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The Palin Papers:

Governor's Major Oil and Gas Initiatives Don't Measure Up to Her Promises

Gov. Palin's Extravagant Claims on National Stage
Call Her Energy Credentials Into Question
As a Closer Look at Her State Oil Tax
And Natural Gas Pipeline Proposals
Reveal Troubling Issues

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To Drill or Not to Drill?

Conservation Far Outweighs Drilling Potential
(Fineberg Report, June 4, 2008)

New Information: How Gov. Palin Propelled Herself to National Prominence

By Richard A. Fineberg
Nov. 1 , 2008 (3rd Update to "The Palin Papers")

"The Palin Papers" (below; posted Sept. 27, 2008) raises critical questions about Governor Sarah Palin's performance in the oil and gas arena. Grounded in first-hand experience, the Sept. 27 posting describes a mysteriously reclusive governor and observes that "when the heavy lifting was being done, there was little sign that Governor Palin was actively involved. To all intents and purposes, Governor Palin simply wasn't there."

Based on my July 2008 report to the Alaska Public Interest Research Group and subsequent dialogue with key administration officials and consultants, the Sept. 27 posting argues that the governor's North Slope natural gas line pipeline plan is unlikely to deliver the low natural gas pipeline tariffs she has promised without resolution of important questions that remain unanswered. The original posting includes a packet of seven documents I gave Governor Palin August 12 to

Welcome

(Research commitments and computer crashes have precluded postings on this web site for nearly nine months. Please look for commentary and postings on recent research and developments, coming shortly. -- RAF, July 19, 2009)

explain why I found myself in a position of respectful disagreement with the recommendations of her gas line team.

My Sept. 27 posting also included two troubling pieces of background information that did not figure into my summer analysis of the AGIA proposal or the materials I presented to the governor August 12. The first involved a key Palin administration consulting firm's controversial past involvements in national political affairs; the second discussed a state gas line player's one-time association with a subsidiary of TransCanada, the firm the Palin administration has endorsed to build and operate the proposed (but still unfinanced) North Slope natural gas pipeline. These two pieces of background information (which I described Sept. 27 as "loose ends") led me to suggest, without asserting wrongdoing, that Governor Palin's failure to close the door to this possibility on an issue of this magnitude calls her image as an ethics reformer into question. My Sept. 27 report calls for further review of the governor's formulation of AGIA and recommendation of TransCanada were warranted in light of these loose ends and the Palin administration's failure to answer my substantive questions.

Since that post, three investigative articles have offered additional insight into the governor's activities and her style of governance.

The first, appearing on the front page of the Washington Post Oct. 10, revealed that in 2007 Governor Palin had retained an east coast public relations firm to pitch stories to the national press on her natural gas pipeline proposal. Department of Natural Resources officials told the Post that the Palin administration natural gas team's $31,000 contract with MCB Consultants of Needham, Massachusetts ended when Governor Palin was named as John McCain's running mate, giving the Alaska governor a national megaphone for the proposed gas line. According to that article, MCB prepared press advisories soliciting interviews for Governor Palin - a task usually performed by state employees. The public relations firm claimed success in bringing the governor's gas line plans to national attention, listing articles in the New York Times and Investor's Business Daily as examples of its accomplishments. The Oct. 10 article also reported that the law firm of Greenberg Traurig - the consulting firm with a questionable background - recommended MCB to the Palin administration. ***(a)***

Greenberg Traurig, which employs 1,750 attorneys in 30 cities on three continents, serves the Palin administration as one of six principle consulting

At this web site you will find fact-based information and commentary about economic and environmental aspects of oil industry operations in Alaska, with special emphasis on the North Slope oil fields and the Trans-Alaska Pipeline System (TAPS), which provides about one million barrels of oil per day (five percent of the nation's total consumption) to the West Coast. Due to the oil industry's power, political clout and media skills, much of the information you will find here is not widely reported or readily available elsewhere.

Three major petroleum companies -- BP, ConocoPhillips and ExxonMobil (originally Sohio, ARCO and Exxon) -- control more than 90 percent of the North Slope production and own a similar share of the Alyeska Pipeline Service Company, which built and operates TAPS. The sprawling North Slope complex centers around Prudhoe Bay, the largest producing oil field ever discovered on the North American continent. About one million barrels of oil per day is pumped from beneath the frozen substrate and loaded into TAPS for the 800-mile journey across Alaska to the ice-free port of Valdez in Prince William Sound. There, the oil is loaded on tankers that carry approximately one-third of the oil consumed daily in the western United States.

Alaska's North Slope development and its pipeline link to market provide unusual opportunities to observe the actions of decision makers, as well as greater access to the central participants than most other places afford. Based on this experience and supplemented by information from two pipeline-dependent petroleum provinces of the Former Soviet Union, the information presented here points to two significant conclusions:

- *(1) petroleum developers can and frequently do use pipelines to maximize profit and inhibit competition, to the detriment of host populations; and*
- *(2) the chronic discrepancy between promise and practice on major oil projects frequently places the populace and the environment at significant and needless risk.*

The material presented here was researched and compiled by Richard A. Fineberg, founder and principal investigator of Research Associates of Ester, Alaska. Fineberg has observed Alaska petroleum development for three decades as a prize-winning reporter, as an advisor to the Governor of Alaska on oil and gas policy and as an independent consultant to investors, government agencies and non-profit organizations. In recent years his horizons have expanded to include two oil provinces in the Former Soviet Union, the Caspian contractors and the legal team's lead firm. ***(b)*** According to a state list of AGIA consultants, Greenberg Traurig's primary areas of assistance include general legal expertise, U.S. and Canadian regulatory expertise and First Nation issues. Public The state list of consulting firms did not mention public relations, or MCB. ***(c)***

To enable readers to reach their own conclusions about Governor Palin's performance, in my Sept. 27 posting I did not speculate about what she might (or might not) have been doing when she was not actively engaged in the oil and gas issues for which she later claimed credit. The second piece (which appeared on the web Oct. 20 with an advanced date of Oct. 27), filled that gap. That report, by *New Yorker* investigative reporter Jane Mayer, revealed that although Gov. Palin depicts herself as a reform-oriented, anti-establishment outsider, soon after taking office she began aggressively developing contacts with Washington insiders, including conservative pundit William Kristol, who loudly touted her as a Vice- Presidential candidate (to read Jane Mayer's piece, click here.) ***(d)***

The issues I raised in my web site posting Sept. 27 finally landed in the national press Oct. 26 in an AP investigative report. The AP investigative report appeared as the leading piece on the *Huffington Post* Oct. 25, was picked up by a variety of outlets that included *USA Today* and MSNBC, as well as the *Fairbanks Daily News-Miner* and the *Juneau Empire*. This report added new information to the troubling facts to the issues I raised in my Sept. 27 posting. ***(e)***

In my Sept. 27 posting, I stated that I wished Governor Palin's team had followed three simple steps that would go a long way toward alleviating concerns about potential conflicts of interest:: (1) Reviewing apparent conflicts; (2) making complete disclosure of those conflicts; and - perhaps most importantly - (3) producing a work product that is logically sound and empirically verifiable. I would have been happier still if the Palin administration had responded substantively instead of failing to respond to the concerns I outlined in the packet I delivered to Governor Palin August 12. Nevertheless, I remain a member of the school of thought that says: Do not assume wrongdoing if coincidence or incompetence will explain what's going on. In any event, the Palin administration's failures to answer questions about the financing arrangements and tariff determination for the proposed North Slope natural gas pipeline megaproject and the governor's failure to close the door cleanly on potential conflicts of interest suggest further review is warranted.

When I submitted a commentary to the *Fairbanks Daily*

Basin and Sakhalin Island. Often controversial, Fineberg's petroleum research has earned a reputation for dedication to factual accuracy and carefully reasoned analysis.

Richard Fineberg addresses a conference on Caspian petroleum development in Baku, Azerbaijan, May 2003. (Photo: OSI Assistance Fndtn. / Azerbaijan.)

A fundamental premise of this web site is that it falls to each of us, as citizens, to inform ourselves and respond appropriately to the issues and events that shape the broad directions of our society and the detailed fabric of our social interactions. Based on the fact-driven information presented here, readers can come to independent judgments regarding the authenticity of the content, the significance of the relevant facts and the logic and appropriateness of the conclusions. In effect, each of the topics reported here can stand alone as a documented case study in petroleum development.

During the 3-1/2 decades since the discovery of the nation's largest oil field at Prudhoe Bay on Alaska's North Slope, events from Watergate to the collapse of powerful corporate entities such as Enron and WorldCom demonstrate that large institutions frequently fail -- often by grotesque margins -- to live up to legal and moral obligations and to deliver on their public pronouncements. Concurrently, the major oil companies who have played such a large role in Alaska's development have performed their tasks with a chronic and troubling discrepancy between promise and practice. Despite lavishly funded advertising campaigns and public relations efforts urging that Alaska's oil companies can be trusted as the avatars of social salvation, closer examination reveals a profound gap between what these companies say and what they do. With equally disturbing regularity, when confronted with evidence of those failures, government has failed to protect the public interest. This web site explores the economic and environmental impacts of those failures in concrete terms in the belief that well-informed individuals can and will make a positive contribution to

News-Miner Oct. 16, I had seen the Oct. 10 *Washington Post* article but knew nothing about the *New Yorker* and the Associated Press pieces, which had yet to be published. These three national articles lend significant support for the *News-Miner* community perspective, which appeared October 30 ***(f)*** -- and for my Sept. 27 posting, which concluded:

. . . . .**Governor Palin offers her oil and gas**
. . . . .**efforts as proof that she's the Real McCoy.**

. . . . .**She's not.**

. . . . .______________

Postscript (Nov. 1, 2008). An *Anchorage Daily News* editorial today criticized the AP October 26 report as "a remarkably skewed account with little new information" that falsely implied "that Palin tilted the gas line bidding toward a favored company . . . that had previously employed one of her key staffers." The *Daily News* editorial argued that the gas pipeline plans were adopted through an unusually open process with enthusiastic approval from the Legislature. Praising "Sarah Palin's admirable performance in Alaska's long-running quest for a . . . gas line," the editorial concluded that "Alaska's bidding process for a gas line license was not flawed." Based on the extensive record compiled and presented here, I conclude that the *Daily News* editorial is myopic, inaccurate and erroneous in significant respects. I am posting the *Daily News* editorial so that readers can decide for themselves. ***(g)***

(For Endnotes, click here.)

the course of human development.

Reports on pipeline and petroleum development issues found in the "Oil Patch" section of this web site may be understood as case studies providing insight into the relationships among powerful corporate and government institutions and the complex interactions between individuals and institutions. At this broad level, a growing body of research on the political and economic aspects of petroleum development known as petropolitics suggests that the price of oil wealth includes, with disturbing frequency, poverty, a widening gap between rich and poor, economic stagnation, corruption, dictatorship and war. The petropolitical approach to petroleum development goes far beyond the conclusions presented here regarding pipeline economics and the industry's chronic discrepancy between promise and practice. While one reader may take the fact-based case studies presented here to support a petropolitical interpretation of petroleum development, another reader may apply the same information to a different understanding of social activity; in any event, these case studies are fact-driven and therefore stand alone.

In sum, the principal purpose of this web site is to gather in one place many of the basic facts regarding the environmental impacts and economic results of oil development in Alaska and elsewhere - information that industry and government prefer to ignore or to spin. Using case studies presented with fidelity to reason and factual accuracy, FinebergResearch.com brings to public attention information about economic and environmental issues related to petroleum development that is not readily available elsewhere.

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By Richard A. Fineberg
(Sept. 27, 2008*)

When asked about her qualifications to lead the nation during her long-delayed first press interview since her designation as Senator John McCain's pick for Vice-President, Alaska Governor Sarah Palin promptly claimed her Alaska oil and gas experience as "a credential that I do bring to this table." ***(1)*** This analysis looks beyond the spin that dominates the national political stage to focus on the two major oil and gas policy initiatives in the area for which the bizarrely disengaged rookie governor now claims credit. The information presented here includes links to documents and references to supporting materials and background information on Alaska oil and gas development issues.

In 2007 I had the privilege of serving on Governor Palin's oil and gas team as the leader of the only Alaska-based team in the group of international consultants retained to help craft revisions to the state's petroleum production tax. At that time, I gave her high marks for challenging the hegemony of the major oil companies operating in Alaska. But over her first 20 months in office, my respect for Governor Palin as a principled reformer diminished as I observed that Palin administration work products, often uneven in quality, failed to measure up to her self-assured promises. In the case of the production tax correction measure on which I worked, it remained for the state Legislature, meeting during an October-November 2007 special session, to remedy significant flaws in the governor's fundamentally flawed proposal. (See "The Palin Papers: Part I," below.)

During June and July of this year (2008), under contract to the Alaska Public Interest Research Group (AkPIRG) I evaluated Governor Palin's plan for building a pipeline to bring Alaska North Slope natural gas to market. On this (the governor's second major oil and gas policy initiative during her first 20 months and again the centerpiece of a special session for the state Legislature) I wound up in strong but respectful disagreement with the governor's team and its consultants. It appeared to me that the governor's apparent detachment from the process she had set in motion might be a major part of the problem. (See "The Palin Papers: Part II," below.)

Interactions with the Palin administration regarding implementation of other significant oil and gas policies during the first six months of 2008 heightened my growing concern about the gaps between what Governor Palin said she intended to do and what her administration actually did. By way of example, Part III (below) summarizes the failure to implement the part of the 2007 production tax overhaul bill on which I worked.

The materials that follow serve as case studies that call into question Governnor Palin's management of major oil and gas issues in the very field she now proffers as her primary credentials for assuming the duties of high national office. In sum, the first-hand observations and documentary record presented here point to:

- fundamental flaws and inconsistencies in the design of Governor Palin's major oil and gas policy proposals;
- implementation failures;
- a strangely reclusive management style; and
- potential staff and consultant conflicts of interest within her administrative team that sully her image as a reformer.

In retrospect, the problems I first thought were anomalies in 2007 were in fact harbingers of dubious policy outcomes in 2008. The events reported and documented here suggest that Governor Palin is adept at using public relations to mask problems that result from an apparent unwillingness or inability to roll up her sleeves and deal with the all-important nuts-and-bolts issues that are essential to good governance. (See the conclusions to this analysis.) ***(2)***

The Palin Papers, Part I:

Observations on Gov. Palin's 2007 Petroleum Production Tax Revision Legislation

On August 3, 2007, the summer of her first year in office, Governor Palin announced that she wanted to revise the state petroleum production tax. She did not know exactly what she planned to do, leaving the public to wonder: Would she try to jettison the net (profit-based) production tax her unpopular Republican predecessor had installed in 2006 and return to the old, gross (price-based) system favored by many Democrat legislators? Governor Palin said that she expected to have "a proposal ready for release to the public by September 4." At the press conference, the governor said she wanted to give the Legislature and the public 40 days to review her plan before the 30-day special session, which she scheduled to begin later in the fall. ***(3)***

The same week, when I joined the Palin petroleum revenue team as a consultant, I was eager to learn the governor's intentions. But I soon learned that even the production tax team at the Department of Revenue - some of whose leaders were advocates for the profits-based tax they had helped implement under the previous governor - did not know what the rookie governor would do. ***(4)*** The suspense inside the bureaucratic beehive mounted for several weeks. Finally, on August 24, I was told that Governor Palin had reached her decision, which she planned to announce eleven days later. With the broad outline finally in place, the focus of the production tax team switched from analysis of the options to the preparation of substantive legislation and the supporting documents for the planned, 40-day public review.

The following paragraphs put the governor's decision in context by providing background information about the unusual geologic, geographic, economic and political realities in this remote state, which is at once the nation's largest (in terms of land mass) and the fourth smallest (in terms of population). ***(5)*** Alaska's oil industry provides at least two thirds of Alaska's state revenue.***(6)*** First, a few basic facts and observations about Alaska's petroleum resources, some of which are often overlooked, that may provide insight into what is going on:

- About 98% of the state's petroleum production comes from remote reservoirs that lie beneath a swath of state land on the continent's north rim that is approximately 100 miles across, east to west, and ten miles deep, north to south. Once the hot oil has been extracted from beneath the frozen ground and brought to the surface of the earth, it must travel approximately 800 miles south by pipeline to reach the tidewater shipping terminal at Valdez.
- The North Slope is anchored by the Prudhoe Bay field, an aging super-giant that is now producing about 300,000 barrels per day - about 40% of current North Slope production. Although Prudhoe Bay is by far the largest producing field ever discovered in this nation, Prudhoe now produces less than one-fifth of the oil it pumped at its peak.
- For three decades, North Slope petroleum resources have been tightly held by an unusually small number of players. Approximately 95% of North Slope petroleum production is produced, transported to market and sold by three transnational oil companies - BP, ConocoPhillips and ExxonMobil. ***(7)*** Combined control of production rights to North Slope oil and the principal pipelines on which that oil is shipped further consolidates the extraordinary power of the major North Slope owners. ***(8)***

As they work to craft petroleum revenue legislation under these unusual conditions, Alaska's political leaders and their staffs must deal with complicated number-crunching exercises that feed into the formulation of policy proposals, followed by development of those policies in concert with the Legislature and, finally, execution of the resulting statutes. Millions of dollars in revenue can turn on technical phrases and obscure figures. The state receives oil and gas revenue from four principal sources: royalty and production tax constitute the largest payments, followed by state corporate income and property taxes. Because transportation costs are subtracted from the market price to determine gross value, high pipeline tariffs (shipping costs) reduce royalty, production tax and income tax rates. ***(9)***

When it comes to divvying up revenue from Alaska petroleum operations, details are devilishly important. Nevertheless, when she ordered the 2007special session, Governor Palin may not have been focused on the mechanics of revenue delivery. Starting from the premise that "Alaskans must have confidence in the integrity of the state's oil tax structure," Governor Palin said it was necessary to revisit the 2006 production tax revision because the expanding FBI corruption probe, which had already revealed bribery by one former legislator and the head of a major oil field service company, had put the 2006 legislation under a cloud of suspicion. ***(10)*** The continuing string of FBI trial convictions, guilty pleas and new indictments of Alaska political figures confirms the importance of her ethical concerns. ***(11)***

Three months before Governor Palin took office in December 2006, Alaska had replaced its old production tax with a net (profits-based) system. To hear economists talking about it, the net profits tax was the best thing since sliced bread. But the new tax was more difficult to administer, and already in its first year it was not fully living up to expectations. One problem was that under the new tax it was necessary to calculate and subtract field development (capital) and production (lifting) costs from the gross value of each barrel of oil to determine the tax base. While the new tax was generating more revenue as oil prices continued to skyrocket, state officials had not anticipated the reported doubling in production costs. Having adopted the new system before it knew how to audit field costs, the state was paying the consequences: the production cost increase was eating into the tax base when oil prices were high and unexpectedly threatened state returns if prices fell. Worried that the producers were once again gaming the system, many Alaskans - including the new governor - were interested in returning to the simpler gross tax.

But in the Alaska Oil Patch, nothing is ever as simple as it seems. Economists warned that a return to a gross tax system would stymie investment because it was regressive. Between 1998 and 2006, an outdated fix to this problem known as the ELF (Economic Limit Factor), designed to reduce the production tax bite in the case of smaller, less profitable fields, had gone out of control and had significantly diminished production tax receipts. Overall, the dysfunctional gross system was allowing the industry to keep North Slope production tax payments down, even when dramatically rising oil prices were generating record profits for the major oil companies and royalty payments to the state on the same barrel - fixed by contract at 12.5% of the gross value - were increasing. ***(12)*** Under a return to a gross production tax with the ELF, Alaska's future at both low and high prices looked even worse.

In an extended interview in the *Anchorage Daily News* on Sept. 3, 2007 (the day before her tax plan was due to be released), Governor Palin admitted that even at this late date her staff was "still evaluating [the tax problem], still creating models." In outlining her goals for the new tax, she emphasized transparency, saying "[t]he only way that we are going to be able to gain the trust of the rest of the United States ... is to prove that we can do things right and honestly and transparently." The criteria she would use to determine what was right were: "keeping it simple, keeping it transparent, not getting gamed." On the other hand, she said, "If a gross [tax] won't work, I would be the first one to say you know, I thought having a gross and keeping it real simple was the best thing for Alaska, but look at what the numbers tell us, so we can't go there." ***(13)***

At the scheduled September 4, 2007 press conference, Governor Palin announced to the public that her proposed plan, dubbed "ACES" (Alaska's Clear and Equitable Share), would contain a mixture of net and gross tax provisions. A five-page handout - the only document Governor Palin released that day - outlined her plan, which included the following elements: (1) to assure potential investors that Alaska's tax regime would be sensitive to changes in oil prices and to escalating costs, the profits-based tax system would be retained; (2) to recoup revenue currently being lost to increasing costs, the basic petroleum production tax rate increased from 22.5% to 25% of net revenue; (3) the proposal reduced the progressivity factor, which captures an increasing percentage of net revenue for the state as prices rise; (4) the proposal reinstated a gross tax floor for production from the two largest fields on the North Slope.

Governor Palin said she originally wanted to return to the simpler gross tax, her staff and consultants had dragged her "kicking and screaming," as she put it, back to the profits-based tax. ***(14)*** The summary of Governor Palin's plan was anything but clear and transparent. In the absence of a comprehensive analytical model or presentation, it was difficult - if not impossible - to understand how critical components of the supposedly clear and transparent ACES proposal would fit into the inherently complicated petroleum revenue picture. Nevertheless, two troubling internal contradictions in the summary materials were evident:

- During deliberations in 2006, international experts consulting to the Legislature and the administration emphasized the importance of the progressivity factor; both thought the factor the state enacted was too low, allowing the producers to retain an excessive share of the windfall from oil price increases. Now Governor Palin was proposing a reduction to the progressivity factor already in place. Was the change to the progressivity factor really a good idea? There was no way to answer this question without supporting data to answer the question and a model against which to test the results with different inputs for oil prices and field costs. ***(15)***

- The proposed tax floor at Prudhoe Bay and Kuparuk - an apparent sop to gross tax proponents - provided that increasing field costs would not be allowed to reduce tax payments below a floor of 10% of the gross production value. There was a fundamental inconsistency to this proposal: Governor Palin had decided to keep the unwieldy profits-based tax system to favor continued development by assuring potential investors that the tax regime would be sensitive to price changes and escalating costs. But if it was necessary to recognize field costs to stimulate investment in outlying fields, why wasn't the same provision necessary at Prudhoe and Kuparuk, where the aging fields that constitute half of North Slope production now require additional capital investment to arrest their decline rate? Again, the five-page handout did not answer this fundamental question.

Even if Governor Palin hadn't promised clarity and transparency, the rather skimpy materials she released on that day would have been a disappointment. The handout consisted of two pages of proposal highlights in bullet form and three summary data sheets. Policy considerations aside, in my estimation the documents released by the Palin administration Sept. 4, 2007 failed the test of clarity. Compounding the problem, the governor's office inadvertently released two different versions of the document. Because Governor Palin had made public involvement through clarity and transparency a central tenet of her approach to governing, readers might be surprised by the paucity of substantive information and the differences between the two versions of the September 4, 2007 release. To see how the information in Governor Palin's long-awaited release materials measured up to the advertised goals of clarity and transparency, click here**.** ***(16)***

The Alaska press corps didn't seem to notice the fact that Governor Palin had failed to provide full information on her production tax revision 40 days in advance of the special session, as promised, or the shortcomings in the materials the administration released. At least some members of the Legislature were concerned about the lack of available information: Sen. Hollis French, Chair of the state Senate Judiciary Committee, was recognized for his willingness to tackle thorny petroleum issues. On Sept. 14, 2007, the senator addressed a letter to Governor Palin in which he stressed the importance of data that would provide a basis for meaningful comparisons, and a level playing field for considering that information. ***(17)***

Senator French was focused primarily on whether members of the administration were free to speak their minds. In this regard, I can give the Palin administration a positive nod: In my capacity as a troubleshooter, I experienced no pressure to keep my concerns to myself. But Senator French was also raising two issues on which the preceding administration fell down: (1) Was the Palin administration approaching this complex issue in a balanced manner, or had the administration succumbed to the well-known temptation to advocate its position? (2) Could arguments in this complex arena be tracked with a comprehensive model whose inputs and results were available for examination that would enable legislators to understand and evaluate how the different tax schemes actually worked?

As the special session drew closer, providing the promised information continued to be something of a problem for the Palin administration, further undermining the governor's stated intention of increasing public involvement. For example, at a major conference on natural gas development in Anchorage on Sept. 17, Governor Palin's Commissioner of Revenue, on point for the tax proposal, opened his slide presentation with a listing of the various tax and royalty payments that North Slope producers make annually. Unfortunately, the Palin official's numbers on two industry payments - property taxes and royalties - were wrong. The errors caused him to understate industry payments to government by approximately 17%. How did Governor Palin intend to instill public confidence in the integrity of the tax system or deal with complicated oil and gas taxation issues if the administration couldn't even get its basic numbers right? (To examine this data glitch, click here).

With the session looming closer, where was the proposed legislation itself? A work draft of the governor's proposed legislation was not released until October 2, 2007 - 16 days before the special session was set to begin.

By this time, the governor's team was holding town meetings in various parts of the state, where aides were presenting streams of numbers delineating various aspects of state and global petroleum revenue regimes. And as the statewide road show unfolded in early October, the administration bureaucrats and consultants were busily churning out document after document on various issues related to this complex question.

The special session began with a flurry of administration presentations, as well as offerings by the industry, and by experts the Legislature had retained. Compared to preceding administrations, the Palin team was much more willing to engage in open dialogue. Nevertheless, the voluminous reports of the ACES proposal by Governor Palin's team were unfocused, uneven and far from compelling; in response, the industry representatives were blowing smoke with a battery of unsupported numbers. For the first two weeks of the one-month special session, the Legislature was adrift on a sea of conflicting claims. ***(18)***

Near the end of the first week of the special session, as legislators struggled to make sense out of confusing and often conflicting information in dozens of documents from different sources, administration consultants from the Houston firm of Gaffney Cline spotted a questionable presentation of aggregate investment data by British Petroleum; with some quick, back-of-the-envelope calculations, they unmasked the industry argument for a reduced tax as misleading by omission. Later the same day, ConocoPhillips followed BP with a presentation that included individual field data with the same defect. ***(19)***

The Houston-based consultants quietly set to work creating an interactive model that could accept different inputs and display the results of changes in assumptions regarding price, cost structure and various other aspects of the state and federal tax and royalty regime. Results from the Gaffney Cline interactive model were presented to legislators October 30 and reportedly scored significant points for the Palin administration with legislators, including Senator French, who had earlier challenged Governor Palin to permit open debate with meaningful comparisons of data. ***(20)*** By that time, the ACES bill was undergoing major revisions. As decision time approached, the Gaffney Cline consultants used their model for several more presentations to the Senate Finance Committee; the press, more interested in the bottom line than how the lines were drawn, didn't pay much attention to this effort to bring clarity to a complex reality. ***(21)***

By the time the dust settled on the production tax special session in November 2007, the Legislature had managed to fix many of the problems in the initial Palin proposal. To deal with high prices, the Legislature doubled the progressivity factor; in the case of low prices, the Legislature removed the gross tax floor on Prudhoe Bay and Kuparuk that Governor Palin had introduced as a political compromise. Where Governor Palin had set out to craft a piece of legislation that would restore approximately $600 million in state revenue during the next fiscal year that her predecessor's bill had promised, state analysts believed the new bill would deliver an additional $1.5 billion to $2.0 billion at the same forecast price. ***(22)*** As mentioned above, I had reservations about the content, as well as the presentation of the governor's original proposal. But I gave her credit for tackling the problem and I supported the outcome (to which I contributed assistance on the pipeline issue discussed in Part III, below).

At the session-end press conference, a reporter asked: how could both the governor's original proposal and the final outcome be considered fair and equitable, when the latter represented a three-fold boost - an increase of roughly $1 billion - over the original bill? Despite the major changes in the bill's provisions and the dramatic tax hike, Governor Palin breezily responded, "I don't feel that it is very different from what was introduced in ACES originally. When I rolled it out I had said I was so anxious to work with lawmakers to make this even better. And that's what we believe that the product is at the end of this day, an even better product for Alaska." The smiling governor quickly turned the podium over to Revenue Commissioner Pat Galvin to handle the details. ***(23)***

The Palin Papers, Part II: The TransCanada AGIA Natural Gas Pipeline Proposal (2008)

Anyone who has watched Alaska North Slope natural gas pipeline proposals flounder for decades probably recognized that Governor Palin, in her national debut Sept. 3, conveniently and inaccurately slid around the facts when she spoke of the pipeline as a done deal and implied that it was already under construction. ***(24)*** In fact: the gas pipeline exists only on paper. The United States and Canada have not granted the necessary approvals, financing has yet to be arranged and the actual construction is still years from starting. Among the host of unresolved questions that call her self-proclaimed natural gas pipeline victory is this fundamental problem: When two of the three major transnational oil and gas firms that control more than 95% of the natural gas on Alaska's North Slope want to build their own pipeline, what kind of foolhardy investor would gamble huge sums of money on the competing, independent gas pipeline that Governor Palin has promoted? How and when the latest impasse in the long-standing efforts to bring North Slope natural gas to market will be resolved has yet to be determined.

In 2007, as skyrocketing oil prices kindled interest in new energy plans, Governor Palin initiated a plan to promote the long-delayed development of North Slope natural gas. Under her Alaska Gasline Inducement Act (AGIA), the state would contribute $500 million to defray preliminary planning and advanced regulatory costs. Formal approval of the pipeline rests with the Federal Energy Regulatory Commission (FERC). In response, ConocoPhillips and BP - two of the major holders of discovered North Slope natural gas - announced plans to build their own pipeline; they said they did not need the $500 million inducement and would not submit an AGIA application. The third major North Slope player, ExxonMobil, has also said it wants to own its share of any pipeline that might carry its gas. In an effort to assure low tariffs (shipping charges) on the natural gas pipeline, Governor Palin and her team favor the AGIA proposal of TransCanada Corporation, an independent pipeline company. At Governor Palin's urging, the state Legislature accepted TransCanada's proposal after a 60-day review during a special legislative session that ended in early August of this year. ***(25)***

(To continue, click here.)

Footnotes 1 - 25 to *The Palin Papers*

1. In her Sept. 11, 2008 interview with ABC-TV's Charlie Gibson, Governor Palin said: "Let me speak specifically about a credential that I do bring to this table, Charlie, and that's with the energy independence that I've been working on for these years as the governor of this state that produces nearly 20% of the U.S. domestic supply of energy." (For discussion of the veracity of this statement, see: Justin Bank, "Energetically Wrong: Palin says Alaska supplies 20 percent of U.S. energy. Not true. Not even close," Factcheck.org [http://www.newsweek.com/id/158656] and footnote 41, below.)

2. Although many of Governor Palin's political views fall to the right of the political spectrum and mine generally do not, this report focuses on oil and gas policy measures on which our starting premises were quite similar.

3. The press release announcing that Governor Palin would convene a special session of the state Legislature to revise the state's production tax statute stated:

> The Governor has directed the Department of Revenue to prepare a proposal to respond to the substantive deficiencies with PPT. She has asked the department to have the proposal ready for release to the public by September 4, 2007. This will provide the Legislature and the public with more than 40 days to become familiar with the proposal before the special session begins. (Office of the Governor, "Special Session to Revisit Oil Taxes," August 3, 2007 [Release nol. 07-173, http://www.gov.state.ak.us/news.php?id=521]).

4. During a week-long series of briefings for the state petroleum revenue staff by the recently-hired visiting consulting experts in Anchorage August 20-24, worried-looking state personnel were frequently called out of the extended briefing sessions to respond to calls from their superiors, or to attend to other state matters. One afternoon that week, a team leader who had helped craft the new tax for Governor Palin's predecessor in 2006 left the briefing for a meeting. When he returned near the end of the day, his colleagues asked if there were any new developments. The team leader reported that he still favored the profits-based approach, but he was afraid the governor did not share that view

5. "U.S. Population by State," Wikipedia (accessed Sept. 18 at http://en.wikipedia.org/wiki/List_of_U.S._states_by_population.

6. See: Tax Division, Alaska Department of Revenue, "Spring 2008 Forecast," Figure 2 (http://www.tax.alaska.gov/programs/documentviewer/viewer.aspx?1338f).

7. See: BP Exploration (Alaska) Inc., *BP in Alaska,* undated (circa 2007; http://www.bp.com/genericsection.do?categoryId=9007943&contentId=7024328).

8. Various articles and reports on this web site discuss this unusual economic structure and its effects.

9. For background discussion on state petroleum royalty and tax mechanisms, see: Alaska Department of Revenue, *Fall 2007 Revenue Sources Book*, pp.31-32, 42-45.

10. "Special Session to Revisit Oil Taxes."

11. Here is a short summary of the ongoing FBI probe and its results:
. . . On August 3, 2007, when Governor Palin announced that the production tax regime would be brought to the Legislature for review and reconsideration: Bill Allen, the head VECO (a major Alaska oil field services company), one of Allen's aides and another lobbyist had already pleaded guilty to charges he bribed state legislators, one former state legislator had been tried and convicted on bribery charges, three others were awaiting trial. Offices of three other legislators had been raided in a search for evidence the previous year; one was State Senator Ben Stevens, president of the Alaska State Senate during the 2006 session, identified by Allen in sworn testimony as a bribe recipient and the son of U.S. Senator Ted Stevens. Three days before Governor Palin announced the special session, the FBI raided the home of Senator Ted Stevens, the longest serving Republican senator in history.
. . . Almost exactly one year later, the elder Stevens was indicted for failure to report more than $250,000 in gifts and services from Allen and his team. In the meantime, two more former legislators had been tried and convicted, the former governor's chief of staff had pleaded guilty to charges that he funneled VEC0 money into the coffers of political candidates, while still another state legislator, another former lobbyist had been indicted. (See: Rich Mauer and David Hulen, "The Alaska political corruption investigation: An overview of the key figures, events and players," *Anchorage Daily News*, Aug. 3, 2008 [on line at http://community.adn.com/adn/node/112569].)
. . . Senator Ted Stevens' trial s began in Washington, DC Sept. 25; his son has not been charged in the ongoing investigation.

12. Between 1990 and 1998, total royalty and production tax payments to the state produced the lion's share of state petroleum revenue in roughly equal amounts. But as oil prices rose between 1999 and 2005, the pattern of historical parity between the state's two major resource revenue sources broke. By 2005, royalties were delivering more than $2 billion per year to state coffers - double the amount the gross production tax was generating. (For gross production tax and royalty collections, see: Alaska Department of Revenue, "Historical Petroleum Revenue," *Fall 1999 Revenue Sources Book*, Appendix K; and "Revenue. Total Alaska Petroleum Revenue - History," Fall 2007 Revenue Sources Book, Appendix A-7a. For ELF factors, see: "Economic Limit Factors [for Fields with Positive ELF]-History," Fall 2007 Revenue Sources Book, Appendix C-3a.)

13. "Palin's oil agenda includes credits as well as tax," *Anchorage Daily News*, Sept. 3, 2007 (interview with reporter Tom (Kizzia; part II of 3-part series).

14. "Gavel to Gavel Alaska," Sept. 4, 2007 (Audio File Archives, accessed Sept. 25, 2008 at http://www.ktoo.org/gavel/audio.cfm).

15. For discussion of progressivity see, "Palin's PPT Proposal: The bill at a glance," *Alaska Budget Report*, Oct. 22, 2007, pp. 3-5; and Pedro Van Meurs, "Proposed revisions to the PPT" (Presentation to the Alaska Legislature), October 18, 2007, (slides 12-16).

16. The original handout was displayed against a light gray background showing Alaska's state flag and seal. This distracting backdrop ate up so much computer space that it rendered the handout difficult to transmit electronically. To circumvent these downloading difficulties, the Palin administration created and released a second copy of the 5-page handout without the obstreperous background art. In the process, however, the last two pages were transposed and a key block of information on what was now the last page was omitted.
. . . . . To view a faster loading display of both Sept. 4, 2007 handouts, use the hyperlink in the text above. (The original version, which uses approximately 6.2 megabytes and takes nearly 2-1/2 minutes to download on a typical computer, is not recommended for viewing; for reference, the original can be accessed at http://www.gov.state.ak.us/pdf/PPT_Sept4Presser_RevDocs.pdf.)

17. Letter from Senator Hollis French to Governor Sarah Palin, Sept. 14, 2007 (the Alaska Democratic Party posted the letter with a press release, "Senator French Asks Governor to Make the Special Session More Open and Transparent," Sept. 20, 2007 (http://www.akdemocrats.org/enews/enews_french_092007.htm).

18. The range of documents presented to the Legislature can be reviewed at the Alaska Department of Revenue ACES webpage, at http://www.revenue.state.ak.us/ACES_revenue.htm.

19. Claire Fitzpatrick and Mike Utzler (BP Alaska), "BP Presentation on HB 2001," "Production Drives Revenue," Oct. 22, 2007, Slide 4 ("Production Drives Revenue") and Kevin Mitchell and Jim Taylor (ConocoPhillips Alaska), "HB 2001 Testimony" Oct. 22, 2001, Slide 10 ("Example of TIE Impact - Fiord Development [Fiord Capital & Production])." Both sets of data displayed the amount of investment needed to offset declining production but failed to indicate the industry profits the additional barrels that investment would generate. (See: Gaffney, Cline & Associates, "Alaska's Equitable Share: Some Further Thoughts," Oct. 30, 2007, Slides 18 and 19).

20. See: Sean Cockerham, "Pro-tax sentiment gains momentum - SPECIAL SESSION: Lawmakers in both House and Senate move to include hike in the legislation," *Anchorage Daily News*, Nov. 3, 2007 (http://adn.com/news/government/legislature/ v-printer/story/9426731p-9338866c.html); and "Prudhoe Profits" and "More on Prudhoe Profits," *Anchorage Daily News*, Nov. 2, 2007 (reporter's blogs accessed Nov. 5, 2007 at http://community.adn.com/node/112768 and http://community.adn.com/adn/node/112776). Cockerham posted the model for reader use; despite advocacy of transparency, the Palin administration did not.
. . At this point, although I was working on another element of the bill (see Part III, below), I was particularly interested in these developments because I was eager to see, at long last, clear economic data that would enable me to sort through the all the claims, counterclaims and conflicting data that accompany policy disputes when large sums of money are at stake.

21. In fact, it appears that the press missed the point of Gaffney Cline's excellent work altogether. Two days after the special session ended, Petroleum News carried a front-page article stating that although Gaffney Cline had told the Legislature that "… increasing oil taxes will make investments in the state more attractive to oil and gas companies," reports from two consulting firms reached the opposite conclusion." Petroleum News dutifully noted that the reports challenging Gaffney Cline were based on confidential data, and that ExxonMobil paid a representative of one of the two consulting firms to come to Juneau to present its conclusions. However, after mis-stating Gaffney Cline's position at the outset, the article focused solely on the industry reports, never mentioning Gaffney Cline again. (*Petroleum News*, Nov. 18, 2007, p. 1.) Gaffney Cline responded in a letter two weeks later that *Petroleum News* had mis-stated the consultants' conclusions. In fact, Gaffney Cline said, ", what GCA [Gaffney Cline] explained in testimony was that, based on the company's own numbers, not only are existing infill drilling operations in the legacy fields exceedingly profitable," and that "the structure of Alaska's production tax . . . [c]ontinues to make Alaska an attractive and profitable place to do business." (*Petroleum News*, Dec. 2, 2007, p. 1.)

22. "Overview: Legislature approves more 'equitable' share," *Alaska Budget Report*, Nov. 19, 2007, p. 1.

23. "Overview: Legislature approves more 'equitable' share." Governor Palin's Nov. 16, 2007 press conference can be heard at KTOO TV-Radio, "Gavel to Gavel Alaska," Nov. 16, 2007 (Audio File Archives).

24. In her Sept. 3, 2008 speech to the Republican National Convention, Governor Palin said: "I fought to bring about the largest private-sector infrastructure project in North American history. And when that deal was struck, we began a nearly forty billion dollar natural gas pipeline to help lead America to energy independence. That pipeline, when the last section is laid and its valves are opened, will lead America one step farther away from dependence on dangerous foreign powers that do not have our interests at heart." ("Text of Gov. Sarah Palin's speech," *Los Angeles Times*, Sept. 4, 2008 [http://www.latimes.com/news/politics/la-na-palintranscript4-2008sep04,0,3137902.story?page=1]).

25. Alaska Gasline Inducement Act materials can be accessed through the governor's web site at http://gov.state.ak.us/agia/. Materials regarding the ConocoPhillips - BP proposal are available at http://www.denali-thealaskagaspipeline.com/ads.html.

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The Palin Papers:

Governor's Major Oil and Gas Initiatives Don't Measure Up to Her Promises

Gov. Palin's Extravagant Claims on National Stage Call Her Energy Credentials Into Question As a Closer Look at Her State Oil Tax And Natural Gas Pipeline Proposals Reveal Troubling Issues

By Richard A. Fineberg
September 27, 2008 *

The Oil Patch:

Conservation Outweighs Oil Potential

(Comment 7/1/08)

(Continued from Home Page)

Although natural gas pipeline planning and financing arrangements differ from those of oil pipelines, from an economic standpoint, the underlying concerns are the same and the pipeline tariff is a key landmark. In both arenas, the state has a fundamental interest in assuring low tariffs for two reasons - to promote continued development and to enhance state revenue. Achieving these ends is not a simple task. The potential for mistakes - and for mischief - is magnified when the erstwhile independent company is tackling the largest private venture ever undertaken on this continent and three companies control 95% of the natural gas discovered on the North Slope.

At first glance the Palin approach looks like it could be the right answer - particularly to an analyst who, like myself, is familiar with the tariff overcharges of the North Slope's Big Three on Trans-Alaska Pipeline System (TAPS). But I found that the voluminous raft of documents the Palin administration released in support of the AGIA proposal in late May 2008 did not stand up well under closer review. Based on a two-month inquiry into the thorny questions associated with North Slope natural gas transportation issues, I summarized my concerns in a July 22, 2008 report to AkPIRG. I was able to further refine these concerns in response to questions I received during my July 25, 2008 testimony to the Alaska State Senate Select Committee on Energy (see August 3, 2008 *Petroleum News* article covering that testimony).My report analysis and subsequent dialogue with administration officials and key consultants suggests to me that Governor Palin's proposal is unlikely to deliver the low natural gas pipeline tariffs she has promised without clear solutions to important, troubling questions that remain unanswered. ***(26)***

I strongly endorsed Governor Palin's starting point - the quest for low tariffs. But when I reached very different conclusions regarding the probable outcome of her proposal and could find no explanation for those differences, I felt it was necessary to make sure that Governor Palin was aware of the information that led me to part company with her gas line team's conclusions and recommendations. I therefore put together a packet of pertinent documents for Governor Palin, highlighted for easy review. When I gave them to her at a public gathering in Fairbanks August 12, I requested a short meeting to explain my concerns. These seven documents, listed in reverse chronological order, are posted here.

1. Memo to Governor Sarah Palin (Aug. 12, 2008)

    Fineberg cover memo listing highlighted documents explaining why "I remain in respectful disagreement with your team on issues that I believe are fundamental to the success of a North Slope natural gas project."

2. Letter to Deputy Commissioner Marty Rutherford (Aug. 6, 2008)

    Fineberg response to Rutherford July 30 letter to Senator Fred Dyson.

3. Letter from Deputy Commissioner Marty Rutherford to Senator Fred Dyson (July 30, 2008)

    Palin administration response to Fineberg letter of July 29 (received from Senator Dyson August 6, 2008).

4. Letter to Alaska State Senator Fred Dyson (July 29, 2008)

    Fineberg rejoinder to Palin Administration informal response to July 25 testimony.

5. Letter to Alaska State Senator Charlie Huggins (July 26, 2008)

    Fineberg questions for legislators, raised following July 25 testimony.

6. Outline of Testimony to State Senate Special Committee on Energy (July 25, 2008)

    Outline of Key points in Testimony Presented July 25, 2008 at Invitation of Alaska State Senator Charlie Huggins (Chair, Alaska State Senate Special Committee on Energy).

7. Bullet Points for Unaddressed Questions Report (July 22, 2008)

    Summary of key points in Fineberg July 22 report to the Alaska Public Interest Research Group on AGIA Proposal.

To place these documents and my more recent effort to reach Governor Palin on the national and Alaska current events calendar: The Alaska State House approved the TransCanada's AGIA proposal July 23; the Alaska State Senate endorsed the project August 1; the short meeting I requested with Governor Palin Aug. 12 has not taken place; with the exception of Item 3 above, to the best of my knowledge the Palin administration has not responded to my concerns; the surprise announcement of Governor Palin's as Senator John McCain's running mate was made August 29.

Two pieces of possibly significant background information did not figure into in my analysis of the AGIA project, or in the preparation of the documents presented above:

- " As reported in the *New York Times* September 11, ***(27)*** Alaska Deputy Commissioner of Natural Resources Rutherford - regarded by knowledgeable followers of the gas line proposal to be the gas line team's "go-to person" (also the author of the unresponsive item 3 in the documents posted above)

- consulted for a TransCanada subsidiary involved in the gas line project in 2003 during a ten-month period when she was not working for the state. According to that article, Ms. Rutherford did not lobby for TransCanada but only performed research and analysis. In 2007 Ms. Rutherford told an *Anchorage Daily News* reporter that she "did two small research and analysis jobs for Foothills" Pipe Lines Alaska, Inc. (the TransCanada subsidiary). ***(28)*** Ms. Rutherford now tells the *New York Times* that "she and the governor never discussed whether her role on the team might be viewed as improper or give the appearance of a conflict of interest," and that "she was not one of the pipeline team members who recommended a developer to Ms. Palin." Neither article contains this fact: In 2003 Ms. Rutherford was registered as a lobbyist for Foothills and was paid $40,200. ***(29)***

- The other troubling loose end to this story is that the Washington, DC law firm of Greenberg Traurig played a significant role in the design of the Palin gas line proposal. Greenberg Traurig employed disgraced Washington, DC lobbyist Jack Abramoff and helped represent President George Bush in the 2000 Florida election legal fracas on which his first election turned. ***(30)*** The voluminous record the Palin administration released for public review in May 2008 contains nine documents totaling 138 pages prepared by Greenberg Traurig, whose attorneys testified several times in support of Governor Palin's decision to award the AGIA contract to TransCanada. ***(31)*** In attempting to understand the Palin administration's position, I spoke at length to a senior Greenberg Traurig attorney who prepared several of those documents. Clear and convincing responses to my questions could have put unsubstantiated suspicions about Greenberg Traurig's role in formulating and then supporting the state's position to rest. However, as the documents presented in this packet indicate, I have not been able to reconcile our divergent viewpoints.

The materials I researched, presented to Governor Palin and posted here indicate that there is an even more fundamental disconnect between the realities of natural gas pipeline financing and the overly simplistic approach to these problems that the Palin administration has adopted. Based on the still unanswered questions I have raised, I have reluctantly concluded that both the the Greenberg Traurig role in the Palin administration's endorsement of TransCanada's AGIA proposal and Deputy Commissioner Rutherford's past ties to TransCanada warrant further investigation. I now count these among the many troubling aspects of Governor Palin's natural gas line proposal - details in which Governor Palin appears to me to be distinctly disinterested. I am not asserting wrongdoing, but I can say this: The possibility of conflicts of interest at high levels on an issue of this magnitude seriously sullies Governor Palin's image as an ethics reformer.

The Palin Papers: Part III: Implementing Policy

This section looks at the manner in which state agencies administered one oil and gas policy initiative under Governor Palin during the first half of 2008. The case in point here is the failure to implement a provision of the petroleum production tax legislation enacted during the 2007 special session that dealt with pipeline shipping charges (tariffs). ***(32)***

In divvying up revenue from Alaska petroleum operations, pipeline shipping charges (tariffs) play a particularly important role. Hundreds of millions of dollars per year ride on the correct accounting for transportation costs, which are subtracted from the market price of oil and gas to determine the base on which state royalty and production tax payments are calculated. When ownership of production and pipelines overlap, pipeline overcharges reduce state and federal revenues while inhibiting competition from independent (non-owner) shippers.***(33)*** Since 2002, a steady stream of state and federal regulatory and court decisions have confirmed that the major North Slope oil producers have reaped billions of dollars in excessive profits from their simultaneous ownership of Alaska North Slope production rights and TAPS. ***(34)***

The process of restoring equity and sanity to the tariff process is exceeding slow. During the 2007 special session on production tax revisions (covered in Part I, above), I assisted in the development of the legislation that was designed to enable the Department of Revenue to substitute an estimated pipeline tariff for an improperly inflated filed tariff when production and pipeline ownership interests overlapped, thereby preventing the pipeline owners from using tariff overcharges to reduce production tax payments. During the special session, the Department of Revenue estimated this minor statutory change could increase state revenue during the current year by as much as $200 million. ***(35)*** As noted above, this change to petroleum production tax statute was considered and approved by committees in both houses and adopted as part of the final petroleum production tax revision.

Unfortunately, during the early months of 2008 the draft regulations to implement this portion of the new law ran off the rails. When personnel from various agencies met in January 2008 to discuss implementing this piece of the production tax legislation, the initial plan was to draft a regulation that would enable the Department of Revenue to employ, when necessary, a simple estimating procedure to close this $200 million loophole. But the agency staffs began to re-invent the wheel by creating a full-blown, new substitute methodology for calculating pipeline costs. Instead of adopting a standard pipeline ratemaking protocol to extract relevant information from existing records, the agencies were proposing a cumbersome and duplicative process for determining the pipeline portion of transportation costs. ***(36)***

At a June 4, 2008 workshop on the department's proposed regulations, a knowledgeable tariff attorney advised the department that the agency's proposed discounted cash flow method was inappropriate and would result in increased shipping costs. ***(37)*** This outcome would reverse the intent of the statute by nullifying (rather than supporting) the effects of the court and regulatory decisions that tariffs were excessive, handicapping independent developers and reducing state revenue. Commenting as a private citizen, in a June 11, 2008 letter I recommended that the department abandon its present approach and seek a simpler solution that would be consistent with the intent of the statute. (For my comments on the Palin administration's apparent intent to reverse the intent of this portion of the ACES statute aimed at preventing tariff abuse, click here.

The department's latest plans for implementing the pipeline tariff component of the revised production tax statute are unclear. ***(38)***

Conclusion: Was Governor Palin Really There?

Governor Palin sounds welcome calls for transparency and public involvement, but her delivery, with disturbing regularity, fails to measure up to her insouciant promises. And although Governor Palin deserves credit for taking action to put the centerpiece oil and gas issues into play in special sessions of the state Legislature, this analysis shows that her two major policy initiatives were fundamentally flawed by internal contradictions that undermined her stated public policy goals.

It is troubling that in the area that she claims as her strong suit - energy policy - Governor Palin is prone to proffer major oil and gas policy initiatives that are inherently defective, coupled with broad generalities that, on inspection, simply do not add up. In the case of her 2007 oil tax revision, the Legislature - not Governor Palin - delivered the necessary fiscal course corrections to save her initial proposal from a slow train wreck. In 2008, Governor Palin's North Slope natural gas plan, for which she prematurely and inaccurately took credit in her national debut September 3, is far from a done deal and may even be headed down the wrong track. During the first six months of 2008, the Palin administration's implementation failure on the portion of the 2007 "ACES" production tax revisions dealing with pipeline tariffs heightened my growing concern about the new governor's management style and capabilities. Shortcomings in the governor's efforts on the pipeline tariff issue, coupled with her team's flawed gas line analysis, suggest that the problems I had dismissed in 2007 as anomalies were in fact harbingers of what was to come.

Details matter: Governor Palin proclaims the importance of transparency and dubbed her production tax measure "Alaska's Clear and Equitable Share." A well-tempered policy depends on a comprehensive and transparent overview. From this perspective, Governor Palin's failure to assure that her staff has summed up the industry, state and federal shares of the net revenue "take" clearly and accurately (documented in Part I, above) disfigures Governor Palin's stated objectives.

Later in the ACES campaign, when consultants came up with an interactive model to counter industry misstatements, her team was finally within striking distance of producing a comprehensive model that lived up to the governor's stated goals. Surely, I thought at the time, the governor's team will take the next step and produce that model; it never got there. Once again the Palin administration bureaucracy substituted a welter of documents and obscure charts for a clear and comprehensive model whose overview that would have enabled concerned citizens to evaluate the complex issues, including the importance of pipeline tariffs. ***(39)***

In 2007 and again in 2008, after an initial public announcement on her centerpiece legislation, Governor Palin vanished from the scene, leaving the often tedious and thorny problems of execution to the bureaucracy. When it was all over, she would show up at another press conference to claim victory. But during most of the intervening time, when the heavy lifting was being done, there was little sign that Governor Palin was actively involved. To all intents and purposes Governor Palin simply wasn't there. My impression is that she said, "You guys go play in the sandbox, but don't fight," and left the scene.
A case in point is the stalled 2007 production tax fix to the oil pipeline tariff problem. Failure to fix this basic tariff problem is particularly significant because Governor Palin based her selection of an independent pipeline company for the AGIA project on the state's sad experience with TAPS tariffs. I watched this policy failure from a ringside seat, there were times when, feeling as though I were outside Kafka's castle, I found myself wanting to shout:

> Hey, Governor Palin?
> Is anybody home?

I now suspect that such a call might have been answered with silence. ***(40)***

There is no doubt that Governor Palin is a bright and engaging politician. She is a quick study and a clever strategist, with solid instincts and a keen sense of timing. But what about statecraft? In my estimation, one of the most important qualities a governor can bring to the job is the diligence to become familiar with the complex issues at hand. The materials presented here suggest that Governor Palin is seriously lacking in this regard. Instead of doing her homework, she appears to govern on the basis of personal predilections and staff recommendations that she is prone to accept with insufficient scrutiny. Governor Palin, the erstwhile reformer and maverick, often displays an unhealthy dependence on state bureaucracy.

When it comes to politics, does Governor Palin get it?

You bet.

But when it comes to statecraft, does Governor Palin get it right?

I think not.

The nation witnessed an embarrassing example Governor Palin getting it wrong when she finally granted her first national press interview nearly two weeks after being named as John McCain's running mate. In claiming her experience in energy as her principal proof that she is ready to serve, Governor Palin said she had been working on energy independence "as the governor of this state that produces nearly 20% of the U.S. domestic supply of energy." In subsequent days, various media outlets noticed that on the campaign train she had made revised her script to this effect: "My job is to oversee 20% of the nation's oil and gas." ***(41)*** The first statement was a wild exaggeration; the second was also well off the mark. ***(42)***

In light of her pronouncements on ethics and professed zeal for good government, Governor Palin's failure to ensure that her actions are not contaminated by possible conflicts of interest is surprising and disappointing. Two potential conflicts associated with the Palin administration's decision to support TransCanada's bid to build the North Slope natural gas pipeline were discussed in Part II, above: The past association of one of her natural gas team leaders with a TransCanada subsidiary and the role played by the Washington, DC law firm where disgraced lobbyist Jack Abramoff used to hang his hat before he went to jail. Neither demonstrate wrongdoing, but both raise questions of propriety. Governor Palin and her team might have laid both problems to rest - or prevented them from becoming problems -- by taking these basic steps: (1) Reviewing apparent conflicts; (2) making complete disclosure of those conflicts; and - perhaps most importantly - (3) producing a work product that is logically sound and empirically verifiable. I am of the school that says: Do not assume wrongdoing if coincidence or incompetence will explain what's going on. I would be much more comfortable with Governor Palin's natural gas proposal if she had followed rather than failed the three steps above. I would be even more comfortable - and I believe the public would be well served - if the substantive questions I raised in my July 22, 2008 report and the subsequent materials I presented to Governor Palin three weeks later had been addressed, rather than glossed over or ignored.

In sum: Governor Palin claims to be a breath of fresh air who has put Alaska on a different track. But careful examination of how she has performed in office indicates otherwise. Governor Palin offers her oil and gas efforts as proof that she's the Real McCoy.

She's not.

Footnotes 26 - 42 to *The Palin Papers*

26. The following three questions, synthesized from my inquiries, may help the uninitiated reader wade into the arcane worlds of project financing and natural gas pipeline ratemaking:

- (1) Is it reasonable to assume that the AGIA contract provisions calling for lower pipeline tariffs can successfully reverse the fundamental fact that the pipeline operator naturally wants to maximize tariff revenue?
- (2) Does it makes sense to rely on the hope that the North Slope gas shippers will negotiate aggressively with the pipeline operator to reduce the pipeline tariff downward when the principal shippers in this unusual case have a counter-intuitive but clearly demonstrated history of filing high tariffs on their oil pipeline?
- (3) Do the statutory information provisions of the AGIA plan give the state the legal means to assure that the state will receive, in a timely manner, the information it needs to protect itself from tariff abuse during the planning, financing, construction and operation of this behemoth project?

The massive stacks of documents the Palin Administration released in support of the TransCanada AGIA application did not identify or address these fundamental questions. Nor did I find answers in subsequent dialogue with Palin administration officials and consultants. (See the packet of documents linked to this report and presented to Governor Palin.)

27. Serge F. Kovaleski and Mike McIntire, "Palin's Pipeline Is Years From Being a Reality," *New York Times*, September 11, 2008 (http://www.nytimes.com/2008/09/11/us/politics/11pipeline.html?_r=1&ref=politics&oref=slogin).

28. Tom Kizzia, "Ex-rebel now goes for gas line - RUTHERFORD: She quit one administration, but today she spearheads state's big project," *Anchorage Daily News*, June 10, 2007, p. B-1.

29. I have always had the utmost respect for Ms. Rutherford's integrity. However, Ms. Rutherford has not responded to my August 6, 2008 rejoinder to her July 30, 2008 (see documents 2 and 3 in the attached packet), or to a subsequent request requesting more information on her past association with TransCanada.

30. For an extensive set of references on the activities of Greenberg Traurig LLP, see http://en.wikipedia.org/wiki/Greenberg_Traurig.

31. The nine documents - memoranda and reports prepared between 2005 and the present - are found in State of Alaska, *Alaska Gasline Determination Public Forum*, May 28-30, 2008, Appendix R-1 - R8 (CD). In addition, several *Public Forum* documents from other consultants were submitted to Greenberg Traurrig, and the firm has provided additional information to state officials that is not part of the *Public Forum*.

32. AS 43.55.150 was amended by Section 53, SCS CSHB 2001(FIN) am S (Ch. 1, SSSLA 2007).

33. When a pipeline owner is shipping its own oil, an excessive tariff charge is merely a bookkeeping transfer from the production arm of the company to the transportation arm. But the elevated transportation charge is subtracted from the market price to determine the tax and royalty base, thereby reducing the company's production tax and royalty payments to the state, as well as state and federal income taxes. The higher tariff also handicaps the independent producer, who must actually cover that charge with a cash payment.

34. For background material on the administrative and legal findings regarding TAPS tariff overcharges, see: Richard A. Fineberg, "Federal Energy Regulatory Commission (FERC) and State Supreme Court Confirm TAPS Overcharges, Hand Pipeline Owners Their Sixth Successive Defeat Since 2002," July 1, 2008 (on this web site).

35. See: Palin-Parnell Administration, "Transportation Deductions," Nov. 2, 2007, slide #8 (accessed Sept. 25, 2008 at http://www.gov.state.ak.us/aces/pdf/11-02-07%20Transportation%20Issues.pdf).

36. I participated in the initial meeting on regulations in January 2008 but was not involved in subsequent drafting meetings. Before my contract expired June 1, 2008, I expressed written objections to the draft work product in two subsequent memoranda.

37. Robin O. Brena, "Comments of Anadarko Petroleum Corporation," In the Matter of Draft Transportation Regulations for Title 15-Revenue, of the Alaska Administrative Code, and Chapter 55-Oil and Gas Properties Production Tax," June 11, 2008.

38. On September 19, 2008, the department announced its intent to hold a hearing on a batch of production tax regulations on October 9, 2008. However, revised transportation cost regulations are not included in that package and as of September 25, 2008, new implementing regulations for AS 43.55.150 have yet to be posted. I have been told that the department plans to hold another workshop on transportation cost regulations later in October.

39. For discussion of the importance to gas pipeline analysis of model data that are comprehensive and transparent, see Unaddressed Questions at pp. 7-10, 24 and 27.

40. I leave it to others to ascertain and evaluate what Governor Palin was (or was not) doing on other fronts during her first 20 tumultuous months in office; the purpose of this analysis is to describe and document, from a policy perspective, what I have observed regarding Governor Palin's conduct of oil and gas issues with which I am conversant. However, it bears mentioning that a press review of state documents indicates that during her first 20 months in office Governor Palin was absent from her main office on the third floor of the state capitol in Juneau (one floor above the legislative chambers), but instead worked much of the time from the Anchorage office of the governor (James V. Grimaldi and Karl Vick, "Palin Billed State for Nights Spent at Home: Taxpayers Also Funded Family's Travel," Washington Post, September 9, 2008, p. A01).

41. [N]early 20% of the U.S. domestic energy supply" - see Footnote 1 above; "20% of this nation's oil and gas" - Wyatt Andrews, "Reality Check" (CBS Evening News with Katie Couric), Sept. 15, 2008 (similar statements have reportedly been aired on NBC and MSNBC).

42. According to the U.S. Energy Information Administration, Alaska produces approximately 3.5% of the U.S.

domestic energy production. EIA also estimates that Alaska possesses approximately 4.9% of the nation's natural gas reserves and 13.2% of the nation's oil reserves. (U.S. Energy Information Agency, "State Energy Profiles: Alaska," accessed Sept. 25, 2008 at http://tonto.eia.doe.gov/state/state_energy_profiles.cfm?sid=AK; and "World Proved (1) Reserves of Oil and Natural Gas, Most Recent Estimates," August 27, 2008, accessed Sept. 25, 2008 at http://www.eia.doe.gov/emeu/international/reserves.html.)

When Alaska natural gas reserves are converted to barrels of oil equivalency on a Btu basis, EIA's most recent data (for calendar year 2006) indicate that Alaska has approximately 9.1% of the nation's oil and gas reserves.

** Minor revisions posted Oct. 1 and Oct. 3, 2008.*

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