mile). The difference in materials used is determined by DOT/PHMSA. The Lessee has stated the pipeline will be fully designed in accordance with the U.S. Department of Transportation, Pipeline and Hazardous Material Safety Administration (PHMSA) requirements. Manual block and blowdown valves will be installed at each end of the pipe to minimize the impact in the case of a leak. Additional block valves may be required by PHMSA at intermediate locations.

Winter pipeline construction is preferred, though additional work may be performed during the summer season. The lessee has committed to using surface protection for construction where appropriate. Currently, five water body crossings have been identified by the North Fork ROW application. All crossings will require authorization from Alaska Department of Fish and Game (ADF&G). According to the applicant one river crossing, the North Fork of the Anchor River, will use Horizontal Directional Drilling (HDD). The other crossings will be determined at a later date and the method will be dependent on seasonal conditions and ADF&G requirements.

Proposed Right-of-Way

The applicant requests a temporary 50-foot wide right-of-way for construction, 25-feet on either side of the right-of-way centerline. The construction right-of-way on state owned or managed lands will contain approximately 40.31 acres. The permanent operational right-of-way will be reduced to 20 feet in width, with 10 feet on either side of the right-of-way centerline. The operations right-of-way will contain approximately 16.10 acres.

Communities

The nearest communities to the proposed North Fork Pipeline are Anchor Point, Homer, Nikolaevsk, Ninilchik, Clam Gulch, Kasilof, Soldotna, and Kenai. The approximate point-to-point distance between the pipeline right-of-way and each community is: Homer at 13.5 miles southeast; Nikolaevsk at 5.5 miles east; Ninilchik at 20 miles northeast; Clam Gulch at 34.5 miles northeast; Kasilof at 44 miles northeast; Soldotna at 55 miles northeast; and Kenai at 57 miles northeast. The terminus of the proposed pipeline right-of-way is located within, or near, the community of Anchor Point.

Land Status

Title

The SPCO has reviewed the land title information to confirm the ownership and status of state lands encompassed by the proposed North Fork Pipeline right-of-way. A title report (RPT 1547), conducted by the ADNR, Division of Mining Land and Water, confirmed title of these lands to the State of Alaska.

Generally, the majority of state land crossed by this proposed pipeline right-of-way is not currently occupied nor scheduled for any disposal. The State of Alaska received title to these lands via General Grant from the United States of America as part of the Alaska Statehood Act of 1958.

Approximately 1.96 miles (3.16km) of the eastern portion of the proposed pipeline right-of-way is along section line easements. The State of Alaska reserves an easement fifty feet (50') on either side of the section lines via the original General Grant and AS 19.10.010.

A westerly portion of the proposed pipeline right-of-way is encompassed by the existing Alaska Department of Transportation and Public Facilities (ADOT/PF) North Fork Road right-of-way.

Third-Party Interests

The construction of the North Fork Pipeline may conflict with third-party interests previously granted by the ADOT/PF. Third party interests on state lands granted by ADOT/PF within the proposed right-of-way may include driveway encroachment. The protection of these interests will be covered under the issuance of ADOT/PF's Utility Permit on state rights-of-way.

II. ANALYSIS OF APPLICATION AND PROPOSED PIPELINE RIGHT-OF-WAY

Under the provisions of AS 38.35.100, the Commissioner is required to determine whether the applicant is fit, willing, and able to construct and operate the pipeline in a manner that will be required by the present or future public interest. This analysis assesses whether Anchor Point Energy, LLC has the technical and financial capabilities to perform the transportation, or other acts proposed, in a manner that will be required by the present or future public interest.

Information contained within Anchor Point Energy, LLC's AS 38.35 Right-of-Way Lease application for the North Fork Pipeline, and its supporting data and correspondence, were evaluated to prepare this Commissioner's Analysis for the proposed North Fork Pipeline. Any references contained in this analysis to the applicant's proposed pipeline, construction, design, and operation were based on the application (Attachment F) and associated materials.

Fit, Willing, and Able Criteria

In accordance with AS 38.35.100 there are specific criteria that must be used in the analysis of an application filed under AS 38.35.050. If the Commissioner makes the determination favorably, then a lease may be offered. In making the determination, the Commissioner is required to consider these following criteria:

1. Will the proposed use of the right-of-way unreasonably conflict with existing uses of the land involving a superior public interest?
2. Does the applicant have the technical and financial capability to protect state and private property interests?
3. Does the applicant have the technical and financial capability to take action to the extent reasonably practical to:
 - 3(A) prevent any significant adverse environmental impact, including but not limited to, erosion of the surface of the land and damage to fish, wildlife, and their habitat?
 - 3(B) undertake any necessary restoration or revegetation?
 - 3(C) protect the interests of individuals living in the general area of the right-of-way who rely on fish, wildlife, and biotic resources of the area for subsistence purposes?
4. Does the applicant have the financial capability to pay reasonably foreseeable damages for which they may become liable or claims arising from the construction, operation, maintenance or termination of the pipeline?
5. Does the applicant agree that in the construction and operation of a pipeline within the right-of-way that they will comply with, and require contractors and their subcontractors to comply with, applicable and valid laws and regulations regarding the hiring of residents of the state currently in effect or that take effect subsequently?

Analysis of Criteria

1. Will the proposed use of the right-of-way unreasonably conflict with existing uses of the land involving a superior public interest?

For the further analysis of the prevention of environmental impacts to fish and wildlife see Criterion 3(a).

The proposed North Fork Pipeline will be located entirely within the Kenai Peninsula Borough (KPB) near Anchor Point. The Anchor Point area, including the North Fork Road area, is renowned for its beaches, rolling hills, clear streams and rivers, and a variety of trails accessing the surrounding drainages and foothills. The area has a residential population of about 1,829 and is adjacent to the larger community of Homer. Tourism is an important part of the area's local economy supporting many area businesses, and there is a significant number of commercial fishing permits held by residents (Division of Community Resource Regional Affairs, 2010). The area is also very popular for sport fishing, hunting, hiking, skiing, recreational riding and hunting. The land in the general vicinity of this project is owned by the State of Alaska, private individuals and Native Corporations. There are some smaller borough parcels in the area as well.

Easements

The majority of the proposed North Fork Pipeline will be constructed within state section line easements and a portion of the ADOT/PF's North Fork Road right-of-way. A portion of the pipeline will cross general state land.

The section line easements east of the general state land cross subdivisions that have platted access rights-of-way existing within the section line easements. Segments of some of these platted rights-of-way have been developed but have not been adopted by the Kenai Peninsula Borough or as part of a local road service area. All of the rights-of-ways within the subdivisions have been named and reserved as part of the subdivision and platting process. There is some local use of these rights-of-way to access existing private property.

A portion of the pipeline will cross, and run within, a segment of the North Fork Road. This is an ADOT/PF managed road that serves the local residential community as access to homes as well as serves a recreational community as access to recreational properties, lands, and trails. The proposed pipeline right-of-way within the North Fork Road easement will be managed per an April 18, 1994, Cooperative Management Agreement, between ADOT/PF and ADNR. The management agreement was entered into for the purpose of improving the management of state lands and natural resources by providing for coordination between the Departments' respective management programs. The agreement identifies joint and concurrent management as it will relate to the North Fork Pipeline right-of-way lease. ADNR will process and manage the AS 38.35 pipeline right-of-way lease and ADOT/PF will process and manage the utility permits. The ADOT/PF utility permits will be incorporated and made a part of the ADNR pipeline right-of-way lease. ADOT/PF has sole authority for management of highway rights-of-way.

General State Lands

Those general state lands that will be crossed by this proposed pipeline easement are comprised of two planning units, 333A and 333C, identified in Chapter 3, Region 7 of the Kenai Area Plan (pg. 3-222).

The Kenai Area Plan designates unit 333A as Water Resources. The Management Intent language describes Unit 333A as an aquifer recharge area. It also outlines that this unit may be developed for a recreational shooting area if such a proposal were compatible with “Management Intent for Multiple Units” and the developing land use patterns in the surrounding area. The “Resources and Uses” language describes the unit as being 90% wetlands with low public use. The wetlands support two tributaries that flow into the South Fork Anchor River, an anadromous fish stream.

Unit 333C is designated as Settlement land by the Kenai Area Plan. The “Management Intent” section describes this unit as having the potential for development in portions along the North Fork Road. This section also identifies the unit as containing land that may be suitable for a recreational shooting area if specific requirements are met regarding site planning, future land use patterns and cooperation with other agencies such as the Borough. The “Resources and Uses” language states that this unit has a low public use value and is visible from the Sterling Highway.

Nothing in the Kenai Area Plan, including the units described above, precludes the development, construction, and continued operation of a natural gas pipeline across state land. The specific guidance of this plan does not designate the units, proposed to be crossed by this pipeline, as areas of specific habitat or environmental concern. While many parcels of state land are recognized as having inherent ecological functionality or potential recreation values, the development of this natural gas pipeline within the proposed right-of-way, should not prevent planned surface uses nor impair its existing ecological functionality. The pipeline is proposed to be buried. As a buried line within these large units of state land, that border large units of private and Native land, it is determined that the buried pipeline and the activities that could occur within its right-of-way should have a minimal impact on the plan uses designated by the area plan.

Navigable Waters

Navigable and public waters and the access to those waters were considered in the analysis of this proposed pipeline right-of-way. The state considers the North Fork Anchor River, which will be crossed by and is adjacent to portions of the proposed North Fork Pipeline right-of-way, to be navigable or public. The Commissioner shall require the applicant to provide continued free and safe access outside the construction area, during construction, operations, and maintenance of the pipeline, if the construction or maintenance area prohibits the regular and continued access to the river. The Commissioner may find that temporarily regulating or limiting access to segments of affected waterways may occur during construction of the pipeline if determined necessary for safety or other beneficial or public uses.

The applicant proposes to cross the North Fork Anchor River using HDD to pass underneath the riverbed. The pipeline will be at least 10' below the river channel. Using best industry practices this method should minimize interference with free access along these waterways. Continued access to the four minor tributaries of the North Fork Anchor River: Branson Creek, unnamed tributary to Branson Creek, Two Moose Creek and an unnamed tributary of Two Moose Creek, shall be provided for by the applicant under the same provisions as access to the navigable North Fork Anchor River. However, the Commissioner may find that temporarily regulating or limiting access to segments of affected waterways may occur during construction of the pipeline if determined necessary for safety or other beneficial or public uses.

Driveway and Road Crossings

During pipeline construction, and some pipeline maintenance activities, access to and from residential property, commercial property, and public driveways may be temporarily impacted. The applicant will be responsible for minimizing the impact to local residents and local traffic along the proposed right-of-way. Driveways will be crossed using an open trenching technique.

The Sterling Highway and the North Fork Road crossings will be accomplished by boring beneath the road to minimize traffic interruptions. Utility Permits issued by the ADOT/PF will be required for pipeline work within, and across, the Sterling Highway and the North Fork Road rights-of-way. The Utility Permit will stipulate notification procedures to public and private landowners potentially affected by the construction activities, and will provide provisions related to traffic control and lane closure activities.

Forestry

Much of the land that the North Fork Pipeline right-of-way is proposed to cross is wetlands void of many large trees, with the exception of a few spruce trees. If any spruce trees must be cleared as part of the construction process the applicant must notify and coordinate with the Alaska Department of Forestry, Kenai Area office, to offer the downed wood for personal use permits. All low brush that is removed during the construction process, including alder and willow, should be chipped and dispersed within the right-of-way. The ADNR Division of Forestry's Five-Year Schedule of Timber Sales, 2009-2013, proposes sales in areas near but not including the proposed pipeline right-of-way.

Wildlife Harvest

The ADF&G has collected the following records on hunting and trapping:

Hunting: ADF&G maintains harvest records based on geographic units. The project area falls within Game Management Unit (GMU) 15 and more specifically subunit 15C. The harvest and accidental deaths in GMU 15C for 2006-2007 totaled 293 moose (Selinger, J. 2008(a)). The 2006-2007 harvest of black bears in GMU 15C was 240 (Selinger, J. 2008(b)). The 2005-2006 brown bear harvest in GMUs 7 and 15 totaled 19 bears. There were no registration permits issued in 2005-2006 and the brown bear harvests were considered non-hunting kills (e.g. defense of life and property, illegal, etc.) (Selinger, J. 2005).

Trapping: In 2005-2006 a total of 35 beaver, 26 otter and 7 wolverine were harvested in GMU subunits 15C (McDonough, T. 2007). The wolf trapping and hunting mortality in 2004-05 totaled 10 animals in game management subunit 15C (Selinger, J. 2006)

Fish Harvest

Commercial and recreational fisheries benefit from fish produced in the streams tributary to the Anchor River which is in the vicinity of the proposed right-of-way. The Kenai Peninsula is dependent on these fisheries to support the local economy. A brief description of each fishery follows:

Recreational Fishery: Recreational fisheries for salmon and trout in the project area occur in both the fresh and saltwater environment. The Anchor River supports a popular chinook and coho salmon fishery starting in-stream during late May. The 2009 escapement of chinook salmon in the Anchor River was 3,504 fish based on weir counts (ADF&G(a) 2010). The 2009 escapement of coho salmon in the Anchor River was 2,691 fish through September 11, the last day of weir operation (ADF&G(b) 2010).

In 2009, an estimated 8,956 anglers fished a total of 26,182 days in the Anchor River fishery (ADF&G(c) 2010). Angler expenditures in the Southcentral region of Alaska totaled 988.6 million dollars in 2007 and supported 11,535 jobs (Southwick Associates, Inc., Romberg, W.J., Bingham, A.E., Jennings, G.B. and Clark, R.A. 2008). Although the estimated value of sport fishing was not broken down into discrete areas such as Anchor Point, this provides an indication of the importance placed on the sport fish resources in the area.

Commercial Fishery: Salmon produced in streams within the project area contribute to the commercial fishery in Cook Inlet. The Anchor River enters Cook Inlet at the boundary between the Lower Cook Inlet and Upper Cook Inlet management areas.

The average annual harvest in Upper Cook Inlet between 1999 and 2008 was 16,674 chinook, 3,012,472 sockeye, 188,677 coho, 185,734 pink and 115,231 chum salmon (ADF&G(d) 2009). In 2009, the commercial salmon harvest in Upper Cook Inlet was 8,750 chinook, 2,045,619 sockeye, 153,210 coho, 214,321 pink and 82,983 chum salmon (ADF&G(d) 2009). The total 2009 ex-vessel value of the commercial salmon harvest in Upper Cook Inlet was approximately 14.5 million dollars (ADF&G(d) 2009).

The average annual harvest for all gear and harvest types in Lower Cook Inlet between 1999 and 2008 was 1,025 chinook, 322,982 sockeye, 10,560 coho, 1,303,658 pink and 80,385 chum salmon (Hammarstrom, L.F. and Ford, E.G. 2010). In 2009 the salmon harvest for all gear and harvest types in Lower Cook Inlet was 84 chinook, 280,312 sockeye, 2,686 coho, 989,347 pink and 73,974 chum salmon (Hammarstrom, L.F. and Ford, E.G. 2010). The total 2009 ex-vessel value of the commercial salmon harvest in Lower Cook Inlet was 3,329,000 dollars (Hammarstrom, L.F. and Ford, E.G. 2010).

The relative importance of the seafood industry was evaluated by Northern Economics, Inc. (2009) who found that Southcentral Alaska represented 20 percent of the 1.03 billion dollar ex-vessel value of the Alaska shore-based seafood industry in 2007.

Possible Use Conflicts

Any time development, regardless of the size, takes place on public lands and within the vicinity of residential areas, there is always the potential for some level of conflict. As part of this Commissioner's Analysis the existing uses have been identified and the proposed project has been outlined. Many of the conflicts that may occur, due to this proposed development, are projected to be of a temporary nature. The proposed pipeline will be a buried pipeline and the final operations and maintenance right-of-way will be 20 feet in width. It is during the construction phase of the pipeline that conflicts, if any, may occur.

As part of the AS 38.35 Right-of-Way Leasing process the applicant is required to provide all of the necessary permits to operate on state land. The permits required for the construction and operation of this pipeline come from a variety of agencies (please refer to Attachment D for an anticipated list of state and federal agencies). The overall purpose of the permitting process is to insure that the applicant adheres to best practices and mitigates any potential damages that may result as part of the development and operations process.

The primary potential use conflict that may result in regards to this public land is the issue of access. There are current uses of the land, as have been identified in this Analysis, and those uses will likely continue during construction of the pipeline. It is incumbent upon the applicant to provide for the continued access of lands if the operation should impede that access beyond temporary construction. As required under AS 38.35 Right-of-Way Leasing Act, the applicant will enter into a lease with the State of Alaska prior to any development of this pipeline, stipulations will outline if any specific steps need to be provided due to seasonal access issues such as hunting, fishing, or recreation.

The most likely interruption of day-to-day life will be to the local residents as travel across and along existing road easements and developed roads may be disrupted for a short time during construction. The Utility Permits, that the applicant will be required to obtain from ADOT/PF, will address these issues as well as provide for mitigation and will include a Traffic Plan.

Some of the existing easements that will be used as the proposed right-of-way for this pipeline are currently not developed but do access private property. A permit will not necessarily address local traffic in these specific areas however the applicant will be required to allow for continued free and safe access outside the construction area, during construction, operations, and maintenance of the pipeline.

The proposed North Fork pipeline will be a buried pipeline, any long-term impact to subsistence resources, other than the identified temporary access issues during construction and maintenance, should be minimal, if any. The primary areas of concern are river and stream crossings, wetland interaction, and potential disturbance of wildlife habitat. The design basis, design criteria, and

construction and operation procedures have been designed to minimize the negative impact to individuals using the area for subsistence purposes. These measures, which are also designed to protect the overall environment, include: scheduling to avoid wildlife disturbance, route selection, and design to minimize and avoid adverse impacts to the environment (i.e. burying the pipeline).

The applicant will be required to obtain a permit for any stream crossings from ADF&G. If approved, the SPCO and ADF&G will work with the applicant to ensure the protection of fish and other wildlife affected by the pipeline's river and stream crossings. The protection of fish and wildlife is a priority for the state and the process in place for pipeline construction along environmentally sensitive areas is there to ensure a minimum disturbance during construction and allow for the natural habitat to be fully restored after construction. For minor stream crossing the proposed method is open cut (dam and pump will be used if flowing water is present). At this time, the applicant has not identified what methods will be used for minor stream crossings and will work with local, state, and federal authorities and experts to ensure the protection of surrounding fish and other wildlife. The North Fork River crossing will use the HDD method.

Conclusion

As a buried line within this state land it is determined that the pipeline right-of-way, as proposed, and the activities that will occur within the right-of-way over the life of the pipeline will have a minimal and short-term impact on existing and continued uses of the area as identified.

Operation of the pipeline is not expected to result in any long term wildlife behavioral changes or change habitat use. Wildlife could be disturbed during pipeline construction and maintenance activities, but these impacts would be short-term and not generally significant.

2. Does the applicant have the technical and financial capability to protect state and private property interests?

For further analysis of the financial capabilities of Anchor Point Energy, LLC please see Criterion 4.

The most important protection provided state and private property is the development of a well thought-out design, construction, and operation plan with an emphasis on safety, quality, and efficient operation and maintenance. To ensure a thorough design review, the SPCO required Anchor Point Energy, LLC to provide all the elements of the design basis to the SPCO for engineering review. It includes, but is not limited to, the design criteria, functional and technical requirements, reports of test data and the evaluation of data used to establish the design criteria, drawings showing functional and technical requirements, drawings to support structural design concepts of each major facility or structure, and the basis for project siting. This review has been completed and the SPCO Engineer has recommended that the design be finalized and accepted by the Commissioner.

Design

Anchor Point Energy, LLC will submit an issue-for-construction (IFC) drawing set prior to receiving approval to initiate operations. The IFC will contain completed design documents suitable for construction including detailed specifications, designs, and construction details.

The SPCO has reviewed the proposed design basis of the North Fork Pipeline and determined that it meets current regulations and industry standards for a safe and environmentally sound installation, so long as it is maintained adequately and operated correctly. Four conditions were attached to this determination, the most important being the issuance of a special permit for use of plastic composite pipe by US DOT. Approximately 80% of the pipeline will be constructed with this special composite plastic pipe and 20% with steel pipe. Steel has been the standard for natural gas pipelines operating at higher pressures. The SPCO will monitor these conditions to ensure that they are met. The engineering analysis is made a part of the administrative record (Attachment G). The following list of applicable pipeline codes and standards, includes, but is not limited to the following:

Regulations, Standards, Technical Documents and Codes

- API 5L, Specification for Line Pipe
- API 6D, Specifications for Pipeline Valves
- API 15HR – 01 High Pressure Fiberglass Line Pipe
- API 15S, Qualification of Spoolable Reinforced Plastic Line, 2006 Edition
- API RP1102, Steel Pipelines Crossing Railroads and Highways, 1993 Edition
- API 1104, Standard for Welding Pipelines and Related Facilities, 1999 Edition
- ASME B16.5, Pipe Flanges and Flanged Fittings, 1998 Edition
- ASME B31.8, Gas Transmission and Distribution Piping Systems
- Title 49, Part 192, Transportation of Natural and Other Gas by Pipeline: Minimum Federal Safety Standards, January 26, 2010
- Fiberspar™ DOT Petition – PHMSA-2010-0003, Fiberspar™ Petition to Amend Title 49 Code of Federal Regulations Section 192.121

Project design incorporates measures to ensure pipe integrity. In addition, design for buried river crossings incorporates measures to maintain normal flow regimes and to avoid habitat damage.

The proposed construction techniques are specifically designed to minimize impacts to public and private lands, and the environment. The applicant has confirmed that work in sensitive habitat will be conducted to minimize or avoid damage to the underlying vegetation and inclusive wildlife. Design and construction measures are designed to prevent or repair any damages to vegetation in the project area.

Construction

Anchor Point Energy LLC will be required to submit a Construction Plan for the Commissioner's approval prior to beginning construction. The Construction Plan will include, but is not limited to all work schedules; permits, or authorizations required; construction

sequencing; maps or plats depicting the boundaries of the construction zone; description of the hydrology, groundwater control; erosion and sediment control; runoff, and stream, river, and floodplain crossings; runoff or other potential impacts to vegetation or fisheries; proposed stockpiles or disposal areas; potential pollutant sources and measures to control them; safety and hazard preventions; cultural resource preservation; sanitation; public awareness and traffic management; housekeeping; and site rehabilitation plans.

Quality Assurance Program and Surveillance and Monitoring Program

Anchor Point Energy, LLC will be required to submit a quality assurance program, and a surveillance and monitoring program for the Commissioner's approval. Anchor Point Energy, LLC, their contractors, and subcontractors are required to comply with the quality assurance program, which must be approved by SPCO.

Cultural Resources

Anchor Point Energy, LLC has completed a survey of the project area for archeological resources. Based on their findings in the field and a review of previously known prehistoric or historic properties eligible for listing (or already on) the National Register of Historic Places, the construction of the North Fork Pipeline will not disturb any known cultural resources. The State Historic Preservation Office (SHPO) will have to review the Archeological Survey of the North Fork Anchor River Natural Gas Pipeline, Kenai Peninsula, Alaska prepared for Anchor Point Energy, LLC.

AS 41.35.070 requires the ADNDR to locate, identify and preserve in suitable records information regarding historic, prehistoric, and archeological sites, locations, and remains. SHPO will need to concur with the findings in order to support a consistency determination under Alaska Coastal Management Program. A stipulation in the right-of-way lease will require that Anchor Point Energy, LLC take responsibility to protect any cultural, historic, prehistoric and archeological resources that may be impacted while conducting pipeline activities. The Alaska Historic Preservation Act prohibits the appropriation, excavation, removal, injury or destruction of any state-owned historic, prehistoric (paleontological) or archaeological site without a permit from the Commissioner. Anchor Point Energy, LLC must agree to require their employees, agents, contractors, subcontractors and their employees to comply with the Alaska Historic Preservation Act. Should any sites be discovered during the course of construction, operations, maintenance, or termination of the pipeline activities, the activity will cease and the SHPO and the appropriate coastal district will be immediately notified.

Surveys

Anchor Point Energy, LLC is required to mark and protect all land and geodetic survey monuments encountered during construction, operation, maintenance, and termination of the pipeline system. These monuments are not to be disturbed, however, if disturbance becomes necessary, Anchor Point Energy, LLC will be required to notify the Commissioner in writing before any such disturbance occurs and the Commissioner will provide instructions. Stipulations in the right-of-way lease will require Anchor Point Energy, LLC to protect survey monuments. The lease requires Anchor Point Energy, LLC to employ a qualified land surveyor to reestablish

or restore damaged or disturbed survey monuments. The Commissioner may require additional requirements for the protection of monuments and corners.

Fire Safety

A stipulation in the right-of-way lease will require Anchor Point Energy, LLC to prevent fires and notify the Commissioner of fires, which may threaten any portion of the pipeline system. Anchor Point Energy, LLC will be required to comply with the instructions and directions of the Commissioner concerning use, prevention, and notification of fires on state land.

Post-Construction

After construction, a pipeline inspection and maintenance program will be implemented. The goals of this program will be to ensure pipeline operating integrity and safety, and also prevent, identify, and respond to any situations that could cause significant damage to the environment. This ongoing pipeline inspection and maintenance program will address potential adverse habitat or water-quality impacts resulting from unplanned events with pipeline performance.

Conclusion

Many of the measures and precautions pertaining to safeguarding the health and safety of the public will also protect state and private property located in the project vicinity. The technical capabilities of Anchor Point Energy, LLC to protect private property are the same as those that are relevant to protect public property. The SPCO has thoroughly reviewed the proposed design basis of the North Fork Pipeline and determined it to be acceptable, given that certain conditions are met in the future. Armstrong Cook Inlet, LLC has demonstrated a capacity to build and operate a safe and environmentally sound pipeline. The Commissioner is therefore satisfied that Anchor Point Energy, LLC has the technical capability to protect state and private property interests.

3. Does the applicant have the technical and financial capability to take action to the extent reasonably practical to:

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

For the complete analysis of the financial capabilities of Anchor Point Energy, LLC see Criterion 4.

Fisheries Resources

The proposed route crosses one river and four streams (Table 1). Documented fish within the Anchor River drainage include chinook, coho, sockeye, chum, and pink salmon (ADF&G(e) 2010). Other important sport fish species include rainbow/steelhead and Dolly Varden. The North Fork of the Anchor River contains chinook, coho and pink salmon and steelhead/rainbow and Dolly Varden trout (ADF&G(e) 2010).

Table 1. North Fork Pipeline river and stream crossing information.

Stream	Location	Channel Width	Channel Depth	Comments
Unnamed Tributary to the North Fork of the Anchor River	Sec. 34, T4S, R14W, SM	3 Feet	Less than 1 Foot	Sands and silt: 3.5% slope
Unnamed Tributary to Two Moose Creek	Sec. 32, T4S, R14W, SM	8 Feet	2.4 Feet	Sands, silts and cobble: 0.7% slope
Branson Creek - Upstream	Sec. 36, T4S, R14W, SM	160 Feet (pond)	1 Foot	Organic soils: 0.2% slope
Branson Creek - Downstream	Sec. 35, T4S, R14W, SM	9 Feet	2 Feet	Sands and silt: 0.6% slope
North Fork of the Anchor River	Sec. 36, T4S, R14W, SM	40 Feet	3-5 Feet	Sand and gravel: 0.5% slope

Although not documented there is the possibility that the remaining four streams support one or more species of fish and ADNR will authorize activities in these streams based on the assumption that fish are present. A general description of each referenced (within the North Fork of the Anchor River) species life history is provided to facilitate evaluation of measures to protect fish resources.

Life Histories

Chinook Salmon: Chinook salmon are anadromous. They hatch in fresh water, spend part of their life in the ocean, and then spawn in fresh water. In Alaska, the eggs usually hatch in late winter or early spring, depending on time of spawning and water temperature. The newly hatched fish, called alevins, live in the gravel for several weeks and gradually absorb the food in the attached yolk sac. Juveniles in fresh water initially feed on zooplankton and later eat insects. These juveniles, called fry, emerge from the gravel by early spring. Most juvenile chinook salmon remain in fresh water until the following spring when they migrate to the ocean in their second year of life.

Coho Salmon: Coho salmon enter spawning streams from July to November. The eggs develop during the winter, hatch in early spring, and the alevins remain in the gravel utilizing the egg yolk until they emerge in May or June. The emergent fry occupy shallow stream margins, and, as they grow, establish territories that they defend from other salmonids. They live in ponds, lakes, and pools in streams and rivers, usually among submerged woody debris-quiet areas free of current - from which they dart out to seize drifting insects. They spend one to three winters in streams and may spend up to five winters in lakes before migrating to the sea as smolt.

Pink Salmon: Pink salmon enter Alaska spawning streams between late June and mid-September. Different races or runs with differing spawning times frequently occur in adjacent streams or even within the same stream. Most pink salmon spawn within a few miles of the coast and spawning within the intertidal zone or the mouth of streams is common. Shallow riffles where flowing water breaks over coarse gravel or cobble-size rock and the downstream

ends of pools are favored spawning areas. After hatching, usually by mid-winter, the alevins, or young fry, feed on the attached yolk sac material continuing to grow and develop. In late winter or spring, the fry swim up out of the gravel and migrate downstream into salt water.

Steelhead/Rainbow: Maturing rainbows usually seek out the shallow gravel riffles or a suitable clear-water stream as spawning habitat during late winter or early spring. Spawning takes place from late March through early July, depending upon the specific location and the severity of the winter. Hatching normally takes place from a few weeks to as much as four months after spawning, depending upon the water temperature. A few more weeks may be required for the fry to emerge from the gravel. Upon emergence, juveniles assemble in groups and seek shelter along the stream margins or protected lakeshore, feeding on crustaceans, plant material, and aquatic insects and their larvae. Rainbow rear in similar habitat for the first two or three years then move into larger waterbodies and turn more to a diet of fish, salmon carcasses, and fish eggs.

Steelhead are an anadromous form of rainbow that enter freshwater systems as adults in August, September, October, and into the winter. Spawning commences about mid-April and usually occurs throughout May and early June. By mid-summer fry emerge from the gravel and seek refuge along stream margins and in protected areas. Generally, the juvenile steelhead will remain in the parent stream for about three years before out-migrating to salt water.

Dolly Varden: Dolly Varden, both the anadromous and non-anadromous form, spawn in streams, usually during the fall from mid-August to November. Hatching of the eggs occurs in April or March, four to five months after fertilization. After hatching, Dolly Varden juveniles obtain food from their yolk sac and usually do not emerge from the gravel until this food source is exhausted. Emergence usually occurs in April or May for the southern form and in June for the northern form. Dolly Varden juveniles often remain on the bottom, hidden from view under or near stones and logs, or in undercut areas along the stream bank, and appear to select most of their food from the stream bottom. At maturity, Dolly Varden return to spawn in the stream from which they originated. The northern form Dolly Varden usually overwinter in the river system in which they have spawned.

Possible Adverse Environmental Impacts to Fish Resources

Stream Crossings: The proposed pipeline corridor crosses five drainages along the 7.4-mile route. The North Fork Pipeline Project Design Basis and Criteria (Northern Consulting Group 2010) identifies two methods for stream crossings, open cut (dam and pump will be used if flowing water is present) and HDD.

The North Fork of the Anchor River is an anadromous waterbody and subject to the requirements of AS 16.05.871 and pipeline construction and operational activities will be subject to ADF&G permit stipulations. Anchor Point Energy, LLC plans to install the pipeline beneath the North Fork of the Anchor River using HDD and no direct impacts to fish are anticipated.

The remaining four streams have not been identified as anadromous, however may also contain fish. The open cut method is appropriate for these drainages; however, this technique may also require utilization of the dam and pump method as described in the North Fork Pipeline Project Design Basis and Criteria (Northern Consulting Group 2010) or other appropriate methods to isolate the work area will be used for those streams with surface flow. This measure is necessary to protect water quality and fish, if present, downstream of the crossing location. A stipulation in the right-of-way lease will require Anchor Point Energy to meet this requirement.

Riparian Habitat: Anchor Point Energy will be required to restore disturbed areas to provide bank stabilization and minimize erosion. Stream bank stabilization will be accomplished using methods meeting the Kenai Peninsula Borough restoration standards (KPB Anadromous Streams Habitat Protection Ordinance Chapter 21.18) and the ADF&G Streambank Revegetation and Protection, A Guide for Alaska, Revised 2005 (ADF&G(f) 2005). Anchor Point Energy will be required to ensure that damage to the surrounding vegetation is minimized and that the stream bank will be restored as close as possible to original condition during construction. The success of the restoration will be examined during the subsequent summer and further restoration will be performed if necessary.

Water Withdrawal: Hydrostatic testing of the pipeline will be required prior to project completion. Testing will be performed using water from local water sources. Water withdrawal from fish streams may alter or affect the quantity or quality of overwintering habitat and have the potential to affect fish populations. If the waterbody selected for water withdrawal contains fish, ADNR will work with ADF&G to ensure the Temporary Water Use Permit includes stipulations to fully protect fish resources.

Wastewater Discharge: Excavation dewatering will be subject to Alaska Department of Environmental Conservation General Wastewater Disposal and U.S. Environmental Protection Agency National Pollutant Discharge Elimination System (NPDES) permits. Anchor Point Energy, LLC will be required to discharge water in a manner that does not affect the water quality of the receiving waters. Wastewater generated by excavating below the water table will be discharged to an adjacent upland area to allow filtration prior to re-entering receiving waters. Further filtration may be necessary and will be accomplished using straw bales, silt fences or other approved methods. The applicant will also be required to monitor excavation discharges for erosion, effects on vegetation, sediment accumulation, petroleum products, drilling muds, and floating and other material. Monitoring will be required daily during discharge of excavation dewatering effluent and hydrostatic testing water.

Wildlife and Bird Resources

Wildlife: The project area provides wildlife habitat for several species including moose, bear, beaver, otter, wolf, wolverine, lynx, coyote, weasel, red fox, snowshoe hare, marten, red squirrel, voles, and shrews. Important habitats are areas considered essential for maintaining healthy populations. Examples of these areas include calving concentration areas, mineral lick areas, migratory corridors or movement zones and winter use concentration areas.

Birds: The project area is in close proximity to the Kenai National Wildlife Refuge where about 190 species of birds have been documented (U.S. Fish and Wildlife Service 2010). Species of waterfowl, seabirds, shorebirds, raptors, grouse/ptarmigan, and passerines are likely to within or in close proximity to the project area.

The U.S. Fish and Wildlife Service (USFWS), under the Migratory Bird Treaty Act of 1918 (16 USC 703-712), has regulatory authority for migratory birds and will review the project pursuant to this authority. In addition, the USFWS will review the project with respect to the Bald Eagle Protection Act (16 USC 668-668c) and the Endangered Species Act of 1973 (as amended).

Possible Adverse Environmental Impacts to Wildlife and Bird Resources

Construction activities result in noise, vibrations, equipment movement and human presence, all of which may disturb wildlife in several ways:

- Moose may be present in the area during construction and their travel patterns may be altered to avoid the immediate construction zone (this would be a short-term impact);
- Animals may be attracted by food to construction sites creating the potential for injury to animals and humans;
- A slight potential exists for animals to be killed by collisions with construction equipment and vehicles (although a greater risk of this happening occurs by virtue of the existing highway);
- Eagle nests will need to be located to avoid any impacts during construction;
- Construction activities may result in short-term disturbance to birds within the project area; however, no long-term impacts are anticipated.

ADF&G has identified the Kenai Peninsula Brown Bear as a Species of Special Concern (ADF&G(g)). To address concerns associated with the Kenai Peninsula brown bear population, thirteen stakeholders were appointed, representing a wide spectrum of public, private, and government interests, to develop a conservation strategy. The resultant document, “Kenai Peninsula Brown Bear Conservation Strategy,” contains recommendations that are applicable to this project (ADF&G(h) 2000). Since brown bears are present in the project area, a human-bear interaction plan that addresses waste management, access, timing and other appropriate measures will be required to be developed right-of-way Lessee prior to project start-up.

Prior to commencement of any activities, the lessee shall be required to confirm the locations of den sites that are actually occupied in the season of proposed work with the ADF&G, Division of Wildlife Conservation based on data provided by ADF&G ((907) 267-2281). Construction begun between November 15 and March 31, will not be conducted within one-half mile of occupied brown bear dens, unless alternative mitigation measures are approved by ADF&G. The lessee will be required to report occupied dens not previously identified by ADF&G that are encountered in the field to the Division of Wildlife Conservation, ADF&G, within 24 hours ((907) 262-9368). Mobile activities shall avoid such dens by one-half mile unless alternative mitigation measures are approved by ADNR with concurrence from ADF&G. Non-mobile facilities will not be required to be relocated.

Although not immediately adjacent to the proposed North Fork Pipeline project, the Anchor River/Fritz Creek Critical Habitat Area is just south of the area. The Anchor River/Fritz Creek Critical Habitat Area Management Plan (ADF&G(i) 1989) describes the importance of fish and wildlife habitat in the area, especially moose habitat. The proposed pipeline project does not include new permanent access. Additionally, the pipeline will be buried and, except for the construction phase, should not impact migration behavior.

Visual monitoring will be used to detect any construction activities that may adversely impact fish or wildlife. Methods of abatement will include usage of covered garbage containers; following standard procedures for waste handling; controlling sediments on site; and minimizing the extent of disturbance.

Conclusion

Operation of the pipeline is not expected to result in any long-term wildlife and bird behavioral changes, or change habitat use. Wildlife and birds could be disturbed during pipeline maintenance activities, but these impacts would be short-term and not generally significant. Impacts from pipeline termination activities would be short-term and similar to those described during construction.

The Right-of-Way Leasing Act requires consideration of the applicant's technical capability to prevent significant environmental impact, including prevention of erosion and damage to fish, birds, and wildlife and their habitat. The most important factor in protection of the environment is the design, construction, operation, and maintenance of a safe pipeline system. The SPCO has scrutinized the proposed North Fork Pipeline and is satisfied that it is designed and will be constructed, operated and maintained to minimize to fish and wildlife resources.

3(B) Undertake any necessary restoration or revegetation?

For the complete analysis of the financial capabilities of Anchor Point Energy, LLC see Criterion 4.

Review of Anchor Point Energy, LLC's commitment to restoration in the pipeline right-of-way application and the use of local contractors in the preparation of the application demonstrate access to the appropriate technical capabilities. The Kenai Peninsula Borough and ADF&G restoration techniques and standards will guide ADNR approval of Anchor Point Energy restoration efforts.

Impacts that may require restoration or re-vegetation will be related to the construction and maintenance of the pipeline. An area as wide as 50-feet will need to be cleared of timber, brush, and vegetation for construction and an equal or lesser area for maintenance. Other impacts include erosion at stream crossings made via open cut construction and surface/subsurface erosion resulting from contour disturbance.

The lessee will be required to control construction activities to abate erosion. Stream crossings made via open cut construction and surface waters will be controlled to avoid erosion. The banks near open cuts will be provided with suitable protection, such as sandbags, if erosion is an issue. Sedimentation from erosion areas will be controlled with straw bales or silt fences. Once construction is complete, the lessee will be required to revegetate any disturbed areas and restore contours close to their pre-existing condition. During the operations phase, erosion is not expected to be a significant issue. However, if erosion is visually detected after construction, it will be addressed using the same standards applied to construction-related activities.

Conclusion

As noted elsewhere, the impacts to vegetation of the North Fork Pipeline are anticipated to be minimal. Major factors reducing impact to vegetation include: buried pipeline, drilling beneath the only major river crossing and planned winter construction.

3(C) Protect the interests of individuals living in the general area of the right-of-way who rely on fish, wildlife, and biotic resources of the area for subsistence purposes?

For the complete analysis of the financial capabilities of Anchor Point Energy LLC please see Criterion 4.

Subsistence

Subsistence harvest of fish, wildlife and vegetation occur within the project area. The ADF&G, Subsistence Division develops community profiles for towns and villages around the state to quantify utilization of subsistence resources. The study by Fall J.A., et al. (2000) "Wild Resource Harvests and Uses by Residents of Selected Communities of the Kenai Peninsula Borough" provides a comprehensive analysis of the communities near the proposed pipeline project. Specifically, the North Fork Road and Nikolaevsk areas are in close proximity to the proposed pipeline project (see Attachment A).

Fall J.A. et al. (2000) report that the core resources, those used by the most households, were halibut, berries, coho salmon, sockeye salmon, and chinook salmon. Moose was also a core resource for the North Fork Road study area. The estimated harvest and use of fish, mammal, bird, and plant resources by residents of the Nikolaevsk and North Fork Road communities are presented in Tables 2 and 3, respectively.

Table 2. Nikolaevsk 1998 estimated harvest and use of fish, mammal, bird, and plant resources (Fall J.A., et. al 2000).

Subsistence Resource	Estimated Pounds	Mean Pounds Per Household	Per Capita Pounds
Fish - Salmon	15,723.51	314.47	66.87
Fish - Non-Salmon	7,834.64	156.69	33.32
Large Land Mammals	5,267.03	105.34	22.40
Small Land Mammals	0	0	0
Marine Mammals	0	0	0
Birds and Eggs	0.95	0.02	0
Marine Invertebrates	892.84	17.86	3.80
Vegetation	1,543.24	30.86	6.56

Table 3. North Fork Road 1998 estimated harvest and use of fish, mammal, bird and plant resources (Fall J.A., et. al 2000).

Subsistence Resource	Estimated Pounds	Mean Pounds Per Household	Per Capita Pounds
Fish - Salmon	13,997.52	84.32	30.00
Fish - Non-Salmon	12,684.55	76.41	27.19
Large Land Mammals	14,603.99	87.98	31.30
Small Land Mammals	191.76	1.16	0.41
Marine Mammals	0	0	0
Birds and Eggs	284.20	1.71	0.61
Marine Invertebrates	2,541.16	15.31	5.45
Vegetation	1,592.46	9.59	3.41

Conclusion

Construction, operation and maintenance of the pipeline is not expected to result in any long-term impacts to subsistence users. Subsistence use could be affected during construction and maintenance activities, but these impacts would be short-term and not generally significant. Impacts from pipeline termination activities would also be short-term and similar to those described during construction.

The Right-of-Way Leasing Act requires consideration of the applicant's technical capability to prevent significant environmental impact, including prevention of erosion and damage to fish and wildlife and their habitat. The most important factor in protection of the environment is the design, construction, operation and maintenance of a safe pipeline system. The SPCO has scrutinized the proposed North Fork Pipeline and is satisfied that it is designed to minimize impacts to fish and wildlife resources and subsistence users.

4. Does the Applicant have the Financial Capability to Pay Reasonably Foreseeable Damages for which the Applicant May Become Liable on Claims Arising from the Construction, Operation, Maintenance or Termination of the Pipeline?

AS 38.35.100 requires the applicant to have the financial capability to protect state and private property interests and to take action to the extent possible to prevent any significant adverse environmental impact; to restore or revegetate disturbed areas; to protect the interests of individuals in the general area who rely on fish, wildlife, and biotic resources for subsistence purposes; and to pay reasonably foreseeable damages for which the applicant may become liable on claims arising from the construction, operation, maintenance, and termination of the pipeline.

Anchor Point Energy LLC will be required to show a level of insurance and/or a parent guaranty adequate to protect the State's interest including all liabilities for claims arising from the construction, operation, maintenance, or termination of the pipeline

5. Does the applicant agree that in the construction and operation of a pipeline within the right-of-way that they will comply with, and require contractors and their subcontractors to comply with, applicable and valid laws and regulations regarding the hiring of residents of the state currently in effect or that take effect subsequently?

As a condition of entering into a Right-of-Way Lease agreement under AS 38.35 with the State of Alaska the applicant will agree that in the construction and operation of a pipeline within the right-of-way the applicant will comply with, and require contractors and their subcontractors to comply with, applicable and valid laws and regulations regarding the hiring of residents of the state now in effect or that take effect subsequently.

III. Analysis Summary

It is state policy that the development, use, and control of a pipeline transportation system be directed to make the maximum contribution to the development of the human resources of this state, increase the standard of living for all its residents, advance existing and potential sectors of its economy, strengthen free competition in its private enterprise system, and protect its incomparable natural environment.

This Commissioner's Analysis evaluated requirements as laid out in AS 38.35.100(a) 1-5, and Anchor Point Energy, LLC's proposal in their application and design for the North Fork Pipeline. Based on this analysis the Commissioner makes the following determinations:

1. The proposed North Fork Pipeline does not unreasonably conflict with existing uses of the land involving a superior public interest. The North Fork Pipeline right-of-way will not unreasonably interfere with free access to navigable or public waters nor will it unreasonably interfere with subsistence harvests or access to subsistence. Stipulations to

ensure protection of the public, fish, wildlife, and their environment will be incorporated into the right-of-way lease.

2. Based on the acceptable design basis and criteria, the approval and implementation of the quality assurance program, and the willingness of the applicant to execute the right-of-way lease, it is determined that the applicant, Anchor Point Energy, LLC, has the technical and financial capability to protect state and private property interests. Anchor Point Energy, LLC is technically and financially capable to design, construct, operate, maintain, and terminate the pipeline. Anchor Point Energy, LLC has the financial resources to pay foreseeable damages on claims arising from construction, operation, maintenance, and termination of the North Fork Pipeline.

3(A) Based on information provided, Anchor Point Energy, LLC has the technical and financial capability to take action to the extent reasonably practical to prevent any significant adverse environmental impact, including erosion of the surface of the land and damage to fish and wildlife and their habitat; to undertake any necessary restoration or revegetation; and to protect the interests of individuals living in the general area of the North Fork Pipeline who rely on fish, wildlife, and resources of the area for subsistence purposes.

3(B) The SPCO performed a design review for structural adequacy, pipeline integrity, safety, potential impacts on the environment, and potential effects on fish and wildlife, their habitat, and subsistence uses. The U.S. Department of Transportation, Office of Pipeline Safety is conducting a separate technical review of the pipeline design and is currently evaluating a special permit for the materials used in the pipeline. The design basis for the North Fork Pipeline meets the all requirements for a modern and safe high-pressure gas transmission pipeline, if a PHMSA special permit is issued.

3(C) According to the proposed design basis the North Fork Pipeline Project will use proven standard pipeline construction techniques for the buried gas pipeline. The proposed design and construction techniques, and other pipeline integrity issues, were reviewed by the SPCO and is under a separate review by PHMSA. The applicant has the technical and financial capability to take action to the extent reasonable to protect the interests of individuals living in the general facility who rely on fish, wildlife and biotic resources for subsistence purposes.

4. Based on information provided, the Commissioner will require that Armstrong Oil and Gas Incorporated provide an unconditionally guaranty for Anchor Point Energy, LLC to construct, operate, maintain, and terminate the North Fork Pipeline. From the financial records submitted, the Commissioner found that Armstrong Oil and Gas Incorporated have current financial resources sufficient to unconditionally guarantee, on behalf of Anchor Point Energy, LLC, the construction, operation, maintenance, and termination of the North Fork Pipeline consistent with the terms of the lease and all applicable laws and

regulations. The requirement for unconditional guaranties will be part of the right-of-way lease.

5. Anchor Point Energy, LLC agrees in the construction, operation, maintenance, and termination of the North Fork Pipeline to comply with, and to require contractors and their subcontractors to comply with applicable and valid laws and regulations regarding the hiring of residents of the state. The right-of-way lease encourages Anchor Point Energy, LLC, contractors and subcontractors to employ local and Alaska residents and contractors for work performed on the leased area.

IV. Proposed Determination and Proposal of Action

Proposed Determination

Development of the North Fork Pipeline for the transportation of hydrocarbons has the potential to make other marginal gas fields more economical and more likely to be developed. Development of Alaska's hydrocarbon resources complies with the legislative policy of utilizing the gas resources to increase the standard of living of the state's residents and to advance existing and potential sectors of the state's economy.

The proposed North Fork Pipeline should not result in significant degradation of the environment, resources, or lands. Potential impacts from construction, maintenance, and operation of the North Fork Pipeline are mitigated through the accepted design, which considered safety, the environment and pipeline integrity and through processes laid forth by authorized regulating authorities.

Lease Conditions

Under AS 38.35.120, a Right-of-Way Lease granted on state land shall contain specific terms and conditions that will apply to the construction, operation, surveillance and maintenance, and termination of the right-of-way, the pipeline, and activities specifically associated with the right-of-way and pipeline. For a complete list of the proposed stipulations that will be contained within the lease please see the proposed draft lease (Attachment C).

The right-of-way lease will require Anchor Point Energy, LLC to continue compliance with their commitments in the application and accepted design during the construction, operation, maintenance, and termination of the North Fork Pipeline.

The right-of-way lease will stipulate that prior to any on site construction activities, Anchor Point Energy, LLC will be required to submit a construction plan that describes work schedules, permits and authorizations required and their interrelationship, construction sequencing, and maps depicting the boundaries of the construction zone, as well as the following sections: public awareness programs; notice and scheduling of disturbance to public and private improvements; blasting; sanitation; waste management, including disposal; cultural resource preservation; restoration and revegetation; fish and wildlife avoidance and interaction; access; ice road and pad

construction and maintenance; safety and hazard prevention; equipment and material storage areas; groundwater control; erosion and sediment control; stream, river and floodplain crossing; overburden and excess material disposal; trenching; and housekeeping. Anchor Point Energy, LLC will not initiate any construction activity until the plan is reviewed and approved by the Commissioner.

Prior to natural gas being transported through the pipeline, Anchor Point Energy, LLC will develop and submit a surveillance and monitoring program to detect and abate situations that endanger health, safety, the environment or the integrity of the pipeline. This program will be approved by the Commissioner and will be implemented during operation, maintenance, and termination of the North Fork Pipeline. Anchor Point Energy, LLC will annually submit a written analysis of changes in conditions as documented by records gathered from this program. This annual submittal will document cumulative changes and changes from the previous year, effects of the changes, and the proposed actions to be taken related to the noted changes.

During the construction phase Anchor Point Energy, LLC will be required to obtain all necessary permits for constructing on state lands and submit any necessary plans requested by the permitting authorities. Additionally the SPCO's compliance section will monitor construction and assure that practices being employed for construction are held to a standard agreed upon in the lease. The lessee will be required to comply with all federal, state, and local requirements as they pertain to proposed pipeline activities. Within one year after construction of the pipeline, the State will require an As-Built survey and a release of interest that will reduce the right-of-way from a 50-foot construction right-of-way down to a 20-foot operation and maintenance right-of-way. After all obligations have been met per the lease agreement and with permission given by the Commissioner, or their delegate, Anchor Point Energy, LLC will be allowed to transport natural gas from the North Fork Unit Production Pad, through the North Fork Pipeline and tie in to the proposed Anchor Point Pipeline located within the Southeast ¼ of Section 34, Township 4 South, Range 15 West, Seward Meridian, in Anchor Point, Alaska. Once production begins, the SPCO's compliance team will work with the applicant to confirm that all obligations, commitments, requirements, and regulations are being met and followed as required by the right-of-way lease.

The North Fork Pipeline right-of-way lease will require forfeiture of the lease by Anchor Point Energy, LLC upon failure to begin construction of the pipeline system within two years of the effective date of the right-of-way lease or failure to begin operation of the pipeline as a common carrier within five years of the effective date of the right-of-way lease for reasons within the control of Anchor Point Energy, LLC.

The North Fork Pipeline will operate as a common carrier and must accept natural gas from other sources for transportation to market.

Proposal of Action

Supported by the information within this analysis, I propose that Anchor Point Energy, LLC is fit, willing and able to enter into a Right-of-Way Lease agreement with the State of Alaska,

under AS 38.35, to construct, and transport natural gas through, the North Fork Pipeline. The analysis reveals that the applicant is fit, willing and able to construct and operate this proposed pipeline with minimal negative effect on the fish and wildlife and their habitat, the environment, and can protect the interests of individuals living in the general area.

The Commissioner of the Department of Natural Resources is charged under AS 38.35.100 with the duty to make the determination whether the applicant is fit, willing, and able to perform the transportation or other acts proposed in a manner that will be required by the present or future public interest. On the basis of the entire record developed before and during the public comment period of this Proposed Decision, the Commissioner will make a final determination whether the applicant is "fit, willing, and able" to perform all of the acts proposed by the North Fork Pipeline right-of-way lease application.

I have reviewed all of the required areas of AS 38.35.100. I will use this analysis, along with public comments, to form the basis of my final determination under AS 38.35.100 as to whether the applicant is fit, willing, and able. The draft North Fork Pipeline right-of-way lease includes covenants, stipulations, and other requirements as described in AS 38.35 or determined necessary to protect the interests of the residents of the State of Alaska.



Thomas Irwin, Commissioner
Alaska Department of Natural Resources

5/28/10
Date