Public Revenue and Extraction Profits from Alaskan Oil:
An Updated Case Study

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Coping with Bent Numbers Misleading Data

(Economic and Environmental Background with Occasional Footnotes)

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Prepared for the panel session, “Environment vs. Economy:

Worldwide Controversies around the Extraction Industry,”

at the

Society for Applied Anthropology, March 25, 2015, Pittsburgh, Pennsylvania

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(http://www.finebergresearch.com)

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This report was presented to a panel at the Society for Applied Anthropology conference in Pittsburgh, Pennsylvania, March 25, 2015. Subsequent to the conference presentation copies of report graphics have been inserted at Appendix B, with no significant changes made to the text of the conference report.

Abstract

Public Revenue and Extraction Profits from Alaskan Oil: An Updated Case Study

Alaska's geographic isolation, small population base and major North Slope oil fields provide fertile grounds for studying resource development issues that include factors such as corporate conduct and consolidated control of production and production-related facilities. Insights from review of recent legislative and statewide decisions on a long-running petroleum tax policy debate may be applicable to the Resource Curse, a phenomenon often studied in developing nations, while analysis of data from this dispute demonstrates the importance of carefully examining petroleum production economics. (This report will update the 2014 SfAA conference panel report I presented on Alaska oil tax issues.)

Introduction

Alaska is a relatively young state, isolated in the far north with a small population and the nation's largest oil field, long in decline. Its political landscape features ongoing economic and environmental controversies. I am pleased to be invited back to bring you up to date on the subsequent developments in the ongoing oil and gas tax cut controversy. In this report, a one-page summary of salient developments precedes highlights of four reports, posted on my web site, to which I will be referring. The first of these is the March 2014 briefing paper I prepared for last year's conference, which remains valid today as we struggle with lower oil prices.[1] Two other recent reports on state oil tax issues are sources of significant information.[2] Since environmental controversy is also a focus of this panel, I am also including an analysis I prepared in 2012 on the relationship between this nation's recently reduced petroleum imports and Alaska's Arctic National Wildlife Refuge.[3] Closing comments provide additional perspective on our petroleum follies.

These reports underscore the importance of looking closely at both the content and the context of economic information. I hope that each will give you an understanding of the various analytical techniques I have employed to complete these reports.

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[1] *The Alaska Oil Tax Cut Controversy: A Case Study (In This Era of Information Overload, Does Our Political System Enable Tall Tales to Triumph?)* was presented March 20, 2014 and is available at www.finebergresearch.com (see p. 5 for access and details).

[2] The primary source for this year's report is *A Tale of Two Charts: North Slope Profitability, SB 21 and ACES (Revised)*, posted October 24, 2014 at www.finebergresearch.com (see p. 6 for access and details). The first of the report's two principal charts that shed light on this controversy shows the extraordinary profitability of North Slope operations under ACES; the second chart deals with a grossly distorted picture of future profitability distributed by ConocoPhillips. For additional background information and insight into the Alaska oil tax controversy, see: *Sense, nonsense and the power of the Big Three: North Slope domination by the three major oil companies is one of many real-world issues that Scott Goldsmith's recent report overlooked*, which originally appeared June 21, 2014 on *Alaska Dispatch* and was later posted at finebergresearch.com (see p. 7 and Appendix A for access and details).

[3] *The Reduced Oil Imports Report: Recent Conservation Gains Outperform Arctic Refuge Region Oil Potential Between 2012 and 2030 by a Twenty-Five to One (25:1) Ratio* (2nd revision), posted Jan. 14, 2012 at www.finebergresearch.com (see p. 8 for access and details).

Petroleum and Political Developments in Alaska since March 2014

April 2013 (Background)

SB 21, which cut oil taxes, finally passed the Legislature at the end of the 2013 session.

The monthly oil price was $104.58.[4]

April 2014

During this session, legislators focused on SB 138, an act setting up administration procedures to work on the Alaska North Slope LNG (liquefied natural gas) project, with the state taking its royalty and production tax on gas in kind, and an equity position of 25 percent in the large natural gas project.[5] North Slope natural gas has been stranded since discovery, globally there are more potential projects globally than possible markets and there is also an in-state need for natural gas. Therefore, work also continues on a smaller in-state gas pipeline, viewed as a back-up proposal.

The monthly oil price was $107.36.

August 2014

The three major North Slope oil producers – British Petroleum, ConocoPhillips and ExxonMobil -- were the big contributors to the $14 million campaign that barely saved the SB21 oil tax cut from repeal by popular vote in the August 19, 2014 statewide referendum on SB 21. Despite the fact that the industry outspent its opponents by a margin of better than 20 to 1, the industry tax cut supporters only defeated the repeal measure by the narrow margin of 52.7% to 47.3%.[6]

August average of $101.78 (the last month that oil averaged over $100 per barrel).

November 2014

Republican Governor Sean Parnell lost re-election by a narrow margin to Bill Walker, an oil and gas attorney and former Valdez mayor. Parnell, who introduced SB 21 and pushed previous tax cut after taking over from Sarah Palin in 2009, had previous ties to ConocoPhillips. Walker, who opposed SB 21, is a former Republican who ran in 2014 as an independent, teamed up with a Democratic candidate to challenge and defeat Parnell.

The monthly oil price was $77.41.

February 2015

Walker has joined the Legislature in vigorously protesting White House opposition to opening the Arctic National Wildlife Refuge. On natural gas proposals he has been meeting with industry, wants to lift the size restriction on the back-up gas line project to encourage development and therefore finds himself in opposition to legislative leadership on natural gas policies. Meanwhile, the Governor and Legislature struggle with budget cuts to balance the budget. These policy issues share two common denominators: Numbers are difficult to decipher and confidentiality frequently makes this problem worse.

The average two-month oil price was $51.36.

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[4] ANS West Coast oil prices on this page represent the monthly average spot oil price, as reported by the Alaska Department of Revenue (*http://www.tax.alaska.gov/programs/oil/prevailing/ans.aspx*).

[5] Kristen Nelson, "House passes SB 138: Senate concurs in changes, sending enabling legislation to governor for signature," *Petroleum News*, April 27, 2014 (*http://www.petroleumnews.com/pntruncate/371609568.shtml*). For bill history and action, see *http://www.legis.state.ak.us/basis/get_bill.asp?session=28&bill=SB+138&submit=Search+Bills*.

[6] Alex DeMarban, "Oil tax vote deconstructed shows Fairbanks, Southeast, most rural hubs wanted repeal," *Alaska Dispatch News*, August 22, 2014 (*www.adn.com/article/20140822/oil-tax-vote-deconstructed-shows-fairbanks-southeast-most-rural-hubs-wanted-repeal*). For additional reporting of election results, see Ballotpedia, "Alaska Oil Tax Cuts Veto Referendum, Ballot Measure 1 (August 2014)," (*http://ballotpedia.org/Alaska_Oil_Tax_Cuts_Veto_Referendum,_Ballot_Measure_1_%28August_2014%29*).

[7] Compiled from current news sources.

[8] *Ibid.*

<u>Reader's Guide to Four Reports (Part 1)</u>

The Alaska Oil Tax Cut Controversy: A Case Study (In This Era of Information Overload, Does Our Political System Enable Tall Tales to Triumph?)

March 20, 2014 (SfAA, Albuquerque, N.M.)
(Copy available at http://www.finebergresearch.com/pdf/SB21reportSfAA140320rev.pdf)

<u>Introduction (Page 2):</u> Geographically isolated, huge, wild, with a small population base and highly oil dependent, Alaska offers case studies that may help us unravel and address the economic drivers in the chronic controversies that plague U.S. resource development. Because looking at the future is a necessarily speculative endeavor, policy outcomes are inherently vulnerable to easy generalizations that may be misleading. Note: We are often told that a half-truth is the most dangerous lie; recall also that people who misrepresent may actually believe the misinformation they present. For these reasons, I believe that the devil is in the details. Careful consideration of frequently flaunted "facts" is necessary to determine whether the supporting body of information is (1) aimed at accuracy, (2) tested in reality, (3) reflective of circumstances and therefore (4) provides an appropriate basis for generalized conclusions.

This analysis focuses on the current Alaska controversy over SB 21, the major oil tax cut enacted by the state Legislature on the final day of the legislative session in April 2013. SB 21 was immediately challenged by a call for a citizens' referendum that will decide, in August of this year, whether to repeal that controversial legislation, in which the Legislature demanded nothing in return for the following gifts to the North Slope producers: (1) retaining the cost-based production tax regime while (2) destroying (instead of correcting) the progressivity component of that tax; and (3) further tilting the North Slope playing field toward the major producers by linking tax credits to production instead of exploration….

<u>Background (Pages 2-7):</u> This section introduces Alaskan oil development, North Slope operations and the ConocoPhillips charts. [Much of this information will be covered in *A Tale of 2 Charts*.]

<u>TAPS Tariff Overcharges (Pages 7-11):</u> This section provides documented information on the economic benefits that the three major North Slope producers derive from their ownership of the Trans-Alaska Pipeline System (TAPS), which transports oil from the North Slope to the pipeline terminal at Valdez. Since they are shipping their own oil, the three major North Slope producers can handicap competitors and reduce their tax payments to the state by overcharging on TAPS.

<u>Industry Advertising Campaign (Pages 12-13):</u> Snapshots from the Industry's advertising campaign on the SB 21 – ACES referendum.

<u>Conclusions (Pages 13-14):</u> Brief concluding comments on the industry conduct, media manipulation and the devil in the details of this controversy.

<u>Reader's Guide to Four Reports (Part 2)</u>

A Tale of Two Charts: North Slope Profitability, SB 21 and ACES (Revised)

October 20, 2014
(Copy available at http://www.finebergresearch.com/pdf/Taleof2Charts.pdf)

This report figures prominently in my presentation to the current panel. Here is a brief summary of the report highlights:

<u>Cover:</u> The two charts that were the focus subjects of my presentation March 20, 2014 at the Albuquerque appear on the cover of this report.

<u>Page 1:</u> Immediately following the cover, on page 1 you will find a condensed outline of the main points in this follow-up report.

<u>Page 3:</u> The ConocoPhillips chart, "ACES Marginal Industry Share," as consistently presented to legislative committees during the 2013 legislative deliberations on the two principal state oil tax bill (SB 21 and ACES), appears on page 3 (without the note "Label Omitted by CP," which I added for readers in the version that appears on the report cover to identify the principal source of the problem).

<u>Pages 8-10:</u> The chart presentations on these three pages summarize one of the two major contributions of this report. These charts graphically explain that the ConocoPhillips chart, by focusing on percentages instead of hard-dollar values, obscures the fact that TOTAL NET REVENUES (market price per barrel minus costs, times total barrels produced) vary with the price of oil and costs to produce that oil. The complexity of calculating profitability (which makes people's eyes glaze over) masks the simple point that without understanding the price and costs, the percentage figure alone is virtually meaningless.

<u>Appendices:</u> To understand the basis for these charts, go directly to the three appendix worksheets submitted with *A Tale of Two Charts (Revised, Oct. 30, 2014*), which constitute the second major contribution of this report: the translation of the relevant economic data, on a per-barrel basis, into hard-collar figures at the prices of $80 and $130 per barrel (the two prices at the low and high end of the misleading ConocoPhillips chart). As noted above, these worksheets are based on Alaska Department of Revenue data and other state inputs to demonstrate how prices and costs are calculated to determine TOTAL NET REVENUE, which is the money available for division between the state (as the host government) and industry, as shown on the charts at pages 8 through 10.

<u>Pages 12-14:</u> The report conclusions at pages 12-14 (which were summarized on Page 1) add bullets with comments that explain the economic and social significance of the data compiled in the appendix worksheets and displayed in the charts at pages 8-10.

<u>Reader's Guide to Four Reports (Part 3)</u>

Sense, Nonsense and the Power of the Big Three: North Slope domination by three major oil companies is one of many real-world issues that Scott Goldsmith's recent report overlooked

June 21, 2014 (Alaska Dispatch)
(Copy available at http://www.finebergresearch.com/pdf/senseandnonsense140703r.pdf)

This report (which appeared on-line and was accompanied by an op-ed commentary column in the *Alaska Dispatch News*) provides background information on the political and economic oil tax controversy.

The following sections will put a spotlight on the economic and political domination of the major Alaska North Slope oil producers and help explain how the major Alaska oil producers reap what some might consider to be excessive industry profits from North Slope operations:

> ***<u>Section 4</u>*** reports on the hegemony of the North Slope's three major transnational oil companies (the "Big Three").
>
> ***<u>Section 5</u>*** examines the important but often overlooked state audit problems.
>
> ***<u>Section 6</u>*** looks at North Slope profitability, reserves and production decline):
>
> To avoid time constraints in this oral presentation, rather than reading passages from *Sense, Nonsense and Power of the Big Three*, comments on the following subjects have been placed in Appendix A of this report: state litigation issues; TAPS tariff history; state audit problems; and oil price volatility and prospects of price collapse.

These significant topics deserve public consideration but often get lost in the confusion that swirls around the discussions of North Slope economic issues.

Reader's Guide to Four Reports (Part 4)

The Reduced Oil Imports Report: Recent Conservation Gains Outperform Arctic Refuge Region Oil Potential between 2012 and 2030 by a Twenty-Five to One (25:1) Ratio

January 14, 2012 (2nd Revision)
(Copy available at http://www.finebergresearch.com/pdf/reducedoilimports111126rev.pdf)

Since the Alaska state Legislature and the new governor are renewing efforts to open the Arctic National Wildlife Refuge to development, it will be useful at this time to review this report's comparison between drilling potential and conservation, which results in the conclusion -- based on U.S. Energy Information Administration (EIA) forecast data --that conservation gains in the foreseeable future would far outweigh oil production from the Arctic National Wildlife Refuge. Without denigrating the intangible values that lead wilderness advocates to oppose exploration and development in the Arctic National Wildlife Refuge, the hard numbers on the following would counter the arguments of development advocates who claim we must put wilderness at risk for reasons of national security.

> ***Pages 1 through 4*** summarize the findings of the five chapters in this report. Additionally, the following charts based on data produced by the U.S. Energy Information Administration (EIA) may be of particular interest::
>
> ***Pages 5 and 7:*** Charts showing (1) the trend break in imports due to (2) rising costs during the first decade of this century (the latter shown in the second).
>
> ***Page 22:*** EIA charts showing the declining trend in the forecast of future U.S net oil imports between 2004 and 2010, again due to rising costs.
>
> ***Page 44:*** Graphic comparison of conservation reductions to imported oil estimates, based on EIA forecasts between 2012 and 2030 show that conservation savings tower over forecasted Arctic Refuge production for the same period.

Based on these findings, this January 2012 report concludes with these comments:

> In conclusion, the information charted in Figure 12 [page 44] points to this important policy question: Would spending on conservation measures produce both a faster (and permanent) reduction in consumption of foreign oil than similar sums spent on the prospective results of frontier petroleum exploration and development? Juxtaposed against the risks inherent in frontier petroleum development, current and anticipated reductions in imports between 2012 and 2030 delineated in this analysis strongly support the wisdom of focusing on the demonstrably effective path of conservation.
>
> Put otherwise, from a broader public policy perspective: When this nation's financial capital is needed for major investment in national priorities that include education, health care, infrastructure renewal and energy alternatives, would it make sense to divert a significant portion of that capital to petroleum development in the Arctic Refuge Coastal Plain region?

Conclusion: Selected Comments on Oil Development in Alaska

1. An Alaskan Official Comments on the ConocoPhillips Chart, "ACES Marginal Industry Share"

When I asked a state official with experience on oil and gas issues for feedback on *A Tale of Two Charts*, I received these initial comments:

> "A thorough effort. My compliments on your resolute determination on the issue. A few comments:…
>
> "I have never been too surprised at the steady path of ConocoPhillips' profits in Alaska (vs. worldwide)….
>
> "As for your point about the "ACES Marginal Industry Share" bar chart used by ConocoPhillips, I guess I always looked at that and realized it applied to a percentage break of the next dollar, and was simply a percentage breakdown, not implying that industry profits declined at higher prices. Rather, simply industry's take of the next dollar declined. They made more at higher prices, just at a lower percentage of the take. But they still made more. I can't speak as to what other people thought and understood from that chart."

When I summarized the defects of the ConocoPhillips chart in response and noted that the company presented that flawed chart six times during the 2013 legislative deliberations in which SB 21 was adopted, I received this concurring note from the state official:

> "I concur that ConocoPhillips (and the industry as a whole) use numbers and charts and every other opportunity at their disposal to present the "evidence" in the most favorable light. Cherry-picking the numbers and arranging them to make their case is a well-defined art form within the industry. You are right to question it."

2. Archie Dunham's Broken Heart

While ConocoPhillips is currently the North Slope's largest producer and a major owner of the Trans-Alaska Pipeline, in 1993 Conoco – then the only independent field operator on the North Slope – left the state when oil prices dropped, trading Milne Point to BP for properties in the Gulf of Mexico. Dunham later declared (in a published interview provided to me by a member of the Conoco Board of Directors):

> "We traded all our Milne Point properties in Alaska to BP. It broke my heart to trade Milne Point, but we had to do it. All the value of that property was taken away from us in the pipeline tariffs." [9]

Nearly a decade after leaving the North Slope Dunham brought Conoco back to Alaska by merging with Phillips Petroleum. That merger took place in 2002, shortly after Phillips acquired ARCO's interest in TAPS.

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[9] "Getting to the Future First," *Hart's Oil & Gas Investor*, August 1996, p. 41 (see Appendix B for graphic). For background on pipeline tariff overcharges that led to Dunham's broken heart, at www.finebergresearch.com use home page search bar to locate How TAPS Tariffs Affect State, Federal and Industry Income Derived from North Slope Crude Oil, prepared for meeting with Interior Legislative Delegation, Aug. 20, 2007.

3. Joseph Stiglitz on the Problem of Cheating in Alaska

In a 2007 study of multinational oil corporation conduct in resource development, Columbia University economist Joseph Stiglitz discussed his first-hand experience working on royalty litigation in Alaska during the 1980's under the heading, "The Problem of Cheating." He shared these observations from his Alaska experience in the following two paragraphs and footnotes: [10]

> "The prospects of cheating are very real and great, and can arise at every stage of the transaction. The government may get less for the lease than it should – there may even be attempts to restrict competition in bidding. Whatever the contract that has been signed, corporations are tempted to cheat – to pay less than they are supposed to – because the amount of money that can sometimes be made by doing so is so large. The occasions to cheat arise not just in developing countries. In the 1980s I worked on a case involving cheating by the major oil companies in Alaska. This oil-rich state had a mineral lease requiring the oil companies to pay at 12.5 percent of the gross receipts, less the cost of transporting the oil out from the far-flung site at Prudhoe Bay on the Arctic Circle.[2] By overestimating their costs by just a few pennies per gallon (and multiplying those pennies by hundreds of millions of gallons) the oil companies would increase their profits enormously. They could not resist the temptation.
>
> They also found other ways to cheat, such as selling their oil to their own subsidiaries, recording a lower than fair market value … or using other subsidiaries to ship their oil out and then reporting fictionally high shipping cost. Each piece of the cheating was hard to detect, and government prosecutors had to analyze thousands of transactions – at a cost of tens of millions of dollars. In the end, there was no doubt that cheating had occurred – and on a massive scale. There followed a series of settlements involving a whose who of global companies – including what are now BP, ExxonMobil and ConocoPhillips – for an amount in excess of 6 billion dollars."[3]
>
> [2] In addition, the oil companies were required to pay 10 to 15 percent of the value of oil produced in Alaska to the state as severance taxes.
>
> [3] See Fineberg (2003}. In what came to be known as the "Amerada Hess case" for the first company on the list of 15 defendants, BP alone settled for $195 million in royalties (in 1991) and $1.4 billion in back taxes (in 1994), though the federal government provided substantial tax relief to BP that cut its settlement cost in half. For more on the BP case, see Corzine (1994). I served as an expert witness in the suit. For more background on the Amerada Hess case and its resolution, see Thomas (1995). Alaska was only the first in a long line of suits by states and the federal government alleging that the oil companies had cheated on hundreds of millions of dollars of payments. The government has already prevailed on a number of these cases. During the Clinton Administration, new regulations were issued to try to limit the scope for such cheating.

I never met Prof. Stiglitz, but when I served in the Alaska governor's office between 1987 and 1989 I worked on the same state royalty case that he discussed in the passage quoted above. With this common background, I can confirm that the estimate by Stiglitz was conservatively cast; According to state records, in 2003 showed that the Alaska Dept. of Law reported $6.8 billion in oil and gas settlement payments for underpayments on taxes and royalties through 2001.[11]

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[10] Joseph E. Stiglitz, "What Is the Role of the State?" (in Macartan Humphreys, Jeffrey D. Sachs and Joseph E. Stiglitz [eds.], *Escaping the Resource Curse* [Columbia University Press, 2007], chapter 2, pp. 24-25).

[11] For background information on Alaska litigation history, at www.finebergresearch.com use home page search bar to locate Richard Fineberg, "Securing the Take: Petroleum Litigation in Alaska" (in Svetlana Tsalik [ed.] *Caspian Oil Windfalls: Who Will Benefit?* [New York: Open Society Institute, 2003], chapter 3, pp. 53-69).

4. In Conclusion

While the first current and concluding comment is unsourced, I thought it was important to share, by way of background, the observations of the unidentified Alaskan expert. Regarding the comments by Dunham and Stiglitz, it should be noted that although these compelling statements were made by distinguished individuals, they seldom received attention from Alaska press, legislature or public.

Appendix A. Selected Observations from *Sense, Nonsense and Power of the Big Three*

Sense, Nonsense and the Power of the Big Three: North Slope domination by three major oil companies is one of many real-world issues that Scott Goldsmith's recent report overlooked (posted June 21, 2014 at *Alaska Dispatch*; reposted July 3, 2014 at *http://www.finebergresearch.com/pdf/senseandnonsense140703r.pdf*).

The following extracts from this report provide readers with glimpses of the unusual conduct of the North Slope producers and help explain how these producers reap what some might consider to be excessive profits from their North Slope operations.

These extracts deserve public consideration but often get lost in the confusion that swirls around the discussions of North Slope economic issues. Readers interested in reviewing this dialogue can find this report at the link above, where the Goldsmith report can be accessed from the first footnote to the report.

The first extract deals with state litigation issues.

> … historical revenue collection skirmishes continue today, as indicated by the fact that in the last decade the state Constitutional Budget Reserve Fund (CBRF) has received nearly $2 billion in settlement payments for disputed petroleum tax, royalty and pipeline tariff claims. Since North Slope oil production began in 1977 Alaska has successfully litigated to collect more than $9 billion in petroleum revenue that the industry under-reported and underpaid in royalty, production, property and income taxes and overcharged on pipeline tariff overcharges. (8)
>
> (8) For a short history of Alaska revenue disputes, see the author's "Securing the Take: Petroleum Litigation in Alaska" (in Svetlana Tsalik (ed*.), Caspian Windfalls: Who Will Benefit?* [New York: Open Society Institute, 2003], pp. 53-69 [ch. 3]). For listing of annual litigation settlement deposits to the Alaska Constitutional Budget Reserve Fund (CBRF) since 2003, see Alaska Department of Revenue, *Fall 2013 Revenue Sources Book*, p. 92.

Vignettes from TAPS tariff history show how the TAPS producer owners benefit from their dual role, and how the state has failed to resolve these issues.

> The economic benefits that the major North Slope producers derive from their dual role on TAPS as shipper-owners demonstrate two ways in which the major producers can make use of vertical integration – ownership of subsidiary facilities that usually operate independently – to increase their profits:
>
> - TAPS overcharges can reduce tax and royalty payments to the state which are calculated after transportation costs are subtracted from the tax base, as discussed above.
> - Through TAPS overcharges the shipper-owners also handicap competition from independent producers, who pay pipeline tariffs out-of-pocket while the shipper-owners merely transfer the excess tariff charges from their producing unit to their pipeline subsidiary. (9)
>
> (9) For historical background on pipeline rate regulation and the problem of regulating vertically integrated (shipper-owner) pipelines shortly after TAPS entered operations, see Edward J.Mitchell, *Oil Pipelines and Public Policy: Analysis of Proposals for Industry Reform and Reorganization*, American Enterprise Institute, 1979, at pp. 6, 7 and 11.

TAPS tariff history demonstrates the efforts the TAPS producers have devoted to augmenting their production profits through tariffs that have consistently been found to be excessive in court and regulatory proceedings. In 1978, shortly after North Slope production and TAPS began pumping, the U.S. Supreme Court rejected the TAPS owners' objections to regulation of TAPS tariffs in unanimous decision. The nation's high court noted that the state was one of four original protesters against allegedly excessive filed TAPS tariffs because the state, due to its royalty and tax interests in the value of North Slope oil, stood to lose $0.23 for every dollar in TAPS overcharges. Seven years later, however, with oil at peak production, allegedly excessive TAPS tariffs were still in litigation and the state was lobbying Congress to enact legislation adopting a standard ratemaking methodology to bring TAPS tariffs down. (10)

But by that time, in 1984 the state was changing course and supporting a compromise settlement negotiated with the industry on a hybrid rate-making methodology – a departure from standard rate-making principles. In an explanatory brief, the Department of Law still proclaimed that "Alaska stands in the shoes of both past and future shippers .... Alaska's interests are coextensive with shippers." One week before the final settlement was presented to the Federal Energy Regulatory Commission (FERC) in 1985, the U.S. House of Representatives Subcommittee on General Oversight and the Economy of the Committee on Small Business held a hearing to find out, among other things, why the state and the U.S. Justice Department were suddenly changing course and were now supporting a negotiated settlement. During that hearing, Rep. Norman Sisisky (D-Va.) asked an attorney from the Department of Law this question:

> "To Alaska now. Isn't the real problem that they stonewalled you? They stonewalled you and you gave in? They used the power of the corporate treasury, of the courts, to absolute
> stonewall anything that happened. Isn't that really what happened?" (11)

The Department of Law attorney chose not to answer this question. About a week after this unusual policy shift, with state support the FERC approved that hybrid TAPS Settlement Methodology (TSM).

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(10) For a history of the TAPS 1985 settlement compiled by this writer, see "The 1985 TAPS Settlement: A Case Study in the Effects of Confidentiality on Information Available to Decision Makers in Oil and Gas Revenue Disputes," prepared for the Alaska State Legislature, February 5, 1990 (supplemental report).
(11) U.S. House of Representatives Committee on Small Business, "H.R. 245 and Trans-Alaska Pipeline System Tariffs" (Washington, DC: Government Printing Office, 1985), pp. 157-158.

From the discussion of state audit problems:

… in the spring of 2013 the Legislature heard from ADOR officials that audits were running five years late as the tax collectors struggled to get out from under an inefficient manual reporting system. The department is still in the process of replacing its antiquated manual tax reporting system with a computerized tax system that, on completion, will enable more efficient compiling and field checking of reported industry receipts, field expenditures and payments to the state. Although SB 21 was supposed to replace ACES with a simpler tax system to encourage development and facilitate implementation, the SB 21 credit provisions are far from simple and there are indications that SB 21 may still be facing administrative difficulties. For example:

- British Petroleum Senior Tax Counsel Tom Williams, testifying on behalf of AOGA at an ADOR hearing on the new regulations on August 13, 2013, warned that the 20% gross value tax reduction (GVR) provisions of SB 21 were threatened by state accounting delays that would nullify the intended tax break incentives.

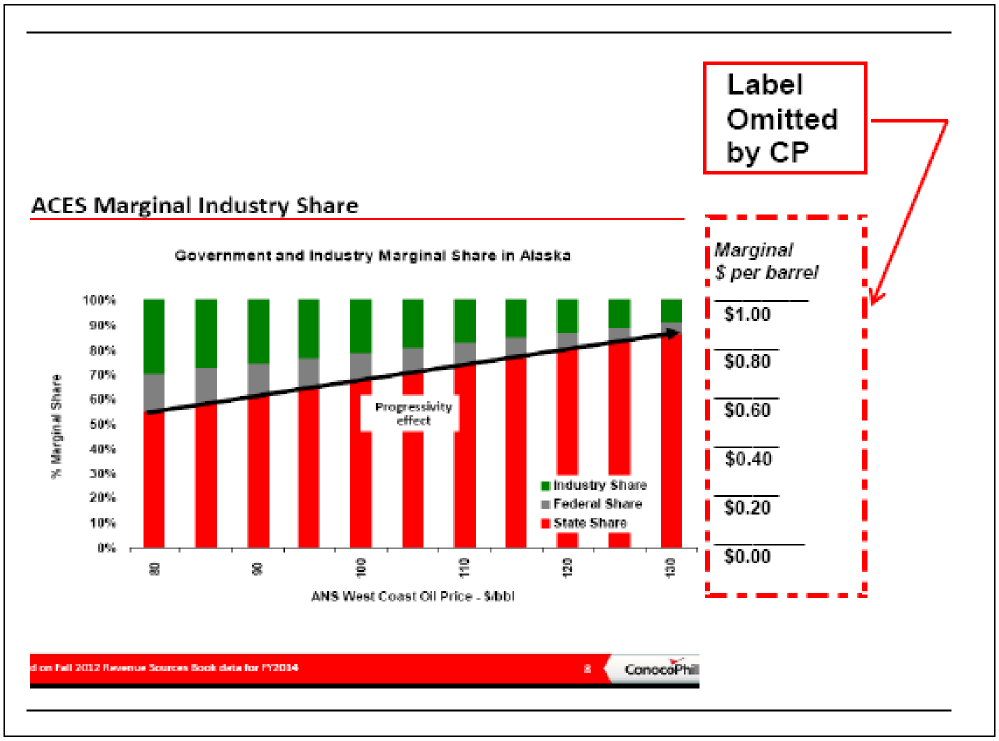
Conclusion to the critique of the Goldsmith report:

…this report notes that volatile price swings contribute to the inherent uncertainty of future state economics. While another long-term increase in long-term oil prices is possible, a price collapse cannot be ruled out. This analysis of the preceding points leads to support of a "yes" vote on the August primary referendum to repeal SB 21 for the following reasons: Because drastic global changes could radically alter Alaska's petroleum future and geology (not ACES) has caused our production decline for the last 25 years, one must question the wisdom of the SB 21 policies. With sizeable North Slope reserves, the general ACES approach – a cost based and progressive tax that has enabled both the industry and the state to profit handsomely – appears to be the better tool for a healthy economic future. When global developments beyond Alaska's control could drastically curtail future production, it simply does not make sense for the state to defer potential gains by abandoning the progressive tax base, under which both the state and major producers have benefited. To ensure appropriate state-industry sharing in the event of future oil price spikes, after careful consideration of costs and prices a cap on progressive returns at high prices should be installed.

A Concluding Question: *When even the most basic facts are omitted or disfigured and misinformation infects the policy debate by increasing the difficulty of arriving at common ground and well-informed decisions, Alaska's controversy gives rise to this troubling question: In this era of information overload, do facts no longer matter?*

Appendix B. Selected Panel Presentation Graphics

ConocoPhillips Chart presented to Alaska State Legislature six times in 2013 without label in dotted box at right (“Label Omitted by CP” in graphic below added by Richard Fineberg).



Additional presentation graphics from *A Tale of Two Charts: North Slope Profitability, SB 21 and ACES [Revised],* pages 1-3 and 8-10, and *The Reduced Oil Impacts Report*, pages 5, 7 and 44). See also graphic below.

“It broke my heart to trade Milne Point, but we had to do it. All the value of that property was taken away from us in the pipeline tariffs. It was a valuable strategic lesson – just look at why the producers in the Caspian Sea are so worried.”

--- Archie Dunham (former Chairman and CEO, Conoco and ConocoPhillips), “Getting to the Future First,” *Hart's Oil & Gas Investor*, August 1996, p. 41.

“Getting to the Future First,” Interview with Archie Dunham, Chairman & CEO, Conoco, Inc. (8/96)

Hart's Oil and Gas Investor , August 1996
(copy provided by Conoco, Inc.)

Appendix C. Author's Biographical Statement

Richard A. Fineberg of Ester, Alaska, is an independent analyst who covered Alaska North Slope development as a reporter during the 1970s, served as senior advisor to the governor on oil and gas policy from 1987 to 1989 and testified as an expert witness in the Regulatory Commission of Alaska TAPS tariff case in 2001. He was appointed to the U.S. Extractive Industries Transparency Initiative (EITI) Multi-Stakeholder Group as a civil sector alternate (non-voting) member in 2012 and published an article on that experience in the Oxford University Press *Journal of World Energy Law & Business* ("The United States joins EITI: a case study in theory and practice") in January 2014.

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