

## **Municipal Advisory Group Meeting**

### **May 25-26, Fairbanks**

Chaired by Mayor Steve Thompson

Municipal representatives participating: Todd Sherwood, NSB; Robert Venables, Haines; Pete Halgren, City of Delta Junction; Bill Walker, City of Valdez; Mayor Whitaker, Michael Lamb, Lori Backes, FNSB; Ron Woolf, City of Fairbanks; Mayor Jacobson, City of North Pole; Rick Ross, City of Kenai; Bill Popp, Kenai Peninsula Borough; Mike Catsi, City of Skagway

Department of Revenue: Dan Dickenson, Randy Hoffbeck, Steve Porter

Department of Law: Larry Ostrovsky

Department of Transportation & Public Facilities: Jeff Hadland; Jeff Ottesen

State Assessor: Steve Van Sant

Information Insights: Brian Rogers, Nadine Hargesheimer, Sherry Modrow, Chris Rogers

### **Meeting Content – May 25**

Review MAG Resolutions and compare to contract

- Resolution 2004-01 Stranded Gas Contract Provisions
  - a) No reduction or deferral in municipal taxes – does that include all taxes?
  - b) Cost benefit of tax exemption before exempting municipal taxes – does that apply to sub-contractors? Yes, but municipalities don't have to sort it out.
  - c) Certainty for municipalities – City of Valdez commented on the uncertainty of including tanker tax in contract and eliminating SARB from TAPS valuation.
  - d) Creation of new boroughs – DOR stated 186 miles of new borough; NSB and FNSB are locked in, there is a chance PILT would be pro-rated to new municipalities towards the end of the contract. Discussion of adjustable mill rate, throughput volumes and structure of PILT. Definition of prevailing mill rate in terms of PILT, 20-mill cap. Discussion on whether or not under the contract the value of oil and gas properties is to be included in full and true value determination – thus impacting education funding.
  - e) Local hire – since there is a full resolution on subject, defer till later.
  - f) Offtake points for in-state use – Discussion of whether contract allows for offtake point for southeast, as it would be an offtake point in Canada to serve SE needs. Tariff to offtake points during open season would be mileage sensitive, after that pay full tariff to Alberta.
  - g) Establishment of mileage sensitive tariff for in-state offtake points – FERC will establish that, question about whether FERC established intrastate rates.
  - h) Municipalities' combined share of economic rent from project should equal what would be collected under present system. Locking in the contract for such a long period of time: municipalities are giving up revenue now and getting more during the second fifteen years. Municipalities have no taxation power under contract; if producers/state change anything midpoint, municipalities are at a disadvantage.

- Contract structured to allow municipalities to operate within current statutory setup. Real risk is legislative action. Under municipal taxes portion of contract – producers continue to pay all taxes; state and producers settle up, so municipalities won't notice the effect.
- Resolution 2004-02 Parameters for Payment in Lieu of Taxes
    - a) No property taxed prior to start of gas pipeline should receive a tax deferral/exemption.
    - b) Contract should clarify how dual use facilities are to be taxed; need to protect municipalities' tax base.
    - c) No tax exemption should apply to gas facilities in existence prior to the start of gas pipeline. SARB option not available anymore. How were figures for PILTS determined? Upstream facilities based on what they were willing to spend on getting oil out of the ground, income stream for oil they can produce; looked at what is currently being paid. Assets that are being replaced by a PILT, some things could still end up in front of SARB. Objections expressed about locking in value and methodology for 45 years, no room for mistakes, and contract reducing value of TAPS by a billion. DOR – there are no new taxes that are prohibited to municipalities. Discussion of CPI – 100% on gasoline and 70% on TAPS.
    - d) No tax exemption for municipal sales and use – if there is a state sales tax, will that nullify local taxes? Exemptions don't apply to local taxes – only state taxes?
    - e) Contract can include provisions to ensure sales and use taxes are not targeted to gasoline project. Industry very concerned about targeted taxes. State won't have to reimburse any taxes currently in existence. Concerns about any new taxes after October 2005, but construction doesn't start until 2014. Definition of targeted tax – if industry pays more than 20% of a specific tax that exempts it. Twenty percent may be low in some smaller communities; innocuous tax could be 20%, i.e. Delta. Discussion of whether or not effective date of new taxes should be closer to project sanction or construction. Producers will pay taxes; state will reimburse producers. Municipalities held harmless. Legislature has role, municipalities expressed concern that legislature would not appropriate difference to state.
  - Resolution 2004-03 In-State Use
    - a) Offtake points are needed in rural and urban areas of Interior, Southcentral and Southeast Alaska. – Need to include Southeast in gas consumption / need study.
  - Resolution 2004-04 Revenue PILT
    - a) DOR followed MAG recommendations for PILT structure, certainty, new governments, and payments directly to municipalities, PILT made proportionally to municipalities based on mill rates.
  - Resolution 2004-05 Construction PILT
    - a) Construction PILT must fund impacts, phased in.
    - b) State should ensure maximum local hire to ensure reduced construction impacts.
    - c) PILT payments should be made directly to municipalities – DOR – no way to have payments go directly to municipalities legally. Making PILT subject to appropriation introduces political element to construction PILT disbursement.

\$125 million in construction PILT not subject to inflation – contract needs to be changed. Information Insights – impact funds were calculated based on actual estimated impacts, then projected increase from increased property taxes due to overall economic activity were deducted. State added \$4.4 million to calculation of \$120.6 million. Document outlining a grant fund for distributing construction impact funds introduced. Creates fund, outlines guidelines, has grant funds disbursed according to recommendations of MAG and continues MAG until after construction.

- Resolution 2004-06 Alaska Hire
  - a) Discussion about whether or not Davis Bacon applies to project, in context of discussion about contract provision stating if workers were the least expensive they would be hired. Clarification asked of Department of Law.

Presentation from Department of Transportation & Public Facilities on Statewide Infrastructure needed to support Alaska Gas pipeline construction. PowerPoint of presentation on MAG website.

### **Meeting Content - May 26**

Discussion with Bob Loeffler, Partner, Morrison & Foerster LLP: Presentation – FERC Permitting & EIS Process for the Alaska Gas Pipeline can be found at <http://www.state.ak.us/gasline>.

Questions on how many open seasons (one) after that open season must pay freight all the way to Alberta. RCA jurisdiction on intrastate portion, federal law takes precedence over state law, thus FERC. Expansion discussion – i.e. low cost is increasing compression, high cost is looping, where you twin the pipes. If you need to expand from 4.3 to 5.6 bcf with low cost expansion, everyone benefits. Offtake point in Haines – definition in contract is that it is in Alaska. An offtake point for Southeast would have to be in Canada, thus under NEB jurisdiction. Discussion about comments before FERC, anyone can make comments to FERC. Cooperating party, both under FERC and during EIS process. There will be legal separation between LLC (owners including state) and the state as a whole for purposes of commenting during EIS process.

Questions from prior day:

- a) Is 20 mills an aggregate that cannot be exceeded or is it local jurisdiction/service areas? Open ended, an issue between state and local government. Industry is paying 20 mills regardless. DOR doesn't think it is a problem to have variable mill rates to reflect different service areas as long as doesn't exceed 20 mills. It may be worth while to clarify prevailing mill rate
- b) Full and true value – will oil and gas facilities under the contract be included in value? DOR, maybe; current practice is to not include it, there is an order of magnitude to this issue. Steve Van Sant to prepare figures for with and without values in determination and impact on education funding.
- c) Vessel tax – discussion of vessel tax, why it is specifically mentioned in contract. MAG would like neutral language in regards to vessel tax.
- d) Local hire – is there anything in contract that would preclude Canadian truck drivers from running pipe or prevent international hire> DOL – no legal

mechanism in contract. Contract has local hire provisions, but everyone knows there are constitutional issues with local hire. In contract there is language that lowest possible wage will be prevailing wage. MAG asked for clarification on prevailing wages.

- Resolution 2006-01

MAG proposed changes to SGDA to create construction impact fund, allow MAG to make recommendations on allocations and to extend MAG until operations. Resolution passed unanimously and sent to DOR and legislature.

Discussion of tasks to be completed at next scheduled meeting.

Next meeting scheduled for June 1, 2006 via audio conference with those wishing to attend in person at Fairbanks City Hall.

Three sets of activities defined:

- a) Information Insights will draft a resolution for issues related to previous resolutions, to include Offtake in Southeast; Construction PILT inflation: Timing of first payment; suspension/termination.
- b) Several topics pending further discussion among MAG members or receipt of information from Revenue, Law or State Assessor: Davis Bacon “big & little”; Vessel tax; full and true value issue/Offtake Points; RCA/expansion.
- c) Issues that MAG members may develop as resolutions for the group to consider: Remove oil-related taxes from the contract; adjust value of TAPS valuation to reflect SARB decision; make oil-related effective date to be the date of commencement of operations; remove all reference to vessel tax in contract; reject the contract.