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# **NORTHERN PIPELINE AGENCY**

**ANNUAL REPORT  
1990-1991**

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Canada



Northern Pipeline Agency  
Canada

Administration du pipe-line du Nord  
Canada

# **ANNUAL REPORT**

## **1990-1991**

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Ottawa, Ontario,  
December 31, 1991.

Dear Sir,

I present herewith the Annual Report of the Northern Pipeline Agency for the fiscal year ending March 31, 1991, together with the report of the Auditor General on the accounts and financial transactions of the Agency for the same period, for submission by you to Parliament as required under Sections 13 and 14 of the *Northern Pipeline Act*. During this fiscal year, your predecessor, the Honourable Donald Mazankowski, served as Minister Responsible for the Northern Pipeline Agency.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Donald W. Campbell". The signature is fluid and cursive, with a large, stylized "C" at the end.

Donald W. Campbell,  
Commissioner,  
Northern Pipeline Agency.

The Right Honourable Joe Clark, P.C., M.P.,  
President of the Queen's Privy Council,  
Minister Responsible for Constitutional Affairs,  
And Minister Responsible for the Northern Pipeline Agency,  
House of Commons,  
Ottawa, Ontario.

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## Table of Contents

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	Page
<b>Overview .....</b>	<b>1</b>
<b>Major Developments Involving The Alaska Highway Gas Pipeline Project .....</b>	<b>3</b>
The Prebuild .....	3
The Western Leg	
— U.S. Developments .....	3
— Canadian Developments	
The Altamont Legal Challenge .....	4
Competing Proposals .....	6
The Eastern Leg	
— U.S. Developments .....	7
— Canadian Developments .....	7
Mackenzie Delta Gas Reserves .....	8
Implementation of the Bilateral Procurement Agreement .....	8
Operations of the Canadian and U.S. Regulatory Agencies Responsible for the Pipeline .....	9
<b>Finance, Personnel and Official Languages .....</b>	<b>11</b>
Finance and Personnel .....	11
Official Languages Plan .....	11
<b>Appendix</b>	
Report of the Auditor General of Canada .....	13

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# ALASKA HIGHWAY NATURAL GAS PIPELINE PROJECT



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# Overview

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Despite a significant weakening in U.S. gas markets, sponsors of the Eastern and Western Legs of the Alaska Highway Gas Pipeline Project on both sides of the border continued to press ahead with plans for major expansions of their respective systems during the 1990-91 fiscal year.

In contrast to the 16 per cent increase that has taken place since 1986, demand for gas in the United States during the 1990 calendar year rose only fractionally to 532 billion cubic metres (18.8 trillion cubic feet – tcf). By early 1991, spot prices for natural gas had declined to historically low levels in real terms as a result of a variety of factors — abundant supplies, high inventories, unusually warm winter weather, the impact of economic recession and policies adopted by both federal and state regulators to promote increased competition in the industry.

In the face of these adverse developments, Canadian gas exports to the United States fared well. The total during 1990 increased by more than 7 per cent to 40.7 billion cubic metres (1.44 tcf), amounting to some 7.7 per cent of total U.S. consumption. Since average export prices for Canadian gas remained essentially unchanged from the previous year, revenues increased by around 6.5 per cent.

The weakening of the gas market south of the border did nothing to encourage various projects aimed at tapping U.S. natural gas reserves located on the North Slope of Alaska and Canadian reserves in the Mackenzie Delta-Beaufort Sea Region.

Plans for completing the second stage of what the United States terms the Alaska Natural Gas Transportation System (ANGTS) continued to remain on hold. A competing proposal by the Yukon Pacific Corporation to build the Trans-Alaska Gas System (TAGS) to begin exporting some 14 million tons a

year of Prudhoe Bay natural gas in liquefied form from Valdez on the south shore by tanker to a number of Pacific Rim countries, which was originally slated to begin in 1997, was put off until at least the turn of the century because of insufficient markets. In addition, the approval of the project by the U.S. Department of Energy in November, 1989, was being challenged in the courts by the Canadian sponsor of the Alaska Highway Gas Pipeline, Foothills Pipe Lines Ltd., and the U.S. sponsor of the Alaskan segment of the ANGTS, the Alaska Northwest Natural Gas Transportation Co.

Representatives of a consortium of three owners of Canadian gas reserves in the Mackenzie Delta and three pipeline companies that originally planned to begin shipping gas to southern markets as early as 1996 have also indicated that the project is unlikely to be operational at least before the turn of the century because of unfavourable market conditions. In October, 1989, Foothills Pipe Lines submitted a proposal to build a pipeline from the Delta along the Mackenzie Valley to Boundary Lake in the vicinity of Northern British Columbia and Alberta, which it planned to link with the Alaska Highway Gas Pipeline through a 656 km (407 mi) extension from the present terminus of the prebuilt segment of the system at Caroline, Alberta. A subsequent agreement signed in March, 1991, by the six members of a consortium formed to build a pipeline to the South, which included Foothills, left open the question as to the design and route of the delivery system that would be proposed.

Notwithstanding current unfavourable market conditions, sponsors of projects designed to tap U.S. and Canadian Arctic gas reserves remained confident that they would become viable over the longer term. In part, their confidence was bolstered by recent amendments to the U.S. *Clean Air Act* and further legislative changes in prospect to implement parts of

the Bush Administration's National Energy Strategy that together have the effect of encouraging substantially increased gas consumption in an effort to reduce adverse environmental impacts.

As reported in last year's annual report, proposals for expanding the capacity of the Eastern and Western Legs of the Alaska Highway Gas Pipeline on both sides of the border provide for a more than doubling the throughput of Canadian gas — mostly for export, directly or indirectly — from some 37.25 million cubic metres per day (1.3 billion cubic feet per day — bcf/d) to 77.11 million cubic metres (2.7 bcf/d). The plans of Canadian and U.S. sponsors for expanding the capacity of the Western Leg to provide for substantially increased Canadian gas deliveries to California and the Pacific Northwest states came into conflict with a competing project proposed by Altamont Gas to export up to 19.8 million cubic metres daily (700 million cubic feet a day — mmcf/d) to California markets through a new pipeline system. The sponsors proposing expansion of the Eastern and Western Legs also found themselves confronted by a number of regulatory hurdles, some of them raised by Altamont in the case of the proposed

expansions in Canada of the Eastern and Western Legs.

In 1980, the Canadian and U.S. governments entered into a Procurement Agreement designed to ensure that potential suppliers in each country had a fair opportunity to compete for the purchase by the pipeline sponsors on both sides of the border of certain designated items — mainline pipe, compressor units and large valves and fittings. The previous annual report outlined the nature of the concerns of the Northern Pipeline Agency that although the provisions of that Agreement were being implemented in the case of expansions of the prebuild in Canada, there appeared to be no disposition in the United States to reciprocate in the case of planned expansions south of the border. As explained later, this issue continued to be the subject of discussion by the Agency with its U.S. counterpart, the Office of the Federal Inspector, during the 1990-91 fiscal year.

Those wishing further information about the scope of the Alaska Highway Gas Pipeline Project, the proposed route of the pipeline, and/or the role of the Northern Pipeline Agency are referred to NPA annual reports for 1978-79 to 1984-85.



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# Major Developments Involving The Alaska Highway Gas Pipeline Project

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## The Prebuild

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At the time that the U.S. and Canadian governments signed the 1977 agreement to join forces in facilitating the planning and construction by private sponsors of a pipeline to transport American natural gas from Prudhoe Bay on the North Slope of Alaska to the lower 48 states, it was generally agreed that it would be desirable to "prebuild" the Western and Eastern Legs that would distribute the fuel to the western and mid-western regions of the continent.

The prebuild, which commences at Caroline, Alta — 105 km (63 mi) north of Calgary — consists of two legs stretching for a total distance of 2 992 km (1,858 mi). These Eastern and Western Legs were completed and became operational in the early 1980s for the initial purpose of transporting surplus Canadian gas to U.S. markets. Plans for completion of the second stage of the system north to Prudhoe Bay have remained suspended ever since, as noted earlier, because of deteriorating market conditions that made the project economically unviable.

By the late 1980s, however, a growing U.S. demand for gas and a steady decline in the domestic surplus, led major U.S. gas consumers and distributors to look increasingly to Canada as a source of additional long-term supplies. In particular, plans were formulated by the respective sponsors for expanding the capacity of the Eastern and Western Legs of the Alaska Highway Gas Pipeline as an economical means of delivering substantially increased Canadian gas to U.S. markets in California, the Pacific Northwest and the mid-western states. Following is an outline of some of the more significant

developments that have occurred since the NPA's last annual report.

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## The Western Leg — U.S. Developments

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In the fall of 1989, the sponsors of the Western Leg of the ANGTS in the United States, the interstate Pacific Gas Transmission Co. (PGT) and its parent intrastate California company — Pacific Gas and Electric (PG&E) — submitted applications to the Federal Energy Regulatory Commission (FERC) and the California Public Utilities Commission (CPUC), their respective regulators, to increase the existing capacity of the ANGTS system of 8.5 million cubic metres a day (300 mmcf/d) by some 26.4 million cubic metres a day (932 mmcf/d). They proposed to achieve this increase through the addition of 1 400 km (845 mi) of loops to their existing systems at an estimated cost of \$1.5 billion (U.S.)

As previously reported, the CPUC in February, 1990, conditionally approved the PG&E application that was subject to its jurisdiction and in January, 1991, the FERC conditionally approved the application of the interstate PGT pipeline. At about the same time, the two regulatory bodies also conditionally approved the essentially competing application by the Altamont Gas Transmission Co. to build a 1 000 km (620 mi) pipeline from the Canadian border near Port of Wild Horse, Montana, to join with Kern River Gas Transmission Co. at Opal, Wyoming, for the delivery of up to 20.8 million cubic metres of Canadian gas daily (736 mmcf/d) to California and other western markets. Both regulators indicated that

they intended to leave it to the market to determine which of these proposals, as well as other supply projects utilizing domestic U.S. gas, would attract the financing required to proceed.

(In early August, 1991, FERC issued a final certificate authorizing the expansion of the PGT portion of the Western Leg in the United States. At the same time, however, the federal regulatory body declined to permit construction to commence until PGT had eliminated or justified an alleged "tying arrangement" with its parent company, PG&E. At issue basically was a requirement that the California state regulatory body imposed on PG&E with respect to tolls that the FERC considered potentially discriminatory and conducive to reduced competition. In October, the FERC agreed to remove this last hurdle.

(In late August, 1991, Altamont announced that it had accepted the terms of the certificate granted by the FERC and indicated it was ready to proceed with the \$580 million (U.S.) project. The vital question that remained to be determined, however, was whether firm financing was available with which to fund either or both projects proposed by PGT and Altamont.

(In early September, 1991, the competition took on a new complexion with the announcement that TransCanada PipeLines Ltd. had reached an agreement to acquire PGT from the parent PG&E and purchase PGT's 49 per cent interest in Alberta Natural Gas Co. Ltd. (ANG) for a price of between \$330 million to \$400 million (Cdn). ANG operates the pipeline in South B.C. that transports Alberta gas from the Alberta/B.C. border for delivery to PGT at Kingsgate, B.C.. The company also has a 49 per cent interest in the Foothills subsidiary operating in South B.C., which currently has four loops on the ANG system, the latter providing the compression required for the delivery of 5.8 million cubic metres a day (240 mmcf/d) via the Western Leg of the Alaska Highway Gas Pipeline. In addition, TransCanada announced that it was also discussing the separate purchase of another affiliate, the Alberta and Southern Gas Co., which is the Canadian gas purchasing arm of PG&E. TransCanada, already one of the largest North American pipelines, was engaged in a \$2.5-billion expansion of its own system at the time it agreed to purchase PGT and take on its more than \$800-million share of the proposed expansion of the U.S. Western Leg.)

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### — Canadian Developments The Altamont Legal Challenge

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As noted in the annual report for the last fiscal year, Foothills and Alberta Natural Gas in May, 1990, submitted applications to the Northern Pipeline Agency and the National Energy Board, respectively, for authorization to undertake an integrated expansion of the capacity of the Western Leg in South B.C.. This would result in an increase in capacity of some 26.4 million cubic metres daily (932 mmcf/d) from the current limit of 6.8 million cubic metres a day (240 mmcf/d). Foothills proposed to join together its four existing loops on the ANG system with the installation of another 77.1 km (47.9 mi) of 1 067 mm (42-inch) pipe. ANG's application proposed the installation of three new compressor units and modifications to existing units.

In late July, 1990, Altamont Gas Transmission Co. submitted a notice of its objection to the Foothills application to the NPA on two grounds, both of which had implications not only with respect to the expansion of the Western Leg, but also with respect to Foothills' proposed expansion of the Eastern Leg. As previously indicated, Altamont had by that time submitted an application to U.S. authorities for authorization to construct a pipeline for the import of Canadian gas that was competitive with the proposed expansion of the Western Leg of the ANGTS.

First, Altamont contended that the company's application to the Agency for authorization to expand the capacity of the Western Leg in South B.C. under the provisions of the licence granted as part of the *Northern Pipeline Act* was invalid because it was intended to facilitate the increased throughput over a long term of Canadian gas, an undertaking that was unrelated to the purposes of the Alaska Highway Gas Pipeline certificated by Parliament. For this reason, Altamont maintained, Foothills' application should come under the jurisdiction of the National Energy Board, not the Northern Pipeline Agency.

Second, Altamont argued that before Foothills could undertake further expansion of the prebuild it was required under the provisions of Condition I2 of Schedule III of the *Northern Pipeline Act* to establish that financing had been obtained for the whole of the portion of the Alaska Highway Gas Pipeline remaining to be built in Canada, rather than financing just for the proposed expansion of the prebuild. "There is no such financing and, thus, no proof of financing," Altamont stated in its letter of objection.

In response to the issues raised by the company, the Board and the Agency invited comments from a wide range of potentially-interested parties, as well as from Foothills and ANG. In mid-February, 1991, the Board and the Agency each responded to the issues raised by Altamont. Both dismissed its contention that the proposed expansion by Foothills of the Western Leg in South B.C. was beyond the scope of the certificate granted by Parliament under the *Northern Pipeline Act* and concluded that the planned project lawfully came under the jurisdiction of the NPA. Responding on behalf of the Agency, Kenneth Vollman, Administrator and Designated Officer of the NPA, noted that the additional pipe Foothills proposed to install followed the route of the system certificated by Parliament. Moreover, as the company stated, the additional pipe "essentially completes the pipeline portion of the Foothills (South B.C.) segment of the pipeline" as contemplated in the original System Design Report, Mr. Vollman pointed out. In addition, the expanded facilities would be available ultimately to transport both U.S. and Canadian Arctic gas supplies. Finally, he noted that the right of the federal government to authorize construction of the prebuild for the initial purpose of transporting Canadian gas to U.S. markets was upheld by the B.C. Supreme Court when it was challenged in the case of *Waddell v. Governor in Council (1984)*. In his ruling, Mr. Justice Lysyk found that "there is nothing in the legislation which would appear to preclude staged construction of the northern pipeline being matched by staged financing."

With regard to the second point raised by Altamont, that related to financing, Mr. Vollman concluded that the company had made a persuasive case. Essentially, he agreed with Altamont's contention that Condition 12 of Schedule III of the Act required Foothills to satisfy both the Board and the Minister responsible for the NPA that financing had been obtained "for the northern section" — an interpretation that Foothills strongly contested. At the same time, the Designated Officer rejected Altamont's request that consideration of Foothills' application be stayed until, among other things, it had complied with the requirements of Condition 12. Mr. Vollman concluded that the issue raised by Altamont was at that stage hypothetical. Only after the NPA had approved in principle the expansion of facilities proposed by Foothills would the sponsoring company be required to meet a variety of other requirements, including the financing provisions laid down in Condition 12. For its part, the National Energy Board said that it had in particular read the findings and decisions of the NPA with respect to the issue relating to Condition 12 raised by Altamont and concurred with them.

At the end of February, Foothills wrote jointly to the Board and the Agency to request that either the NEB or the Designated Officer approve an amendment to the Condition, as either is empowered to do under Section 21 (4) of the *Northern Pipeline Act*, to remove any uncertainty with respect to the financing requirements. The effect of the proposed amendment was to stipulate that before commencing any additions to the pre-built sections of the pipeline in South B.C., Alberta and Saskatchewan, Foothills would be required to satisfy the Minister and the Board that financing had been obtained. This would eliminate any obligation on the company to establish in advance the availability of financing for the balance of the proposed line that would run northward from the prebuild to the Alaska-Yukon border.

Once again the Board invited written submissions from a large number of potentially-interested parties with respect to the amendment to Condition 12 proposed by the Canadian sponsor of the project. Of the 30 parties that responded, all but two supported the proposed amendment to Condition 12. Those objecting were Altamont and Amoco Canada Petroleum Co. Ltd., which is a partner in the Altamont project.

(In mid-May, 1991, the Board approved the amendment to the financing provision proposed by Foothills. "In summary," the NEB said in its Reasons for Decision, "the Board views the proposed amendment as a reasonable and practical approach to ensuring that the goals as enunciated in the NPA remain achievable over time and that Foothills remains committed to the completion of the overall project." In July, the Board's order was approved by the Governor in Council in keeping with the requirements of the *Northern Pipeline Act*.)

(In late June, prior to the Governor in Council's approval of the amendment to Condition 12, Altamont filed an application with the Trial Division of the Federal Court of Canada under Section 18 of the Federal Court Act requesting a Special Sitting of the Court. The company asked the Court to consider its submission that both the Board and the Northern Pipeline Agency lacked the jurisdiction to authorize the Foothills expansion in South B.C. to proceed under the provisions of the *Northern Pipeline Act*, which included the amendment to the financing provision. Provisionally, the Court set aside three days for a hearing of Altamont's application in late January, 1992. This application was later withdrawn.)

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## Competing Proposals

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Throughout the fiscal year and beyond, there were few developments directly involving the joint project proposed to the Board and the NPA by Foothills and Alberta Natural Gas Co. Ltd. (ANG) as a result of the focus on legal issues raised by Altamont and a still-outstanding request for information from the Board to ANG regarding the demand and supply of gas related to its proposed expansion.

(The outlook for the Western Leg expansion became clouded, however, as a result of efforts by the California Public Utilities Commission to require Pacific Gas and Electric to implement a system termed "capacity brokering" for the alleged purpose of increasing competition in the gas industry. The CPUC directives raised the possibility of a jurisdictional dispute with the FERC, the federal regulatory agency that has authority over the PGT part of the system south of the border that transports Canadian gas to PG&E at the California border. In addition, the moves by the CPUC also led PG&E's marketing arm, Alberta and Southern, to seek to renegotiate the provisions of long-term contracts with Alberta producers that were concluded in 1988, a move that was strongly disputed both by the producers and the provincial government.

(The proposed expansion of the Western Leg in Canada substantially to increase exports of Canadian gas via the PGT/PG&E part of the system in the United States became caught up in the dispute as a result of an application filed by the Canadian Petroleum Association (CPA) with the National Energy Board. The Association in late May, 1991, called on the Board to declare that the actions of the CPUC were contrary to the intent of Canadian and U.S. energy policy, the market-based procedures both regulatory agencies had agreed to follow, the NEB's issuance of a gas export licence in 1988 that was predicated on the terms of the underlying contracts, and the bilateral Free Trade Agreement. In addition, the CPA asked the Board to stipulate that, before approving any future exports over the PGT/PG&E system, it would have to be satisfied that gas sold by Alberta and Southern would be in compliance with the gas export licence. In early July, the Board invited written submissions on the question as to whether there should be a review of the issues raised by the Association and, if so, what form such review should take. The CPA had requested that these issues be examined in a public hearing.

(In late July, Altamont Gas Transmission Canada Ltd. (Altamont Canada) filed an application with the Board seeking authorization to construct a 300-metre pipeline to connect the proposed U.S. pipeline facilities of the Altamont Gas Transmission Co. with the NOVA pipeline system at the Alberta-Montana border. Altamont Canada claimed many strategic advantages for its pipeline. "Above all," it told the Board, "the vision of the Altamont project is to enable Canadian producers to access markets in southern California without the threat of state regulatory interference and without jeopardizing existing markets for Canadian gas such as, for example, the northern California markets." The company argued that authorization of both its project and the proposed expansion of the Western Leg could lead to the construction of redundant facilities. To avoid that possibility, Altamont Canada asked the Board to hold a comparative hearing on the two projects.

(In August, the Board turned down the request of the Canadian Petroleum Association that it defer consideration of the ANG application until it had completed consideration of its own application. By letter, the NEB advised the Association that it proposed to consider the ANG submission "on its own merits", which it considered "would not prejudice the fair disposition" of the CPA's application. At the same time, the Board dismissed Altamont Canada's request for a comparative hearing on its and ANG's applications, indicating instead that it intended to consider the ANG expansion proposal on its own merits through a written hearing. In September, the NEB issued directions on procedure with respect to the conduct of that hearing, which provided for ANG to file responses to the submissions of interested parties by late December, 1991.

(Shortly after the Board made public its proposed procedures for reviewing the ANG application and its earlier rejection of a comparative hearing as requested by Altamont, Alberta's Minister of Energy, the Honourable Rick Orman, indicated publicly that the government would use its authority over the removal of gas from the province to enable only one project to proceed. Subsequently, however, he announced that he would ask Alberta's Energy Resources Conservation Board to conduct a hearing to gather relevant information only on the two projects. At the same time, however, he expressed his hope that the final decision would be determined by market forces rather than by government.)

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## The Eastern Leg — U.S. Developments

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As indicated in the Agency's last annual report, Northern Border Pipeline Co. Ltd., sponsor of the Eastern Leg of the ANGTS in the United States, filed a new application in June, 1990, with the Federal Energy Regulatory Commission to expand and extend its system, replacing a previous application of 1987. It was also reported that Northern Border was engaged in a controversy with the Natural Gas Pipeline Co. of America, which proposed to acquire a connection with Northern Border at its existing terminus, Ventura, Iowa. Northern Border subsequently petitioned the FERC to resolve the dispute, a request that was overtaken by yet another application submitted by the company in January, 1991, that involved an agreement with Natural.

The revised application provided for Northern Border's purchase of Natural's existing Station 109 Pipeline extending for 238 km (147 mi) from Ventura to Harper, Iowa. In return, Natural would receive the right to connect with the Northern Border Pipeline at Ventura and to obtain firm capacity in the Station 109 Line of 7 million cubic metres per day (250 mmcf/d). In addition, the pipeline would be further extended from Harper to Tuscola, Ill., a distance of 374 km (231 mi). In all, the existing and extended system would stretch for a distance of 1 944 km (1,200 mi) and be capable of delivering an additional 21.24 million cubic metres of gas daily (750 mmcf/d). According to its application, some 78 per cent of the proposed new gas volumes to be transported through the system, 11.44 million cubic metres daily (404 mmcf/d), would be imported from Canada.

(In June, 1991, The Federal Energy Regulatory Commission issued an Order on Application that had the effect of dismissing Northern Border's application within 30 days if the company failed to file further information required to demonstrate that a sufficient market existed to support the extension of the system to Tuscola. The following month, Northern Border filed a request with the FERC for a limited rehearing to consider an amendment to its application under which it would continue to acquire Natural's line to Harper but for the present defer further extension of the system to Tuscola.)

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## — Canadian Developments

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As noted earlier, the legal challenge posed by Altamont with regard to the question of the NPA's jurisdiction and the provisions of Condition 12 of Schedule III of the *Northern Pipeline Act* regarding financing was directed at the proposed expansion of the Western Leg in South B.C. of the Alaska Highway Gas Pipeline, but appeared to raise issues that applied with equal force to the Eastern Leg.

In December, 1990, Foothills applied to the Designated Officer of the NPA for adoption of its proposed Addendum 5 to the System Design Report to provide approval in principle to its plan to construct two new compressor stations in Alberta in order to increase the capacity of the Eastern Leg in Alberta by 16.35 million cubic metres a day (577 mmcf/d). Foothills said the increased capacity was required to meet a request from NOVA for firm transportation of this additional quantity beginning in November, 1992. The two new Alberta stations, Numbers 363 and 365, would be located near Beiseker and at Gem, respectively. Foothills proposed also to modify its existing Station, 367, at Jenner, Alta. In addition, the company applied to the National Energy Board for authority to add a partial third train to the two already installed as part of new decompression/recompression facilities located at the liquid gas extraction plant at Empress, which were required to accommodate a previously-authorized increase in operating pressures on the Eastern Leg in Alberta following its desegregation from the NOVA pipeline system.

(In mid-April, 1991, the NPA's Designated Officer, Mr. Vollman, approved Addendum 5 to the System Design Report submitted by Foothills. In June, the NEB authorized Foothills to proceed with the addition to its decompression/recompression facilities. And in July, following the approval by the Governor in Council of the amendment to the provisions of Condition 12 of Schedule III of the *Northern Pipeline Act*, the NEB and the Commissioner of the NPA, Donald W. Campbell, acting on behalf of the Minister, concluded that Foothills had provided satisfactory proof that financing was available for the proposed expansion of the Eastern Leg in Alberta.)

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## Mackenzie Delta Gas Reserves

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In August, 1989, the National Energy Board approved the applications by Esso, Gulf and Shell to export 260 billion cubic metres (9.2 tcf) of Canadian gas from the Mackenzie Delta over a 20-year period beginning as early as 1996. In the NPA's previous annual report, it was noted that in February, 1990, the Hon. Jake Epp, Minister of Energy, Mines and Resources, advised the NEB Chairman, Roland Priddle, that the necessary government approval of the export licences would be withheld until it was satisfied that the Board had complied with the federal Environmental Assessment and Review Guidelines in keeping with the jurisprudence established by two earlier court decisions. Subsequently, the Chairman advised the Minister that the Board intended to carry out an environmental screening of the proposed gas production facilities. At the time of writing the current report, however, the conclusion of that environmental review remained outstanding because of uncertainty created by yet another court ruling that raised questions about the extent of the Board's authority in the case of environmental matters.

The application to the Board by Foothills to construct a proposed Mackenzie Valley Pipeline to transport Delta gas to a point near Boundary Lake near the northern border of B.C. and Alberta and then connecting with an extension of the Alaska Highway Gas Pipeline from its present starting point at Caroline, Alta., continues to remain in abeyance pending the submission of additional information. It appeared possible, however, that the project as proposed could be overtaken by subsequent events.

In mid-March, 1991, it was announced that a consortium of six companies had signed a Statement of Principles to provide a basis for planning the development of a pipeline to transport gas from the Delta Region to southern markets. The consortium consists of the three major owners of Delta gas — Esso Resources Canada Ltd., Shell Canada Ltd., and Gulf Canada Resources Ltd. — and three pipeline companies — Interprovincial Pipeline Co., Polar Gas and Foothills, which put forward the original pipeline proposal. In announcing the signing of the Statement of Principles, the consortium said that no decision had been taken on the submission of an application to regulatory authorities. Nor did the companies indicate what their respective positions might be with respect to the ownership and management of the prospective pipeline.

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## Implementation of the Bilateral Procurement Agreement

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In 1980, the Canadian and U.S. governments entered into an accord designed to help achieve one of the undertakings of the 1977 agreement between the two countries with respect to the planning and construction of the proposed northern gas pipeline from the North Slope of Alaska to the western and mid-western areas of the lower 48 states. That involved the responsibility each government assumed under the agreement to ensure that the supply of goods and services for this massive project would be obtained "on generally competitive terms".

The 1980 Procurement Agreement established a process covering the bid lists, specifications and recommendations of sponsors to purchase certain designated items — mainline pipe, compressor units and large valves and fittings, a process that was aimed at ensuring that procurement was carried out on a generally competitive basis and that potential suppliers in both countries had a fair opportunity to participate.

The previous annual report outlined the concern that the Northern Pipeline Agency had conveyed to its U.S. counterpart, the Office of the Federal Inspector, that while Canada had proceeded to implement the procurement process in connection with expansions of the prebuild begun in the late 1980s, there appeared to be no disposition to do so in the case of planned expansions of the system south of the border. The matter was brought to a head in a letter to the then-Acting Federal Inspector, Melvin Hurwitz, from Northern Border contending that a new compressor station the company proposed to install on the Eastern Leg in the United States was not part of the ANGTS and, therefore, not subject to the provisions of either the 1977 Pipeline Agreement or the 1980 Procurement Agreement between the two countries.

In response to the concerns expressed by the Commissioner of the Northern Pipeline Agency in a letter to the Acting Federal Inspector, Mr. Hurwitz said that since Northern Border had elected not to seek authorization for the proposed expansion under the *Alaska Natural Gas Transportation Act*, and thus had forgone the considerable judicial and regulation advantages available under that legislation, "decisions concerning ANGTS status by a sponsor should be conclusive in most situations." In response, Mr. Campbell sought consultations on the issue as pro-

vided for under the two bilateral agreements. During the course of a subsequent meeting in Washington in early September, 1990, Mr. Hurwitz indicated he was prepared to consult the Executive Policy Board, an advisory body composed of senior officials from a number of different U.S. departments and agencies, on the desirability of seeking voluntary compliance with the provisions of the Procurement Agreement by the prebuild sponsors.

This proposal was never acted on prior to the nomination by the President and subsequent confirmation by the Senate of Michael J. Bayer as Federal Inspector in October, 1990. In a letter to the new Federal Inspector shortly following his appointment, Mr. Campbell outlined his concerns with respect to the lack of reciprocity on the U.S. side in implementing the procurement provisions with respect to proposed expansions of the prebuild south of the border. The Commissioner advised his U.S. counterpart that he was initiating the procurement process in the case of a proposed expansion of the Eastern Leg in Alberta in order to provide him with the opportunity to consider this issue, but at the same time stipulated that he did so without prejudice, reserving the right to terminate the process at any time if it appeared that the United States were not prepared to reciprocate. At a subsequent meeting in Ottawa in late February, 1991, the Federal Inspector raised the possibility of entering discussions with the U.S. sponsors of the Western and Eastern Legs about complying voluntarily with the provisions of the Procurement Agreement.

(In early April, 1991, Mr. Bayer wrote to the Commissioner to initiate the procurement process in the case of large valves and fittings to be purchased by PGT/PG&E following an agreement in principle by the sponsors of the Western Leg in the United States to meet the Federal Inspector's request. By that time, however, procurement had been completed for all of the mainline pipe and compressor units required for the expansion. It also became evident that PGT/PG&E had virtually completed the bid process for large valves and fittings when the Northern Pipeline Agency was invited to comment on the specifications and proposed bid list, with the result that there was no opportunity to consider the inclusion of potential Canadian suppliers suggested by the Agency.

(In his first report as Federal Inspector to the President and Congress, Mr. Bayer referred, among other things, to the issue that had been raised with respect to procurement. He noted that in both cases the sponsors of the proposed expansions had sought regulatory authorization under the provisions of the

*Natural Gas Act*, rather than the *Alaska Natural Gas Transportation Act* — which requires compliance by sponsors with the Procurement Agreement. However, the Federal Inspector said that since each of the proposed projects substantially tracked the planned second phase of the two legs, he had requested and the sponsors had agreed that, "wherever feasible, the procurement activities for this project will be processed in a manner that will substantially address the objectives of the reciprocal procedures, which were adopted by the United States and Canada for the procurement of specified items ..." Mr. Bayer pointed out that the matter of procurement with respect to the proposed expansions of the Eastern and Western Legs had been the subject of consultations between the OFI and the NPA and stated that at that point the question had been "resolved to our mutual satisfaction".

(In a subsequent exchange of correspondence in late August and early September, 1991, the Federal Inspector requested that consultations be held with respect to a document dealing with the evaluation of Canadian benefits of procurement for the pipeline in Canada, which was included in the specifications issued by the Canadian sponsor for large valves and fittings required as part of the proposed expansion of the Eastern Leg north of the border. For his part, Mr. Campbell indicated that, from a Canadian perspective, Mr. Bayer's contention that the procurement issue had been resolved to the satisfaction of both sides rather overstated the case, particularly given a number of unanswered questions concerning the status of procurement of designated items for the Eastern Leg expansion in the United States. The Commissioner welcomed a meeting at their earliest convenience for the purpose of mutual consultations on their respective concerns.)

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### **Operations of the Canadian and U.S. Regulatory Agencies Responsible for the Pipeline**

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In Canada, the main focus of the Northern Pipeline Agency during the fiscal year was on matters outlined earlier in this report — the proposed expansions of the Eastern and Western Legs, the legal issues raised by Altamont in connection with those undertakings, and the bilateral implementation of the 1980 Procurement Agreement.

Donald W. Campbell served as Commissioner of the NPA in addition to his duties as Deputy Minister

for International Trade and Associate Under-Secretary of State for External Affairs. Kenneth W. Vollman, a Temporary Member of the National Energy Board, also served as Administrator and Designated Officer of the Agency.

(On April 21, 1991, The Right Honourable Joe Clark, for a number of years the Secretary of State for External Affairs, was appointed President of the Privy Council and Minister responsible for Constitutional Affairs. In addition to the special responsibilities assigned to him with respect to constitutional matters, as President of the Privy Council he also became Minister responsible for the Northern Pipeline Agency. Mr. Clark succeeded The Honourable Don Mazankowski, the Deputy Prime Minister — previously Minister of Agriculture, President of the Privy Council and Minister responsible for the NPA — who was appointed Minister of Finance.)

The Agency remained obligated to the National Energy Board for making available on a contractual basis the services of its staff to provide the Agency

with all of the technical information and advice it required to discharge its regulatory responsibilities. Staff of the NEB also continued to provide administrative support services to the NPA. As in the past, the costs of all services provided by the Board have been billed to the Agency and are recovered subsequently from Foothills in the same manner as other NPA costs, in keeping with the requirements of the *Northern Pipeline Act*.

(In early September, 1991, the head office of the National Energy Board was moved from Ottawa to Calgary at the direction of the federal government. It is anticipated that NEB staff will continue to provide support services to the Agency as required.)

As previously reported, Michael Bayer was nominated by President Bush and confirmed by the Senate in October, 1990 as Federal Inspector, his Office being the counterpart of the Northern Pipeline Agency. Mr. Bayer took over from Melvin Hurwitz, who for some years served as Acting Federal Inspector.



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# Finance, Personnel and Official Languages

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## Finance and Personnel

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Section 13 of the *Northern Pipeline Act* provides for an annual audit of the accounts and financial transactions of the Agency by the Auditor General of Canada and for a report thereon to be made to the Minister. Section 14 of the Act requires the Auditor General's report to be laid before Parliament together with the Minister's annual report on the operations of the Agency. To comply with these requirements, the report of the Auditor General of Canada on the accounts and financial transactions of the Northern Pipeline Agency for the year ended March 31, 1991, is reproduced as an appendix.

Estimates for 1990-91 provided \$530,000 for the operation of the Agency. Expenditure for the year totalled \$308,000. At year-end, only one full-time employee was on staff. The National Energy Board provides administrative support as well as technical information and advice, for which the Agency reimburses the Board.

Section 29 of the *Northern Pipeline Act* provides for recovery of the costs of the Agency from the company constructing the pipeline in accordance with regulations made under subsection 55(2) of the

*National Energy Board Act*. During the year, \$268,000 was recovered from Foothills in keeping with the provisions of the *Northern Pipeline Act*, of which \$73,000 related to prior year costs. In addition, \$30,400 in Yukon easement fees were collected. All amounts were credited to the Consolidated Revenue Fund.

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## Official Languages Plan

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Although the Northern Pipeline Agency is a separate employer under Part II of the *Public Service Staff Relations Act* and is not subject to the *Public Service Employment Act*, the language policies and procedures established for other government departments and agencies have generally been applied. In addition, the Agency conforms as fully as possible with the provisions of the *Official Languages Act*.

In order to allow members of the public to comment on the linguistic aspect of services provided, enquiries may be made by telephoning (613) 993-7466 or by writing to the Office of the Northern Pipeline Agency, Lester B. Pearson Building, 125 Sussex Drive, Ottawa, Ontario, K1A 0G2.



AUDITOR GENERAL OF CANADA

VÉRIFICATEUR GÉNÉRAL DU CANADA

## AUDITOR'S REPORT

To the Minister responsible for the  
Northern Pipeline Agency

I have audited the statement of net recoverable expenditure and receipts of the Northern Pipeline Agency for the year ended March 31, 1991. This financial statement is the responsibility of the Agency's management. My responsibility is to express an opinion on this financial statement based on my audit.

I conducted my audit in accordance with generally accepted auditing standards. Those standards require that I plan and perform an audit to obtain reasonable assurance whether the financial statement is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statement. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation.

In my opinion, this statement presents fairly, in all material respects, the net recoverable expenditure and receipts of the Agency for the year ended March 31, 1991 in accordance with the accounting policies set out in Note 2 to the statement.

A handwritten signature in dark ink, appearing to read 'D. Meyers'.

D. Larry Meyers, FCA  
Deputy Auditor General  
for the Auditor General of Canada

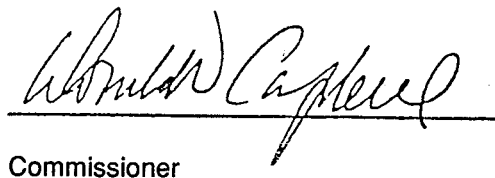
Ottawa, Canada  
July 26, 1991

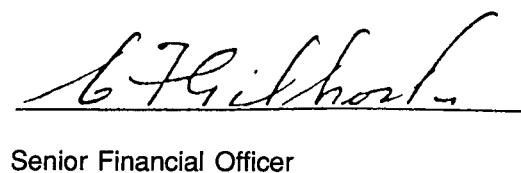
# NORTHERN PIPELINE AGENCY

## Statement of Net Recoverable Expenditure and Receipts March 31, 1991

	<u>1991</u>	<u>1990</u>
<u>Net recoverable expenditure</u>		
Expenditure		
Professional and special service	\$ 151,559	\$ 107,087
Salaries and employee benefits	88,652	79,763
Employee contingency plan (Note 3)	43,074	—
Rentals and office accommodation	19,941	15,149
Travel and communications	3,099	7,422
Material, supplies and upkeep	1,792	1,028
	<hr/>	<hr/>
Total expenditure funded by parliamentary appropriations (Note 4)	308,117	210,449
	<hr/>	<hr/>
Less: Non-recoverable portion of employee benefits	13,176	12,123
Refunds of prior year expenditure	—	1,822
	<hr/>	<hr/>
	13,176	13,945
	<hr/>	<hr/>
Net recoverable expenditure (Note 5)	<u>\$ 294,941</u>	<u>\$ 196,504</u>
	<hr/>	<hr/>
<u>Receipts</u>		
Recovery of net recoverable expenditure from Foothills Pipe Lines Ltd. (Note 5)	\$ 268,346	\$ 160,766
Easement fees	30,400	30,400
	<hr/>	<hr/>
	<u>\$ 298,746</u>	<u>\$ 191,166</u>
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Approved by:

  
Commissioner

  
Senior Financial Officer

## NORTHERN PIPELINE AGENCY

### Notes to the Statement of Net Recoverable Expenditure and Receipts March 31, 1991

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#### 1. Authority, objective and operations

The Agency was established in 1978 by the Northern Pipeline Act. The objective of the Agency is to facilitate the efficient and expeditious planning and construction of the Alaska Highway Gas Pipeline in a manner consistent with the best interests of Canada as defined in the Act.

The Agency's expenditure is funded by parliamentary appropriations. However, in accordance with the Act and the National Energy Board Cost Recovery Regulations, the Agency is required to recover all its annual operating costs from the companies holding certificates of public convenience and necessity issued by the Agency. Currently, Foothills Pipe Lines Ltd. is the sole holder of such certificates.

Receipts are deposited to the Consolidated Revenue Fund and are not available for use by the Agency.

#### Reduction of activities

On May 1, 1982, the United States sponsors of the Alaska Highway Gas Pipeline and Foothills Pipe Lines Ltd. announced that the target date for completion had been set back until further notice and all parties were to scale down their activities.

#### 2. Accounting policies

##### Expenditure

Expenditure includes the cost of work performed, goods received or services rendered prior to April 1, except for the costs of the employees' contingency and termination plans which are charged to expenditure in the year in which the employee leaves the Agency. Capital acquisitions are charged to expenditure in the year of purchase. Expenditure also includes any costs incurred on behalf of the Agency by government departments.

##### Receipts

Receipts are recorded on a cash basis.

#### 3. Employee contingency plan

Senior and certain other key employees who remain with the Agency until completion of their responsibilities and whose service exceeds two years are entitled to an allowance of 13% of accumulated salary received upon separation. During the year, the Agency paid out \$43,074 under the plan.

#### 4. Expenditure

Expenditure for the year was funded as follows:

	<u>1991</u>	<u>1990</u>
Parliamentary appropriations		
Privy Council		
Vote 30 (Vote 25 in 1990)		
Program expenditure	\$ 530,000	\$ 390,000
Statutory — Contributions to employee benefit plans	<u>27,000</u>	<u>22,000</u>
	557,000	412,000
Amount not required	<u>248,883</u>	<u>201,551</u>
	<u>\$ 308,117</u>	<u>\$ 210,449</u>

#### 5. Account with Foothills Pipe Lines Ltd.

	<u>1991</u>	<u>1990</u>
Net recoverable expenditure	<u>\$ 294,941</u>	<u>\$ 196,504</u>
Less: current year recovery	268,346	160,766
Less: current year recovery applicable to prior years	<u>73,469</u>	<u>37,731</u>
	<u>194,877</u>	<u>123,035</u>
Balance recoverable at year-end	<u>\$ 100,064</u>	<u>73,469</u>

Recovery of expenditure from Foothills Pipe Lines Ltd. is based on quarterly billings.

#### 6. Related party transactions

The expenditure includes the cost of services provided by other federal government departments and agencies. These costs aggregate \$101,879 (1990 — \$101,462). Professional and special assistance and office accommodation represent the main services provided by the related parties.

#### 7. Comparative figures

For comparative purposes, some 1990 figures have been reclassified to conform to the 1991 presentation.