

NLWJC- Kagan

Counsel - Box 004 - Folder 016

Alaska North Slope Oil

E X E C U T I V E   O F F I C E   O F   T H E   P R E S I D E N T

25-Apr-1996 02:23pm

TO:           (See Below)  
FROM:         Shelley N. Fidler  
              Council on Environmental Quality  
SUBJECT:     ANWR

FYI

The Supreme Court's Master filed a recommendation in a court case dating from 1959 involving the disposition of disputed coastal and submerged lands off ALASKA.

You've got it. It might have implications for ANWR. In Alaska, they may say it opens the issue.

We should be cautious.

1. Haven't seen the Special guys report (but he must be a Republican).
2. Admnsitration can take exception to the findings.
3. If Supremes decide according to his recommendations it would, most likely, happen next spring.
4. We would have to agree with the state on exactly which lands were included in the decision to enter a final decree.

IF the Supremes go with this, the State of ALaska could have what amounts to a small inholding in refuge. Whether the state could lease and develop would be highly dependent on numerous factors.

Heads up. More later.

Distribution:

TO:           Kathleen A. McGinty  
TO:           Thomas C. Jensen  
TO:           Dinah Bear  
TO:           Wesley P. Warren  
  
CC:           Ray Martinez  
CC:           Jennifer M. O'Connor

**THE WHITE HOUSE**

**Office of the Press Secretary**

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**For Immediate Release**

**April 28, 1996**

**STATEMENT BY THE PRESIDENT**

Today I am taking action that will allow, for the first time, exports of Alaska North Slope (ANS) crude oil. Permitting this oil to move freely in international commerce will contribute to economic growth, reduce dependence on imported oil, and create new jobs for American workers. It will not adversely affect oil supplies or gasoline prices on the West Coast, in Hawaii, or in the rest of the nation.

I am also announcing additional measures to address safety concerns relating to oil tankers and other commercial vessels in Puget Sound-area waters in Washington State.

I want to express my appreciation to Congress, led by the Alaska congressional delegation, for its bipartisan support of the legislation that has made exports possible. In addition, I want to express my appreciation to Alaska Governor Tony Knowles. It has been a pleasure to work with him to make ANS exports a reality.

After careful consideration, I have determined that ending the 23-year ban against exporting ANS oil is in the national interest, subject to four important conditions:

1. Tankers exporting ANS crude oil must remain outside of the 200-mile Exclusive Economic Zone. This will ensure that tankers in the ANS export trade remain far from the U.S. coastline and the environmentally sensitive areas along the Aleutian Islands.
2. ANS export tankers must be equipped with a satellite communications system to permit the Coast Guard to monitor the tankers' positions.
3. ANS export tankers must be inspected annually, in accordance with U.S. Coast Guard policies and procedures. This condition will ensure that the tankers are kept in safe working order.

-more-

4. ANS export tankers will be required to exchange their ballast water in deep ocean water prior to entering Alaska's Prince William Sound. Ship logs will record ballast exchanges and will be checked periodically by the Coast Guard. This condition will help prevent the introduction into Alaskan fisheries of non-indigenous, aquatic nuisance species.

These requirements, which will be applied to ANS oil exports as export license conditions, will protect Alaska's unique environment and abundant natural resources. A fifth requirement -- that exports be carried in U.S.-flag tankers, crewed by U.S. merchant seamen -- is already in place under PL 104-58, the oil export legislation I supported and signed into law last November. That law is also the source of the authority under which I am imposing the four additional export conditions.

By removing the ban that has prevented ANS oil from moving freely in international markets for more than two decades, we will be stimulating increased domestic oil production in Alaska and California, creating new jobs in the oil industry, and preserving jobs for America's merchant seamen.

Over the last several months, my Administration has conducted an extensive interagency review of the environmental, economic, and energy aspects of lifting the ban. Led by the National Economic Council and the Council on Environmental Quality, the interagency review team confirmed the Department of Energy's 1994 findings that lifting the export ban would provide important benefits to the economy. Permitting exports will generate up to 25,000 more jobs, particularly for American workers in California and Alaska, but also in states that produce oil industry supplies and equipment. Additional oil production of about 100,000 barrels per day is expected, according to DOE projections, and Alaska, California, and the federal government will also benefit from up to \$2 billion in additional federal, state, and local royalty and tax payments.

The review group identified an additional benefit of exports. It determined that overall tanker movements along the West Coast will decline. Because of the ban, the ANS oil that exceeds the West Coast's needs currently must be shipped down the West Coast anyway. Without the ban, that "surplus" oil -- which has been suppressing Alaska and California producer prices below U.S. market levels -- can now be exported.

While the review group found no likelihood of adverse impacts from ANS exports on Washington State's consumers, refiners, or environment, concern is clearly rising in that State about the increasing volume of vessel traffic projected to occur as a result of *other* factors. For example, the growing international trade between Washington State and Pacific Rim nations, while clearly a boon to the State's economy, is prompting debate over the adequacy of current vessel safety procedures and resources.

I share those concerns. Accordingly, I am requesting the Coast Guard to prepare, by no later than 120 days from today, a status report on its plan for a private-sector vessel assistance system. I am also asking the Coast Guard to accelerate completion of the plan, which will be submitted to Congress, and to offer its assistance to any serious private-sector efforts to improve vessel safety. The plan is required under a provision of the ANS export law authored by Sen. Patty Murray, who has been at the forefront of efforts to safeguard her state's waterways. To further support those efforts, I am asking the Secretary of Transportation to determine, by the end of this year, the need for additional, cost-effective measures to protect the marine environment, and to prevent shipping accidents, in Washington State.

Finally, I wish to emphasize that in permitting ANS oil to be exported, I am in no way diminishing my authority under various laws to impose new export restrictions if necessary to respond to a national emergency, or to deal with severe oil supply shortages.

THE WHITE HOUSE  
WASHINGTON

April 28, 1996

MEMORANDUM FOR THE SECRETARY OF COMMERCE  
THE SECRETARY OF ENERGY

SUBJECT: EXPORTS OF ALASKAN NORTH SLOPE (ANS) CRUDE OIL

Pursuant to section 28(s) of the Mineral Leasing Act, as amended, 30 U.S.C. 185, I hereby determine that exports of crude oil transported over right-of-way granted pursuant to section 203 of the Trans-Alaska Pipeline Authorization Act are in the national interest. In making this determination, I have taken into account the conclusions of an interagency working group, which found that such oil exports:

- will not diminish the total quantity or quality of petroleum available to the United States; and
- are not likely to cause sustained material oil supply shortages or sustained oil price increases significantly above world market levels that would cause sustained material adverse employment effects in the United States or that would cause substantial harm to consumers, including those located in noncontiguous States and Pacific Territories.

I have also considered the interagency group's conclusions regarding potential environmental impacts of lifting the ban. Based on their findings and recommendations, I have concluded that exports of such crude oil will not pose significant risks to the environment if certain terms and conditions are met.

Therefore, pursuant to section 28(s) of the Mineral Leasing Act I direct the Secretary of Commerce to promulgate immediately a general license, or a license exception, authorizing exports of such crude oil, subject to appropriate documentation requirements, and consistent with the following conditions:

- tankers exporting ANS exports must use the same route that they do for shipments to Hawaii until they reach a point 300 miles due south of Cape Hinchinbrook Light and then turn toward Asian destinations. After reaching that point, tankers in the ANS oil trade must remain outside of the 200 nautical-miles Exclusive Economic Zone of the United States as defined in the Fisheries Conservation and Management Act (16 U.S.C. 1811). This condition also applies to tankers returning from foreign ports to Valdez, Alaska. Exceptions can be made at the discretion of the vessel master only to ensure the safety of the vessel;
- that export tankers be equipped with satellite-based communications systems that will enable the Coast Guard independently to determine their location. The Coast Guard will conduct appropriate monitoring of the tankers, a measure that will ensure compliance with the 200-mile condition, and help the Coast Guard respond quickly to any emergencies;
- the owner or operator of an Alaskan North Slope crude oil export tankship shall maintain a Critical Area Inspection Plan for each tankship in the trade in accordance with the U.S. Coast Guard's Navigation and Inspection Circular No. 15-91 as amended, which shall include an annual internal survey of the vessel's cargo block tanks; and
- the owner or operator of an Alaskan North Slope crude oil export tankship shall adopt a mandatory program of deep water ballast exchange (i.e., in 2,000 meters water depth). Exceptions can be made at the discretion of the captain only in order to ensure the safety of the vessel. Recordkeeping subject to Coast Guard audit will be required as part of this regime.

The Secretary of Commerce is authorized and directed to inform the appropriate committees of the Congress of this determination and to publish it in the Federal Register.

William J. Chittson

Blena -

Several questions:

1) Is it even necessary? Yes

2) Proper form

3) Proper addressees?

add Interior?

- see § 203

- re

Thanks for looking into this!

PM

Memo to the Sec'y's  
Matt Brown

April 26, 1996

MEMORANDUM FOR THE SECRETARY OF COMMERCE  
SECRETARY OF ENERGY

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- the owner or operator of an Alaskan North Slope crude oil export tankship shall adopt a mandatory program of deep water ballast exchange (i.e., in 2,000 meters water depth). Exceptions can be made at the discretion of the captain only in order to ensure the safety of the vessel. Recordkeeping subject to Coast Guard audit will be required as part of this regime;

The Secretary of Commerce is authorized and directed to inform the appropriate committees of the Congress of this determination and to publish it in the Federal Register.

THE WHITE HOUSE  
Washington, April \_\_, 1996

PUBLIC LAW 104-58 [S. 395]; November 28, 1995

**ALASKA POWER ADMINISTRATION ASSET SALE AND  
ADMINISTRATION—EXPORTS OF ALASKAN  
NORTH SLOPE OIL**

An Act to authorize and direct the Secretary of Energy to sell the Alaska Power Administration, and to authorize the export of Alaska North Slope crude oil, and for other purposes.

*Be it enacted by the Senate and House of Representatives of  
the United States of America in Congress assembled,*

**TITLE I—ALASKA POWER ADMINISTRATION  
ASSET SALE AND TERMINATION**

**SEC. 101. SHORT TITLE.**

This title may be cited as the "Alaska Power Administration Asset Sale and Termination Act".

**SEC. 102. DEFINITIONS.**

For purposes of this title:

(1) The term "Eklutna" means the Eklutna Hydroelectric Project and related assets as described in section 4 and Exhibit A of the Eklutna Purchase Agreement.

(2) The term "Eklutna Purchase Agreement" means the August 2, 1989, Eklutna Purchase Agreement between the Alaska Power Administration of the Department of Energy and the Eklutna Purchasers, together with any amendments thereto adopted before the enactment of this section.

(3) The term "Eklutna Purchasers" means the Municipality of Anchorage doing business as Municipal Light and Power, the Chugach Electric Association, Inc. and the Matanuska Electric Association, Inc.

(4) The term "Snettisham" means the Snettisham Hydroelectric Project and related assets as described in section 4 and Exhibit A of the Snettisham Purchase Agreement.

(5) The term "Snettisham Purchase Agreement" means the February 10, 1989, Snettisham Purchase Agreement between the Alaska Power Administration of the Department of Energy and the Alaska Power Authority and its successors in interest, together with any amendments thereto adopted before the enactment of this section.

(6) The term "Snettisham Purchaser" means the Alaska Industrial Development and Export Authority or a successor State agency or authority.

SEC. 103. SALE OF EKLUTNA AND SNETTISHAM HYDROELECTRIC PROJECTS.

(a) SALE OF EKLUTNA.—The Secretary of Energy is authorized and directed to sell Eklutna to the Eklutna Purchasers in accordance with the terms of this Act and the Eklutna Purchase Agreement.

(b) SALE OF SNETTISHAM.—The Secretary of Energy is authorized and directed to sell Snettisham to the Snettisham Purchaser in accordance with the terms of this Act and the Snettisham Purchase Agreement.

(c) COOPERATION OF OTHER AGENCIES.—The heads of other Federal departments, agencies, and instrumentalities of the United States shall assist the Secretary of Energy in implementing the sales and conveyances authorized and directed by this title.

(d) PROCEEDS.—Proceeds from the sales required by this title shall be deposited in the Treasury of the United States to the credit of miscellaneous receipts.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to prepare, survey, and acquire Eklutna and Snettisham for sale and conveyance. Such preparations and acquisitions shall provide sufficient title to ensure the beneficial use, enjoyment, and occupancy by the purchasers.

(f) CONTRIBUTED FUNDS.—Notwithstanding any other provision of law, the Alaska Power Administration is authorized to receive, administer, and expend such contributed funds as may be provided by the Eklutna Purchasers or customers or the Snettisham Purchaser or customers for the purposes of upgrading, improving, maintaining, or administering Eklutna or Snettisham. Upon the termination of the Alaska Power Administration under section 104(f), the Secretary of Energy shall administer and expend any remaining balances of such contributed funds for the purposes intended by the contributors.

SEC. 104. EXEMPTION AND OTHER PROVISIONS.

(a) FEDERAL POWER ACT.—(1) After the sales authorized by this Act occur, Eklutna and Snettisham, including future modifications, shall continue to be exempt from the requirements of Part I of the Federal Power Act (16 U.S.C. 791a et seq.), except as provided in subsection (b).

(2) The exemption provided by paragraph (1) shall not affect the Memorandum of Agreement entered into among the State of Alaska, the Eklutna Purchasers, the Alaska Energy Authority, and Federal fish and wildlife agencies regarding the protection, mitigation of, damages to, and enhancement of fish and wildlife, dated August 7, 1991, which remains in full force and effect.

(3) Nothing in this title or the Federal Power Act preempts the State of Alaska from carrying out the responsibilities and authorities of the Memorandum of Agreement.

(b) SUBSEQUENT TRANSFERS.—Except for subsequent assignment of interest in Eklutna by the Eklutna Purchasers to the Alaska Electric Generation and Transmission Cooperative Inc. pursuant to section 19 of the Eklutna Purchase Agreement, upon any subsequent sale or transfer of any portion of Eklutna or Snettisham from the Eklutna Purchasers or the Snettisham Purchaser to any other person, the exemption set forth in paragraph

(1) of subsection (a) of this section shall cease to apply to such portion.

(c) REVIEW.—(1) The United States District Court for the District of Alaska shall have jurisdiction to review decisions made under the Memorandum of Agreement and to enforce the provisions of the Memorandum of Agreement, including the remedy of specific performance.

(2) An action seeking review of a Fish and Wildlife Program ("Program") of the Governor of Alaska under the Memorandum of Agreement or challenging actions of any of the parties to the Memorandum of Agreement prior to the adoption of the Program shall be brought not later than 90 days after the date on which the Program is adopted by the Governor of Alaska, or be barred.

(3) An action seeking review of implementation of the Program shall be brought not later than 90 days after the challenged act implementing the Program, or be barred.

(d) EKLUTNA LANDS.—With respect to Eklutna lands described in Exhibit A of the Eklutna Purchase Agreement:

(1) The Secretary of the Interior shall issue rights-of-way to the Alaska Power Administration for subsequent reassignment to the Eklutna Purchasers—

(A) at no cost to the Eklutna Purchasers;

(B) to remain effective for a period equal to the life of Eklutna as extended by improvements, repairs, renewals, or replacements; and

(C) sufficient for the operation of, maintenance of, repair to, and replacement of, and access to, Eklutna facilities located on military lands and lands managed by the Bureau of Land Management, including lands selected by the State of Alaska.

(2) Fee title to lands at Anchorage Substation shall be transferred to Eklutna Purchasers at no additional cost if the Secretary of the Interior determines that pending claims to, and selections of, those lands are invalid or relinquished.

(3) With respect to the Eklutna lands identified in paragraph 1 of Exhibit A of the Eklutna Purchase Agreement, the State of Alaska may select, and the Secretary of the Interior shall convey to the State, improved lands under the selection entitlements in section 6 of the Act of July 7, 1958 (commonly referred to as the Alaska Statehood Act, Public Law 85-508; 72 Stat. 339), and the North Anchorage Land Agreement dated January 31, 1983. This conveyance shall be subject to the rights-of-way provided to the Eklutna Purchasers under paragraph (1).

(e) SNETTISHAM LANDS.—With respect to the Snettisham lands identified in paragraph 1 of Exhibit A of the Snettisham Purchase Agreement and Public Land Order No. 5108, the State of Alaska may select, and the Secretary of the Interior shall convey to the State of Alaska, improved lands under the selection entitlements in section 6 of the Act of July 7, 1958 (commonly referred to as the Alaska Statehood Act, Public Law 85-508; 72 Stat. 339).

(f) TERMINATION OF ALASKA POWER ADMINISTRATION.—Not later than one year after both of the sales authorized in section 103 have occurred, as measured by the Transaction Dates stipulated in the Purchase Agreements, the Secretary of Energy shall—

(1) complete the business of, and close out, the Alaska Power Administration;

(2) submit to Congress a report documenting the sales; and

(3) return unobligated balances of funds appropriated for the Alaska Power Administration to the Treasury of the United States.

(g) REPEALS.—(1) The Act of July 31, 1950 (64 Stat. 382) is repealed effective on the date that Eklutna is conveyed to the Eklutna Purchasers.

(2) Section 204 of the Flood Control Act of 1962 (76 Stat. 1193) is repealed effective on the date that Snettisham is conveyed to the Snettisham Purchaser.

(3) The Act of August 9, 1955, concerning water resources investigation in Alaska (69 Stat. 618), is repealed.

(h) DOE ORGANIZATION ACT.—As of the later of the two dates determined in paragraphs (1) and (2) of subsection (g), section 302(a) of the Department of Energy Organization Act (42 U.S.C. 7152(a)) is amended—

(1) in paragraph (1)—

(A) by striking subparagraph (C); and

(B) by redesignating subparagraphs (D), (E), and (F) as subparagraphs (C), (D), and (E) respectively; and

(2) in paragraph (2) by striking out “and the Alaska Power Administration” and by inserting “and” after “Southwestern Power Administration,”.

(i) DISPOSAL.—The sales of Eklutna and Snettisham under this title are not considered disposal of Federal surplus property under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484) or the Act of October 3, 1944, popularly referred to as the “Surplus Property Act of 1944” (50 U.S.C. App. 1622).

#### SEC. 105. OTHER FEDERAL HYDROELECTRIC PROJECTS.

The provisions of this title regarding the sale of the Alaska Power Administration's hydroelectric projects under section 103 and the exemption of these projects from Part I of the Federal Power Act under section 104 do not apply to other Federal hydroelectric projects.

## TITLE II—EXPORTS OF ALASKAN NORTH SLOPE OIL

#### SEC. 201. EXPORTS OF ALASKAN NORTH SLOPE OIL.

Section 28 of the Mineral Leasing Act (30 U.S.C. 185) is amended by amending subsection (s) to read as follows:

#### “EXPORTS OF ALASKAN NORTH SLOPE OIL

“(s)(1) Subject to paragraphs (2) through (6) of this subsection and notwithstanding any other provision of this Act or any other provision of law (including any regulation) applicable to the export of oil transported by pipeline over right-of-way granted pursuant to section 203 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1652), such oil may be exported unless the President finds that exportation of this oil is not in the national interest. The President shall make his national interest determination within five months of the date of enactment of this subsection. In evaluat-

ing whether exports of this oil are in the national interest, the President shall at a minimum consider—

“(A) whether exports of this oil would diminish the total quantity or quality of petroleum available to the United States;

“(B) the results of an appropriate environmental review, including consideration of appropriate measures to mitigate any potential adverse effects of exports of this oil on the environment, which shall be completed within four months of the date of the enactment of this subsection; and

“(C) whether exports of this oil are likely to cause sustained material oil supply shortages or sustained oil prices significantly above world market levels that would cause sustained material adverse employment effects in the United States or that would cause substantial harm to consumers, including noncontiguous States and Pacific territories.

If the President determines that exports of this oil are in the national interest, he may impose such terms and conditions (other than a volume limitation) as are necessary or appropriate to ensure that such exports are consistent with the national interest.

“(2) Except in the case of oil exported to a country with which the United States entered into a bilateral international oil supply agreement before November 26, 1979, or to a country pursuant to the International Emergency Oil Sharing Plan of the International Energy Agency, any oil transported by pipeline over right-of-way granted pursuant to section 203 of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1652) shall, when exported, be transported by a vessel documented under the laws of the United States and owned by a citizen of the United States (as determined in accordance with section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802)).

“(3) Nothing in this subsection shall restrict the authority of the President under the Constitution, the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), the National Emergencies Act (50 U.S.C. 1601 et seq.), or Part B. of title II of the Energy Policy and Conservation Act (42 U.S.C. 6271-76) to prohibit exports.

“(4) The Secretary of Commerce shall issue any rules necessary for implementation of the President's national interest determination, including any licensing requirements and conditions, within 30 days of the date of such determination by the President. The Secretary of Commerce shall consult with the Secretary of Energy in administering the provisions of this subsection.

“(5) If the Secretary of Commerce finds that exporting oil under authority of this subsection has caused sustained material oil supply shortages or sustained oil prices significantly above world market levels and further finds that these supply shortages or price increases have caused or are likely to cause sustained material adverse employment effects in the United States, the Secretary of Commerce, in consultation with the Secretary of Energy, shall recommend, and the President may take, appropriate action concerning exports of this oil, which may include modifying or revoking authority to export such oil.

“(6) Administrative action under this subsection is not subject to sections 551 and 553 through 559 of title 5, United States Code.”.

SEC. 202. GAO REPORT.

(a) REVIEW.—The Comptroller General of the United States shall conduct a review of energy production in California and Alaska and the effects of Alaskan North Slope oil exports, if any, on consumers, independent refiners, and shipbuilding and ship repair yards on the West Coast and in Hawaii. The Comptroller General shall commence this review three years after the date of enactment of this Act and, within twelve months after commencing the review, shall provide a report to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources and the Committee on Commerce of the House of Representatives.

(b) CONTENTS OF REPORT.—The report shall contain a statement of the principal findings of the review and recommendations for Congress and the President to address job loss in the shipbuilding and ship repair industry on the West Coast, as well as adverse impacts on consumers and refiners on the West Coast and in Hawaii, that the Comptroller General attributes to Alaska North Slope oil exports.

SEC. 203. GRANT AUTHORITY.

(a) IN GENERAL.—The Secretary of Transportation (“Secretary”) may make grants to the Multnomah County Tax Supervising and Conservation Commission of Multnomah County, Oregon (“Commission”) in accordance with this section, not to exceed the amount determined in subsection (b)(2).

(b) FINDING AND DETERMINATION.—Before making any grant under this section not earlier than one year after exports of Alaskan North Slope oil commence pursuant to section 201, the Secretary shall—

(1) find on the basis of substantial evidence that such exports are directly or indirectly a substantial contributing factor to the need to levy port district ad valorem taxes under Oregon Revised Statutes section 294.381; and

(2) determine the amount of such levy attributable to the export of Alaskan North Slope oil.

(c) AGREEMENT.—Before receiving a grant under this section for the relief of port district ad valorem taxes which would otherwise be levied under Oregon Revised Statutes section 294.381, the Commission shall enter into an agreement with the Secretary to—

(1) establish a segregated account for the receipt of grant funds;

(2) deposit and keep grant funds in that account;

(3) use the funds solely for the purpose of payments in accordance with this subsection, as determined pursuant to Oregon Revised Statutes sections 294.305–565, and computed in accordance with generally accepted accounting principles; and

(4) terminate such account at the conclusion of payments subject to this subsection and to transfer any amounts, including interest, remaining in such account to the Port of Portland for use in transportation improvements to enhance freight mobility.

(d) REPORT.—Within 60 days of issuing a grant under this section, the Secretary shall submit any finding and determination made under subsection (b), including supporting information, to the Committee on Energy and Natural Resources of the Senate

and the Committee on Transportation and Infrastructure of the House of Representatives.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation to carry out subsection (a), \$15,000,000 for fiscal year 1997, to remain available until October 1, 2003.

### TITLE III—OUTER CONTINENTAL SHELF DEEP WATER ROYALTY RELIEF

#### SEC. 301. SHORT TITLE.

This title may be referred to as the "Outer Continental Shelf Deep Water Royalty Relief Act".

#### SEC. 302. AMENDMENTS TO THE OUTER CONTINENTAL SHELF LANDS ACT.

Section 8(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1337(a)(3)), is amended—

(1) by designating the provisions of paragraph (3) as subparagraph (A) of such paragraph (3); and

(2) by inserting after subparagraph (A), as so designated, the following:

"(B) In the Western and Central Planning Areas of the Gulf of Mexico and the portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 degrees, 30 minutes West longitude, the Secretary may, in order to—

"(i) promote development or increased production on producing or non-producing leases; or

"(ii) encourage production of marginal resources on producing or non-producing leases; through primary, secondary, or tertiary recovery means, reduce or eliminate any royalty or net profit share set forth in the lease(s). With the lessee's consent, the Secretary may make other modifications to the royalty or net profit share terms of the lease in order to achieve these purposes.

"(C)(i) Notwithstanding the provisions of this Act other than this subparagraph, with respect to any lease or unit in existence on the date of enactment of the Outer Continental Shelf Deep Water Royalty Relief Act meeting the requirements of this subparagraph, no royalty payments shall be due on new production, as defined in clause (iv) of this subparagraph, from any lease or unit located in water depths of 200 meters or greater in the Western and Central Planning Areas of the Gulf of Mexico, including that portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 degrees, 30 minutes West longitude, until such volume of production as determined pursuant to clause (ii) has been produced by the lessee.

"(ii) Upon submission of a complete application by the lessee, the Secretary shall determine within 180 days of such application whether new production from such lease or unit would be economic in the absence of the relief from the requirement to pay royalties provided for by clause (i) of this subparagraph. In making such determination, the Secretary shall consider the increased technological and financial risk of deep water development and all costs associated with exploring, developing, and producing from the lease.

The lessee shall provide information required for a complete application to the Secretary prior to such determination. The Secretary shall clearly define the information required for a complete application under this section. Such application may be made on the basis of an individual lease or unit. If the Secretary determines that such new production would be economic in the absence of the relief from the requirement to pay royalties provided for by clause (i) of this subparagraph, the provisions of clause (i) shall not apply to such production. If the Secretary determines that such new production would not be economic in the absence of the relief from the requirement to pay royalties provided for by clause (i), the Secretary must determine the volume of production from the lease or unit on which no royalties would be due in order to make such new production economically viable; except that for new production as defined in clause (iv)(I), in no case will that volume be less than 17.5 million barrels of oil equivalent in water depths of 200 to 400 meters, 52.5 million barrels of oil equivalent in 400-800 meters of water, and 87.5 million barrels of oil equivalent in water depths greater than 800 meters. Redetermination of the applicability of clause (i) shall be undertaken by the Secretary when requested by the lessee prior to the commencement of the new production and upon significant change in the factors upon which the original determination was made. The Secretary shall make such redetermination within 120 days of submission of a complete application. The Secretary may extend the time period for making any determination or redetermination under this clause for 30 days, or longer if agreed to by the applicant, if circumstances so warrant. The lessee shall be notified in writing of any determination or redetermination and the reasons for and assumptions used for such determination. Any determination or redetermination under this clause shall be a final agency action. The Secretary's determination or redetermination shall be judicially reviewable under section 10(a) of the Administrative Procedures Act (5 U.S.C. 702), only for actions filed within 30 days of the Secretary's determination or redetermination.

"(iii) In the event that the Secretary fails to make the determination or redetermination called for in clause (ii) upon application by the lessee within the time period, together with any extension thereof, provided for by clause (ii), no royalty payments shall be due on new production as follows:

"(I) For new production, as defined in clause (iv)(I) of this subparagraph, no royalty shall be due on such production according to the schedule of minimum volumes specified in clause (ii) of this subparagraph.

"(II) For new production, as defined in clause (iv)(II) of this subparagraph, no royalty shall be due on such production for one year following the start of such production.

"(iv) For purposes of this subparagraph, the term 'new production' is—

"(I) any production from a lease from which no royalties are due on production, other than test production, prior to the date of enactment of the Outer Continental Shelf Deep Water Royalty Relief Act; or

"(II) any production resulting from lease development activities pursuant to a Development Operations Coordination Document, or supplement thereto that would expand production significantly beyond the level anticipated in the Development

Operations Coordination Document, approved by the Secretary after the date of enactment of the Outer Continental Shelf Deep Water Royalty Relief Act.

"(v) During the production of volumes determined pursuant to clauses (ii) or (iii) of this subparagraph, in any year during which the arithmetic average of the closing prices on the New York Mercantile Exchange for light sweet crude oil exceeds \$28.00 per barrel, any production of oil will be subject to royalties at the lease stipulated royalty rate. Any production subject to this clause shall be counted toward the production volume determined pursuant to clause (ii) or (iii). Estimated royalty payments will be made if such average of the closing prices for the previous year exceeds \$28.00. After the end of the calendar year, when the new average price can be calculated, lessees will pay any royalties due, with interest but without penalty, or can apply for a refund, with interest, of any overpayment.

"(vi) During the production of volumes determined pursuant to clause (ii) or (iii) of this subparagraph, in any year during which the arithmetic average of the closing prices on the New York Mercantile Exchange for natural gas exceeds \$3.50 per million British thermal units, any production of natural gas will be subject to royalties at the lease stipulated royalty rate. Any production subject to this clause shall be counted toward the production volume determined pursuant to clauses (ii) or (iii). Estimated royalty payments will be made if such average of the closing prices for the previous year exceeds \$3.50. After the end of the calendar year, when the new average price can be calculated, lessees will pay any royalties due, with interest but without penalty, or can apply for a refund, with interest, of any overpayment.

"(vii) The prices referred to in clauses (v) and (vi) of this subparagraph shall be changed during any calendar year after 1994 by the percentage, if any, by which the implicit price deflator for the gross domestic product changed during the preceding calendar year."

#### SEC. 303. NEW LEASES.

Section 8(a)(1) of the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1337(a)(1)) is amended—

- (1) by redesignating subparagraph (H) as subparagraph (I);
- (2) by striking "or" at the end of subparagraph (G); and
- (3) by inserting after subparagraph (G) the following new subparagraph:

"(H) cash bonus bid with royalty at no less than 12 and ½ per centum fixed by the Secretary in amount or value of production saved, removed, or sold, and with suspension of royalties for a period, volume, or value of production determined by the Secretary, which suspensions may vary based on the price of production from the lease; or".

#### SEC. 304. LEASE SALES.

For all tracts located in water depths of 200 meters or greater in the Western and Central Planning Area of the Gulf of Mexico, including that portion of the Eastern Planning Area of the Gulf of Mexico encompassing whole lease blocks lying west of 87 degrees, 30 minutes West longitude, any lease sale within five years of the date of enactment of this title, shall use the bidding system authorized in section 8(a)(1)(H) of the Outer Continental Shelf

Lands Act, as amended by this title, except that the suspension of royalties shall be set at a volume of not less than the following:

- (1) 17.5 million barrels of oil equivalent for leases in water depths of 200 to 400 meters;
- (2) 52.5 million barrels of oil equivalent for leases in 400 to 800 meters of water; and
- (3) 87.5 million barrels of oil equivalent for leases in water depths greater than 800 meters.

**SEC. 305. REGULATIONS.**

The Secretary shall promulgate such rules and regulations as are necessary to implement the provisions of this title within 180 days after the enactment of this Act.

**SEC. 306. SAVINGS CLAUSE.**

Nothing in this title shall be construed to affect any offshore pre-leasing, leasing, or development moratorium, including any moratorium applicable to the Eastern Planning Area of the Gulf of Mexico located off the Gulf Coast of Florida.

## TITLE IV—MISCELLANEOUS

**SEC. 401. EMERGENCY RESPONSE PLAN.**

(a) **IN GENERAL.**—Within 15 months after the date of the enactment of this Act, the Commandant of the Coast Guard shall submit a plan to Congress on the most cost-effective means of implementing an international private-sector tug-of-opportunity system, including a coordinated system of communication, using existing towing vessels to provide timely emergency response to a vessel in distress transiting the waters within the boundaries of the Olympic Coast National Marine Sanctuary or the Strait of Juan de Fuca.

(b) **COORDINATION.**—In carrying out this section, the Commandant, in consultation with the Secretaries of State and Transportation, shall coordinate with the Canadian Government and the United States and Canadian maritime industries.

(c) **ACCESS TO INFORMATION.**—If necessary, the Commandant shall allow United States nonprofit maritime organizations access to United States Coast Guard radar imagery and transponder information to identify and deploy towing vessels for the purpose of facilitating emergency response.

Nov. 28

ALASKA POWER ADMINISTRATION SALE

P.L. 104-58  
Sec. 401

(d) TOWING VESSEL DEFINED.—For the purpose of this section, the term "towing vessel" has the meaning given that term by section 2101(40) of title 46, United States Code.

Approved November 28, 1995.

WHITE HOUSE STAFFING MEMORANDUM

DATE: 4-25 ACTION/CONCURRENCE/COMMENT DUE BY: 4-26

SUBJECT: Alaska North Slope Dev

	ACTION	FYI		ACTION	FYI
VICE PRESIDENT	<input checked="" type="checkbox"/>	<input type="checkbox"/>	McCURRY	<input type="checkbox"/>	<input checked="" type="checkbox"/>
PANETTA	<input checked="" type="checkbox"/>	<input type="checkbox"/>	McGINTY	<input type="checkbox"/>	<input type="checkbox"/>
McLARTY	<input type="checkbox"/>	<input type="checkbox"/>	NASH	<input type="checkbox"/>	<input type="checkbox"/>
ICKES	<input checked="" type="checkbox"/>	<input type="checkbox"/>	QUINN	<input type="checkbox"/>	<input checked="" type="checkbox"/>
LIEBERMAN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	RASCO	<input checked="" type="checkbox"/>	<input type="checkbox"/>
RIVLIN	<input type="checkbox"/>	<input type="checkbox"/>	REED	<input type="checkbox"/>	<input type="checkbox"/>
BAER	<input type="checkbox"/>	<input type="checkbox"/>	SOSNIK	<input type="checkbox"/>	<input type="checkbox"/>
CURRY	<input type="checkbox"/>	<input type="checkbox"/>	STEPHANOPOULOS	<input checked="" type="checkbox"/>	<input type="checkbox"/>
EMANUEL	<input type="checkbox"/>	<input type="checkbox"/>	STIGLITZ	<input type="checkbox"/>	<input type="checkbox"/>
GIBBONS	<input type="checkbox"/>	<input type="checkbox"/>	STRETT	<input type="checkbox"/>	<input type="checkbox"/>
HALE	<input type="checkbox"/>	<input type="checkbox"/>	TYSON	<input type="checkbox"/>	<input type="checkbox"/>
HERMAN	<input type="checkbox"/>	<input type="checkbox"/>	WALLEY	<input type="checkbox"/>	<input type="checkbox"/>
HIGGINS	<input type="checkbox"/>	<input type="checkbox"/>	WILLIAMS	<input type="checkbox"/>	<input type="checkbox"/>
HILLEY	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<u>Cook</u>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
KLAIN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
LAKE	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>
LINDSEY	<input type="checkbox"/>	<input type="checkbox"/>	_____	<input type="checkbox"/>	<input type="checkbox"/>

REMARKS: Please advise.

RESPONSE:

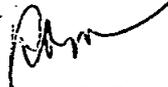
THE WHITE HOUSE  
WASHINGTON

April 25, 1996

96 APR 25 6:00

MEMORANDUM FOR THE PRESIDENT

FROM:

LAURA TYSON   
KATHLEEN MCGINTY 

RE:

Final Action on Alaska North Slope (ANS) Oil Exports

I. Action-Forcing Event

Legislation supported by your Administration and enacted last November authorizes exports of Alaska North Slope (ANS) crude oil, unless you determine that they would not be in the national interest. Under the law, your national interest determination must be made by no later than April 28th.

P.L. 104-58,  
SEC. 201, 2  
11/28/95

II. Background/Analysis

National Interest Determination

The statute requires that any ANS exports be carried in U.S.-flag (i.e., U.S.-owned, operated, and crewed) ships, and that they be subject to any export license conditions you deem necessary to protect the national interest.

An NEC-led interagency group has completed a national-interest review of the energy, economic, and transportation aspects of the proposed exports. CEQ managed the group's work in completing a statutorily required environmental analysis, which is included in the review. The group has concluded that ANS exports *would* be in the national interest, subject to four export license conditions, listed below.

The interagency group's findings support earlier Administration analyses concluding that ending the 23-year ban against exports of Alaska North Slope (ANS) crude oil would: increase production from existing oil fields in Alaska and California; create incentives for new domestic exploration and development; and not increase retail petroleum product prices to consumers.

The potential export market for the oil is primarily Japan.

## Environmental Concerns

*Alaska:* In Alaska, environmental organizations and fishermen are concerned about the need to protect the unique resources along the Aleutian Islands. Our analysis shows that tankers traveling more than 200 miles out at sea -- one of the recommended export conditions -- will pose a minimal risk to those resources. The other recommended conditions, discussed below, will provide additional environmental protection in Alaska.

*Washington State:* Senator Murray, Governor Lowry, and Washington State environmental organizations are concerned that lifting the ban will lead to the export of the Alaskan oil Washington's refineries currently receive. They fear that foreign "replacement" oil will then be imported in foreign-flag tankers, which they believe to be less safe than the U.S.-flag tankers currently delivering Alaskan oil. Our analysis concludes that Washington's refineries will continue to receive all the Alaskan oil they need -- thus causing no increase in foreign-flag tankers -- because Washington will enjoy a significant transportation-cost advantage for ANS oil over distant markets in the Far East. Thus, there will be no increase in tanker traffic, foreign or otherwise, as a result of lifting the export ban. In any event, the ANS conference report language specifically prohibits you from imposing ANS export license conditions relating to Washington State's waters. We intend, however, to ask DOT to examine the need for additional marine safety and environmental protection measures in Washington's waters in light of *other* factors, such as the continuing expansion of shipping to and from Pacific Rim nations.

## III. Recommendations

That you find exports of ANS crude oil to be in the national interest, subject to the export license conditions listed below.

NEC and CEQ support the interagency working group's recommendation that you find that ANS exports are in the national interest, subject to four conditions. The recommended conditions all relate to protection of Alaska's environment and natural resources, and are not opposed by Governor Knowles. Moreover, the proposed conditions will impose minimal additional costs on prospective oil exporters. The recommended conditions are:

1. That export tankers be required to proceed directly from Prince William Sound in Alaska to a point outside the 200-mile Exclusive Economic Zone, where they must remain for the rest of the trip. This condition will ensure that Alaska's natural resources will be protected from any oil spills.
2. That export tankers be equipped with satellite-based data communications systems that will enable the Coast Guard independently to determine their location. The Coast Guard will conduct appropriate monitoring of the tankers, a measure that will ensure compliance with the 200-mile condition, and help the Coast Guard respond quickly to any emergencies.

3. That export tankers be subject to yearly vessel inspections, to minimize the chances of oil spills.

4. That returning tankers exchange their ballast water in deep ocean water prior to entering Alaska's Prince William Sound. Ship logs will record ballast exchanges and will be checked periodically by the Coast Guard. This condition will help prevent the introduction into Alaskan fisheries of non-indigenous, aquatic nuisance species.

**IV. Decision**

           Approve

           Disapprove

           No Action