

# AGIA

*The Alaska Gasline Inducement Act*

## Legal Issues Affecting Producer Participation

Spencer Hosie  
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# Duty to Develop and Market

- State of Alaska – Producer Agreement
- Lease Provisions
- Alaska Common Law
- “Move It or Lose It”
- AGIA Solution

# Antitrust/Market Manipulation

- State and Federal Antitrust Laws
- Federal Energy Market Manipulation Laws

# Antitrust Statutes

- Sherman Act §§ 1-2
- Federal Trade Commission Act § 5
- Alaska Restraint of Trade and Monopolies Act, AS §§ 45.50.562-596
  - Prohibit exclusionary conduct to maintain monopoly power
  - Prohibit joint action to withhold supply from the market

# Standard Oil Monopoly



# 1910: Broken into “Seven Sisters”



Standard Oil of New Jersey (Esso)



Royal Dutch Shell (Anglo-Dutch)



Anglo-Persian Company (APOC)



Standard Oil Co. of New York (Socony)



Standard Oil of California (Socal)



Gulf Oil



Texaco



## ENERGY



Perspectives on Energy

Power Markets

### Fuels Markets

Alternative Fuels

Liquefied Natural Gas (LNG)

Air Emissions & Environment

Renewable Energy &  
Green Power

Climate Change &  
Ozone Protection

Electric Transmission

Energy Efficiency &  
Demand Management

Water Utilities & Markets

Regulatory & Litigation  
Support

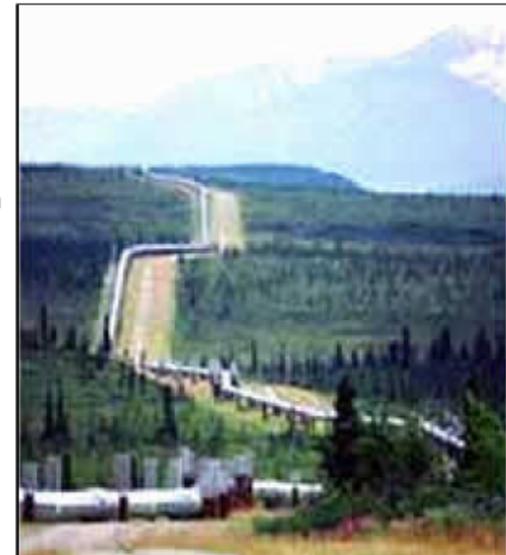
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## Fuels Markets

To help clients control a critical and potentially volatile component of the energy equation, ICF International assesses and forecasts natural gas, petroleum, and coal markets worldwide using deep industry expertise and proprietary models and databases. Our analyses and valuations have supported the financing of more than US\$10 billion in gas assets.

ICF's gas area expertise was augmented in January 2007 with the [acquisition of Energy and Environmental Analysis \(EEA\)](#), a national leader in gas market analysis.

- [Natural Gas Market Analysis](#)
- [Supply Assessments and Project Evaluation](#)



### WHAT'S NEW

» [U.S. Emission & Fuel Markets Outlook](#)

**Evaluating Natural Gas Gathering Facilities.** On behalf of an interstate pipeline, ICF International estimated the value of a nonjurisdictional gathering pipeline system. The analysis used the [EADSS™](#) to examine the implications of possible new production coming on line, gas market prices on different connecting pipelines, and competition from nearby gathering systems. The analysis showed the expected stream of revenues and the high and low values associated with project uncertainties.

**Pacific Northwest Gas Storage Strategy Study.** ICF International used [EADSS™](#) to evaluate strategies for purchasing or releasing transportation capacity and purchasing gas storage capacity. The work was performed for the owner of a gas-fired generator and thus

**Alaskan Pipeline.** For producers on the Alaskan North Slope, ICF International evaluated the effect of Alaskan and MacKenzie Delta gas on U.S. and Canadian gas markets, prices, and pipeline flows. We evaluated various scenarios to assist the producers in understanding the implications of different assumptions and configurations for bringing frontiers supplies into the

market.

# Market Manipulation Statutes

- Energy Policy Act of 2005
  - Gives FERC new enforcement powers over natural gas and electricity markets
  - FERC imposed \$200 million penalty in one pending case; nearly \$100 in another (in addition to disgorging unjust profits)

# Market Manipulation Statutes

- The Energy Independence and Security Act of 2007
  - Prohibits any manipulative or deceptive device or contrivance in connection with purchase or sale of crude oil or gasoline or petroleum distillates
  - Authorizes FTC to prescribe regulations

# FTC Advance Notice of Proposed Regulation

- Identifies “Potential Practices” that may constitute market manipulation
- Seeks comments “on the circumstances, if any, under which a firm’s decision regarding supplying a market (including whether to reduce, increase, or maintain unchanged the amount it supplies) should be considered manipulative or deceptive.”

# FTC Advance

## Notice of Proposed Regulation

- “Regulated petroleum pipelines may not allow new shippers a share of a pipeline’s capacity when historical shippers seek to transport more petroleum products than the pipeline is capable of transporting. The Commission seeks comment on whether pre-announcements that pipelines are approaching capacity constraints may be a conduit for market manipulations or deceit . . . .”

# FTC on BP in Alaska North Slope

- FTC required BP to divest ARCO's ANS holdings to Phillips (now ConocoPhillips)
- “the Commission had reason to believe that BP occasionally had exported ANS crude oil to the Far East in order to increase spot prices for ANS crude oil on the West Coast and that BP benefitted from those higher spot prices because of its status as a merchant marketer.”

# COMPETITION LAW 360

## **ConocoPhillips Subpoenaed By CFTC In Oil Probe**

By **Elaine Chow**, *Portfolio Media, New York* (June 3, 2008)--Oil giant [ConocoPhillips](#) Co. revealed on Monday that it was subpoenaed in December by the U.S. Commodity Futures Trading Commission as part of the agency's ongoing investigation into possible price manipulation in the crude oil market.

# U.S. Commodities Futures Trading Commission

- Is investigating possible fraud in trading of crude oil futures contracts
- ConocoPhillips has been subpoenaed – not charged with any wrongdoing
- Is concerned generally with particular trader transactions, rather than wholesale withholding product from the market

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