

Stranded Gas Hearings (0410141545 Minutes)

Legislator Discussions

October 14, 2004.

CO-CHAIR SAMUELS announced that the committee would take up its roundtable discussion. He started by explaining the procedure for ratifying a contract. He told members the [Stranded Gas] Act provides the Administration with the authority to accept applications from entities interested in building a gas pipeline, shipping gas through the pipeline, or doing both. The Administration can negotiate with applicants on royalty, tax and other terms subject to certain limitations contained within the act itself. When and if the Administration successfully concludes negotiations with an applicant, it is to prepare a best interest finding in favor of the proposed contract. The Administration will then release the proposed contract, the preliminary best interest finding, the financial, technical and market data supporting the contract, as well as the work papers, analysis and recommendations of any independent contractors used by the Administration. The Legislature has been guaranteed access to a lot of the information that is currently confidential, as soon as the negotiations have been completed.

CO-CHAIR SAMUELS further explained that when the proposed contracts, findings and data are first released, the administration must provide a minimum of 30 days for public and legislative comment. The administration must offer to appear before the Legislative Budget and Audit Committee for discussion of and questions on the proposed contracts and other documentation. The administration can provide more than 30 days for public and legislative comment. When the comment period closes, the administration must prepare a final best interest finding within 30 days if it plans to proceed with the proposed contract. The final best interest finding must discuss all comments formally registered during the comment period. The comment period is the Legislature's first formal opportunity to express its opinion on contract terms and on any amendments to the proposed contract that it considers appropriate. Legislators can comment individually by committee, as the House, as the Senate or however they choose during this period and no vote will be required. After the 30 day comment period, which by statute is the Legislature's "first bite of the apple," the proposed contract goes back to the administration for 30 days to prepare its final finding and any proposed amendments to the contract. The Legislature will then get a second "bite of the apple" when the contract comes before it for a vote. There is no deadline for a legislative vote; the Legislature will have the opportunity to hold more hearings in any committees before it votes. The Legislature can also take whatever time it needs to review supporting documentation and consult with legal counsel.

CO-CHAIR SAMUELS commented that because of the short timeframe before the legislative branch, the Legislature has been in contact with various entities, including experts of FERC and the NEB. He acknowledged that it has been difficult at times to find people who are not already employed by the administration, a pipeline company or the producers and would have a conflict of interest. He noted that some want to work quickly to avoid delaying the project. The purpose of the joint hearings has been to "get up to speed" because of the difference between the Legislature's legal right to take all of the time it wants and the practical reality of having to work relatively quickly.

CO-CHAIR SAMUELS informed members that he has been advised by legal counsel that the Legislature can approve the contract, reject it unless certain conditions have been met, or reject it outright. If the Legislature rejects the contract with certain parameters, it takes the risk of rejecting the contract completely. He summarized that the role of the Legislature in this contract is to put one entity in charge of the negotiations so that all 60 legislators are not "picking it to pieces." He pointed out the Stranded Gas Act is silent on some issues; those issues will have to be decided upon when the time comes.

SENATOR ELTON suggested that Chair Samuels circulate copies of the description he provided to all legislators.

SENATOR BUNDE reflected on the Governor's opening remarks in which he said he wanted a signal from the Legislature. His personal view is that this portion of two legislative committees cannot speak for

the entire Legislature and that this Legislature cannot speak for the legislature that is sworn in in January. He furthered:

I don't know how we can give the Governor what he wants other than personal opinion or personal preference and I'm certainly willing to do that. Personally I'm not opposed to some sort of equity position if - if, and that's a really big if for me, appropriate firewalls can be instituted that will protect any future pipeline management from political pressures from both the administration and from the Legislature. Representative Croft and I had a little brief written conversation earlier and he pointed out that we've done that very well with the Permanent Fund, however, at that time, there wasn't any direct payback to the public from the Permanent Fund. The dividend didn't come in for seven more years. At this juncture and when we make these decisions, I think there will be some direct financial influence for the public, whether low gas prices or high wages or a combination thereof, and I'm concerned that the state's best long term interest may not be aligned with some individual's short term interests.

So, with that proviso that there has to be some very impenetrable firewalls, then I could possibly support an equity position but, as I think has been said several times here, the devil will be in the details. So, I can't make a commitment for the Legislature. I can make a minor, sort of, little bit of commitment for me.

CO-CHAIR SAMUELS said he didn't want to put words in the administration's mouth but he believes one of the goals of having the hearing at such an awkward time so close to the election, was to get the conversation out to the public arena so that people can give the matter consideration. He agreed the "devil is in the details" and that legislators cannot provide answers until it sees the proposal.

CO-CHAIR SAMUELS then told members he is interested in getting more information about the international workforce question.

REPRESENTATIVE DAHLSTROM informed members that she attended a public meeting the previous evening sponsored by the Friends of the NRA, during which she talked about yesterday's legislative meeting. The overall response of the group was excitement about progress being made on the natural gas pipeline. No one seemed to be concerned about state ownership of the gas line, however people needed time to think about how to finance that ownership. She said she personally likes the idea of investing in the pipeline with their Permanent Fund dividends and believes many people would like that choice. She said her constituents will not be happy if the Legislature uses \$1 billion from the Permanent Fund. She emphasized the need to get more details to make an educated decision.

REPRESENTATIVE CHENAULT commented that investing in the pipeline with dividends might be an option as early as next year. He then noted that Mr. Cattanach commented that the Legislature needs to be involved in training plans for this project, whether it is with the contractors or different unions or whoever ends up with this project. His personal view is that he questions how deeply the Legislature or state government should fund the whole thing. He thinks contractors and the companies can work that issue out amongst themselves.

REPRESENTATIVE FATE asked that the questions about royalty-in-kind and the percentage of equity the state might have be pursued. He said it should be clarified that at the present time, the 12.5 percent royalty can be taken in value or in-kind and that the in-kind royalty should be separate from any equity amount the state holds unless the two are combined. He cautioned that if the two are combined, the state might not be able to use the royalty-in-kind for the benefit of people in the state, as suggested by Ken Thompson.

REPRESENTATIVE FATE said his second concern is that the problem of the inadequacy of our present transportation infrastructure needs further consideration. He noted the Haul Road is in deplorable condition and has been almost ignored for 24 years, even though it is the lifeline of the State of Alaska. The problem is even more severe south of Fairbanks to the border. The current transportation system simply will not facilitate the weight of the pipe. He said the Legislature must begin to consider that issue now so that any improvements on those highways will be completed before the targeted date of pipeline

construction. He cautioned that could create a bottleneck.

CO-CHAIR WAGONER said, in response to Representative Dahlstrom's concern, that he does not believe the Legislature would want to take money out of the Permanent Fund earnings because it would have to first look at what it would have to pay in bonded indebtedness versus what those earnings would earn. If the Legislature can get the bonds cheap enough, the state would actually be making the state money by using its bonding capabilities. He noted the Permanent Fund is currently earning 16 to 18 percent. He said many of his constituents want the opportunity to invest their permanent fund dividends to help fund the gas pipeline for two reasons. First, they realize the overall importance of the gas line to the state. Second, they want to invest in something on a long-term basis and have the opportunity to participate in their own future. He said he is not afraid to say no to every other crazy scheme that is presented to the Legislature.

SENATOR GUESS thanked Chair Samuels for the presentations he arranged for members and said one question that needs to be answered sooner rather than later is whether the state falls under the federal guarantee because the state's risk is tied to that question. She then suggested spending more time considering the range of risk and on how that risk is being portrayed to the Legislature and to constituents. She said the overview of risk in general during the past two days was great, but she feels the need to determine what that risk looks like regarding whether the state will not collect any taxes and whether it will require a \$300 million line item in the budget. She further questioned how access will play in, given the federal legislation, which contains fairly constrained access provisions. She questioned whether the state could leverage its share to ensure access for future exploration and whether it may need to play that role.

CO-CHAIR SAMUELS said he would provide a better synopsis of the Legislature's role and provide bullet points on the exact roles and procedures of the legislative branch. He will also provide a better synopsis of what the federal legislation does and does not do and how far reaching it is. He suggested that if members hear from people about state participation and risk, those comments be relayed to Senator Guess, Representative Joule, Senator Wagoner, or himself, since they are acting as the conduits [with the administration].

CO-CHAIR WAGONER suggested that he and Chair Samuels send out a joint letter to every legislator that contains a copy of the Governor's presentation and ask them to approach their constituents for input.

CO-CHAIR SAMUELS jested that the downside of that is legislators who did not attend these two days of hearings will be providing an explanation.

CO-CHAIR WAGONER said they could just provide the Governor's presentation and ask whether the people of the state want to look into a state equity position in the pipeline. He said many people are already approaching him with opinions as they are already contemplating it.

SENATOR ELTON noted that the discussion cannot focus only on risk - it must also focus on reward if legislators want to sell the idea to constituents. To do that, legislators need to fully understand the potential rewards.

CO-CHAIR SAMUELS commented that Dr. Van Meurs said the risk was very small but the hole was very deep.

REPRESENTATIVE GARA agreed with Senator Elton and said his biggest concern is that the Legislature needs to be vibrant and a vocal participant during the 120-day comment period before the federal government about the access rights. He suggested sending a message to the Governor, if appropriate, saying the Legislature wants as much access as possible and wants the state's interest pushed as far as possible and to request interim funding from the Legislature if necessary. He cautioned that the administration will need sophisticated negotiators and experts during a period when companies with conflicting interests need the same personnel to do the opposite. He said that should be set up now

because it could radically change the prospects of what the gas line will look like over the next 120 days.

CO-CHAIR SAMUELS said he and Commissioner Corbus and Senator Therriault discussed access issues with the Governor's Gas Cabinet but those issues should be further emphasized.

SENATOR GUESS agreed with Representative Gara that it is important to have someone focus on the federal regulation public comment period on behalf of the state for the next 120 days. She said Dr. Van Meurs is busy trying to negotiate, so to also expect him to stay on top of the regulations [is not feasible]. She said if she were one of the players involved, she would have draft regulations submitted to FERC by now.

CO-CHAIR SAMUELS thanked everyone for their participation and adjourned the meeting at 4:00 p.m.