

Aligning Alaska's and America's Interests

Presented to:

Anchorage Mid Town Rotary Club

By

Dave Harbour¹

Fifty-five years ago Alaska most of the year was, “cold, dark and wet” according to former Cordova Mayor Margy Johnson. Yes, Alaskans had kerosene, gas and firewood, but it was certainly a different way of life.

In 1957 Bill Bishop of Richfield Oil (ARCO, now ConocoPhillips) threw a roll of toilet paper over a big Swanson River tree on the Kenai Peninsula and after drilling at that point the company discovered the oil that enabled Alaska pioneers to lobby on behalf of statehood.

So, here we are a half-century later faced with a larger challenge than our pioneering predecessors faced in pre-oil Alaska. After all, back then, they *weren't as dependent* on hydrocarbons. Now ... the quality of life may have left something to be desired, so their incentive was to improve it. Our challenge today—having become almost completely economically dependent on oil and gas—is how to save our *dependent* quality of life.

Tonight, I will try to frame for you Alaska's challenge, how we share that challenge with America and what our best solutions might be.

First, let us be realists. Oil sparked the incredible industrial revolution in the latter half of the 19th Century until the present. It is the very source of America's prosperity, the source of wealth. Without oil and gas, almost nothing else works efficiently. You can't efficiently develop coal, mine and process minerals, manufacture steel, produce petrochemicals, build a hydroelectric dam, create wind turbines, construct a nuclear generator, farm a field, milk cows, transport goods, fly a plane, power a computer or heat a home without oil and natural gas. So oil and natural gas are at the very base of our economic pyramid. Without them, our economy is third world. Without domestic production, we send what wealth we

¹ Dave Harbour is publisher of Northern Gas Pipelines (www.northerngaspipelines.com) and President of Consumer Energy Alliance-Alaska

have—along with our jobs—to parts of the world that are proud to produce oil and natural gas as a means of growing *their* wealth and economies.

A year ago, with shutting down the Trans Alaska Pipeline to make a repair at Pump Station One, Alaskans became more aware of our state's economic dependence on oil. The nation heard that 10 % of domestic production was affected and the price of oil rose dramatically.

Yes, America's interests are aligned with Alaska's. The state and the country both need jobs and domestic hydrocarbon production to prosper.

So if America and Alaska both depend to some extent on Alaska's oil and gas production, how is that production threatened today?

There are two challenges to keeping our 2/3 empty Trans Alaska Pipeline operating: 1) a **state energy policy** challenge and, 2) a **federal energy policy** challenge. The good news is that both challenges can be accomplished. The tough news is that both challenges are enormous and depend both on ability of citizens to influence government and the quality of their leaders.

State Energy Policy

Following discovery of Swanson River in 1957, Alaskans were grateful for the jobs and the Legislature did nothing to dramatically affect our inviting investment climate until after the \$900 million Prudhoe Bay lease sale in 1969.

The decade of the 1970s was an era of dramatic, annual tax increases, culminated by imposition of a discriminatory oil and gas corporate income tax change in 1979, the year the Alaska Support Industry Alliance was founded. The oil companies sued.

Governor Jay Hammond and the Legislature opted to change the tax structure and held a press conference on March 18, 1981². During that conference³ participants reluctantly agreed that they had achieved and would accept no less than 30% of Prudhoe Bay's economic value, with the oil industry receiving 34% and the federal government garnering 36%. Senator Don Bennett of Fairbanks characterized it as a 'fair share'. Kenai Representative Hugh Malone, Senate President Jay Kerttula of Palmer, House Speaker Jim

² The 30th anniversary approaches.

³ <http://www.vimeo.com/10293150>

Duncan of Juneau, Anchorage's Senator Ed Dankworth and rural representative Tony Vaska all spoke in favor of the stability this new tax structure would usher in. Listen to this....⁴

The new tax structure was a bargain among willing parties. The oil companies agreed to have their severance tax raised from 12.25% to 15%. The State agreed to remove the discriminatory aspect⁵ of the corporate income tax and to provide for an Economic Limit Factor (ELF) that authorized reduced collections as reservoir productivity declined.⁶ And, in the same bill, the Legislature repealed the personal income tax.

This formula had its intended effect of investment climate stability. The original Trans Alaska Pipeline had been financed on the basis of a 9.6 billion barrel reserve. Increased investment in succeeding decades, was, arguably, enabled by the 1981 tax change and the minimal changes⁷ that were imposed on the tax code have resulted in double the North Slope production than was projected. Unfortunately, the 2007 ACES⁸ tax change converted the 15% of gross tax into a net severance tax adjusted upward by a confiscatory progressivity factor. Since then, industry investment in Alaska has dropped dramatically. The Alaska Support Industry Alliance can document loss already of over 2,000 industry jobs as more and more of our support companies establish operations in places like North Dakota.

The price of natural gas today sure works against the TransCanada gas project. But no one would dispute that one of the major conditions of shippers bidding in the gas pipeline open season process is tax stability. After all, what group of investors in their right mind would plow \$40 billion into a gas line knowing it could become hostage to future, unpredictable tax increases?

So, while Alaska could improve its permitting and regulatory systems, the highest priority is recreating an inviting investment climate. That will be done by modifying the tax structure. And, those of us in this room should not allow elected officials to make the investment

⁴ <http://www.vimeo.com/10293150>

⁵ This returned the oil and gas income tax to an "apportionment" methodology – applied to other companies in Alaska – from the discriminatory "separate accounting" methodology. The latter, in general, produced much more revenue for Alaska by counting Prudhoe Bay (Alaska) revenue and disallowing any deductions originating outside Alaska even though they were Alaska support expenses.

⁶ Designed to prevent premature abandonment of low productivity reservoirs in order to extend the life of the field and provide more royalties, income taxes, property taxes and even extended severance taxes.

⁷ Several adjustments to the economic limit factor occurred.

⁸ "Alaska's Clear and Equitable Share"

climate worse. After all, elected officials created our current mess. For them to now say, for example, “We’ll reduce your taxes but we’ll have to have a guarantee that you’ll invest your tax savings in Alaska.” That’s the sort of government arrogance that contributes to a bad investment climate. Lower the taxes Legislators! Lower them so that they are not among the highest in the world. Lower them to a level that makes us competitive with other oil and gas producing areas! And don’t cherry pick Norway’s ideas for increased revenue unless you’re willing to adopt Norway’s responsible ways of reducing risk and costs to companies.

Tonight the Senate Resources Committee began taking testimony for the second night—just as our dinner meeting began—on whether or not it should adjust state oil and gas tax policy as TAPS throughput continues to decline. This afternoon in the House of Representatives, Representative Seaton gave committee testimony in support of his bill to re-impose a discriminatory oil and gas income tax. State hostility to our major state industry abounds.

Federal Energy Policy

President Eisenhower and Congress of the 1950s didn’t want to make the Alaska Territory a state. Ted Stevens, supported by Alaska’s Territorial representatives, governor and citizens like Wally Hickel and Bob Atwood convinced Washington that the Arco Swanson River discovery proved Alaska had the potential to make its own way as a self-supporting state. Alaska’s Constitution was ratified by Alaskans on April 24, 1956. On July 15, 1957 came the Peninsula’s Swanson River discovery. On July 7, 1958, Congress adopted and the President signed the Alaska Statehood Act, followed by primary and general elections of public officials, followed by creation of the 49th state in early 1959.

Since then we have seen a gradual ‘reaching’ by the federal government for more control over Alaska. Today, our Governor, with justification, refers to this as an ‘overreaching’ of federal authority.

Once, while assisting the retired Governor Bill Egan in preparing a speech, he said, “The greatest threat Alaska has to face in the future is a predatory federal government.” How right he was!

The federal government can overreach in a number of ways, two primarily: 1) it can directly control access to federal lands in Alaska⁹, and 2) it can promulgate environmental and other regulations that control Alaskans' activity on our own state and even private lands.

This overreach became contentions and visible with passage of the Alaska National Interest Lands Act (ANILCA) in 1980 under President Carter's regime. Section 1002 of the Act set aside a portion of the Arctic National Wildlife Refuge for oil and gas exploration and development. The failure of the federal government to approve exploration is one way the government has denied Alaska the opportunity to sustain itself. ANWR had a 'Range' designation before ANILCA, like the Kenai National Moose Range, available for multiple uses including oil and gas exploration and development. Still, oil and gas potential was preserved under the new 'Refuge' designation, but that promise has been withheld. Now, Massachusetts Congressman Markey and his allies fight to convert this 19 million acre area from a "Refuge" designation to a "Wilderness".

Under the Obama Administration federal overreach has grown to a new level:

- April 2009. **Department of Interior** Secretary Ken Salazar visited Anchorage and other cities to conduct hearings on the Minerals Management Service (MMS, now BOEM) five-year leasing programs. The [2007-12 and 2012-17](#) programs presented no new opportunities for exploration, only orders from the Secretary to cancel programs, conduct more studies and deny access by rejecting permit applications.
- August 2009. A **White House Ocean Policy Task Force** created by President Obama via Executive Order held a hearing in Anchorage. The order specified that within six to nine months the Task Force would provide recommendations which he subsequently adopted. This effort claims to not, "require new legislation to be implemented," but then, "directs Federal agencies to implement" Task Force recommendations under the *guidance* of the National Ocean Council, a not very subtle way to avoid Congressional scrutiny and usurp the constitutional rights of

⁹ Affecting Statehood Act authorized sharing of revenues from oil and gas produced on federal lands (52.5%) and minerals produced from federal lands (90%).

states. If anything, this initiative will delay or stop resource exploration and development of all kinds in many OCS and coastal areas and is scheduled to be implemented this spring.

- September 2009. The **Environmental Protection Agency** (EPA) visited Alaska to hear [testimony](#) on whether it should grant a Clean Air Act permit to Shell Oil. EPA's reluctance to approve Shell's reasonable applications for permits to explore the Chukchi and Beaufort Seas on leases it purchased from the federal government in good faith has resulted in continual, unjustified rejections and delays in Shell's exploration programs. The absence of that permit crushed Shell's 2011 plans for yet another year.
- March 2010. Governor Sean Parnell [urged](#) the **U.S. Army Corps of Engineers** to withdraw its denial of ConocoPhillips Alaska's permit application to construct a drill pad on its CD-5 Alpine Satellite Development within the National Petroleum Reserve-Alaska. After more delay, ConocoPhillips was finally given a green light last year. ***One wonders where oil can be developed in America if not on leases acquired from the federal government in good faith within a national petroleum reserve!***
- July 2010. The Parnell Administration has vowed to [fight](#) "...Improper listings and critical habitat designations with sound science and cost data," referring to efforts by the U.S. Fish and Wildlife Service (USFWS) to designate 187,166 square miles as a critical habitat for polar bears—an action Alaska and the Arctic Slope Regional Corporation believe will cost Alaskans hundreds of millions of dollars in economic potential.
- September 2010. The State of Alaska [sued](#) the **Secretary of the Interior** in U.S. District Court to overturn the federal moratorium on offshore drilling in Alaska's

OCS, on grounds that the Obama administration violated federal law and acted in an arbitrary and capricious manner.

- September 2010. Alaska [challenged](#) **National Park Service** regulations, claiming they violate federal law, usurp state sovereignty, and infringe the liberty of Alaskans.
- September 2010. Alaska [objected](#) to **USFWS** steps to seek wilderness designations for the 1002 area within the Arctic National Wildlife Refuge's 19 million acres that would prevent development of up to 16 billion barrels of oil.
- September 2010. The State of Alaska [petitioned](#) The **National Marine Fisheries Service** (NMFS) to remove the eastern distinct population segment (DPS) of Steller sea lions from the list of species protected by the Endangered Species Act (ESA).

Governor Parnell¹⁰ has discussed Alaska Statehood Act history, recalling that, "With statehood, the strong assumption prevailed that, as a fledgling state, we would be allowed to develop our own resources without constant federal interference." He said the federal government, "misused the Endangered Species Act...proposed setting aside an area larger than the state of California as critical habitat for polar bears...hyperextends its reach by proposing to zone the oceans..."

What does all this mean? Alaska must use the billions of barrels of oil within ANWR, NPR-A or Alaska's OCS to fill the declining, 2/3 empty Trans Alaska Pipeline. And...or...the Legislature and Governor must act to improve the investment climate rapidly, in a way that invites more North Slope exploration, production and viscous oil recovery on state lands. That state policy improvement will have the double benefit of also paving the way for gas pipeline investments.

¹⁰ On his January 20, 2010 State of the State Address

So, yes, there is good news: we can confront the challenges before us to keep the pipeline alive, to support Alaskans' way of life and to contribute to America's economy and national security. But those challenges lie in successfully reversing the Obama Administration's overreaching jurisdiction and correcting Alaska's horrible investment climate.

The challenges of state and federal hostility toward our major industry are shocking and embarrassing right now, but can be addressed over time. The question is, "will we produce leaders capable of negotiating this challenge and will they be able to improve our investment climate before the Trans Alaska pipeline abandons Alaskans to a colder, darker and wetter destiny?"

-30-

Dave Harbour is publisher of Northern Gas Pipelines (www.northerngaspipelines.com). A former Chairman of the Alaska Council on Economic Education, the Anchorage Chamber of Commerce and President of the Alaska Press Club, Harbour is a retired member of the Regulatory Commission of Alaska and Commissioner Emeritus of the National Association of Regulatory Utility Commissioners