

## REORGANIZATION PLAN NO. 1 OF 1979

MAY 24, 1979.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BROOKS, from the Committee on Government Operations, submitted the following

### REPORT

[To accompany H. Res. 199]

[Including cost estimate by the Congressional Budget Office]

The Committee on Government Operations, to whom was referred the resolution (H. Res. 199) to disapprove Reorganization Plan No. 1 same, report unfavorably thereon without amendment and retransmitted by the President on April 2, 1979, having considered the mend that the resolution do not pass.

#### SUMMARY AND PURPOSE

Reorganization Plan No. 1 of 1979 establishes an office of Federal inspector for the construction of the Alaska Natural Gas Transportation System. That system, to deliver natural gas by pipeline from the Prudhoe Bay reserves through Canada to points in the western and midwestern United States, was authorized by the Alaska Natural Gas Transportation Act of 1976. That act directed the President to appoint a Federal inspector of construction who would generally monitor compliance with applicable laws and authorizations and take other actions to assure timely completion of the system.

This reorganization plan will give the Federal inspector additional authority to supervise the enforcement of terms and conditions of licenses, permits and other authorizations issued by a number of Federal Departments and agencies that will be involved in the project. The plan transfers this enforcement authority temporarily from the agencies to the Federal inspector so the enforcement can be coordinated and made more effective than if administered by the separate agencies. The President in submitting the plan said that with this reorganization the construction and completion of the pipeline can be expedited. It will also help avoid the cost escalations and delays experienced in the construction of the Alaska oil pipeline.

The plan provides that an executive policy board (to be established by Executive order) will advise the Federal inspector on the performance of his functions. The plan also requires each Federal agency having statutory responsibility over any aspect of the Alaska Natural Gas Transportation System to appoint an agency-authorized officer to represent the agency and be assigned to the office of Federal inspector. The inspector, in turn, will delegate to the agency-authorized officer his enforcement authority derived from the agency, but he will supervise and direct the assigned officers.

The plan also makes the Federal inspector responsible for coordinating nonenforcement activities by the Federal agencies and for coordinating compliance with the provision of the act which requires agencies to issue licenses, permits and other authorizations involving the pipeline at the earliest practicable date.

The plan directs that the enforcement powers transferred to the Federal inspector revert back to the agencies after completion of the system and that the office of Federal inspector be abolished.

This reorganization is a sound proposal and provides an appropriate mechanism for moving forward an important project that is deemed necessary to meet the energy requirements of our citizens and the economy of the country. It has widespread support among those involved or affected and no opposition has been recorded.

#### COMMITTEE VOTE

House Resolution 199 was ordered reported by the Committee on Government Operations on May 8 by voice vote with a recommendation that it do not pass. The committee, therefore, supports the reorganization plan.

#### HEARINGS

Hearings on Reorganization Plan No. 1 were held by the Subcommittee on Legislation and National Security at which time the Executive Associate Director of the Office of Management and Budget, accompanied by other officials of the administration, testified.

#### DISCUSSION

Reorganization Plan No. 1 of 1979 was transmitted to Congress by the President as a means to forestall for the Alaska gas pipeline the serious problems encountered in the construction of the trans-Alaska oil pipeline. A multitude of Federal departments and agencies carrying out their statutory responsibilities were involved with the oil pipeline and each prescribed and enforced terms and conditions for its participation with only minimal coordination of purpose and effort. These uncoordinated Government actions are believed to have caused needless construction delays and cost escalations. The initial \$1.064 billion estimate for the oil pipeline rose to \$6.4 billion in 1975 and by December 1977, exceeded the budgeted level by another \$1.5 billion, for a total new cost figure of \$7.9 billion. A repetition of such cost increases in the gas pipeline would be disastrous. One means of insuring against such a recurrence and minimizing cost overruns would be to put the Federal Government in a stronger position to manage its

own role in the new gas pipeline project, which is to be privately financed.

*Statutorily required agency determinations*

A number of Federal agencies administer statutes which affect the development of the gas line. The Environmental Protection Agency issues permits for the discharge of water pollutants into U.S. waters. It requires spill prevention, containment and countermeasure plans. EPA reviews all permit applications to ascertain compliance with joint EPA-Corps of Engineers guidelines for environmentally acceptable discharges. Stationary sources of air pollution must be designed to achieve established emission limitation standards. EPA reviews construction or modification of most stationary air emission sources. It also enforces permit requirements in the disposal or chemical destruction of hazardous wastes.

The Corps of Engineers issues permits to regulate the discharge of dredged materials and pollutants that comprise fill material. It requires permits for piers, breakwaters and other structures in navigable waters.

The Department of Transportation's Material Transportation Bureau requires compliance with Federal gas pipeline safety regulations and approves pipeline design specifications. The Federal Aviation Administration may review private airport facilities to assure compatibility with safe and efficient use of surrounding air space. The Coast Guard issues permits for bridges and causeways across navigable waters.

The Federal Energy Regulatory Commission of the Department of Energy grants certificates of convenience and necessity to selected applicants for constructing the pipelines; approves financing arrangements; takes various actions involving capital cost control; and enforces an antitrust provision prohibiting gas producers from equity ownership in the project.

The Department of Interior's Bureau of Land Management grants rights of way across Federal land; gives permits for temporary use of public lands, and makes contracts for the removal of mineral or vegetative material from public lands. The Fish and Wildlife Service must approve rights of way through wildlife refuges or other public lands on which the development of wildlife resources could be threatened. It must be consulted on any agency's actions that affect endangered species or their critical habitat, and must issue a special purpose permit for construction affecting migratory birds. The Heritage Conservation and Recreation Service determines if a right-of-way across recreation land is in accord with a statewide outdoor recreation plan, and the Bureau of Indian Affairs grants rights of way across Indian lands provided tribal consent is given.

The Bureau of Alcohol, Tobacco, and Firearms of the Treasury Department issues permits to users of explosives for their interstate movement.

The Department of Labor's Mine Safety and Health Administration requires compliance with nonmetal mining regulations. The Occupational Safety and Health Administration has promulgated extensive construction safety standards with which the contractors must comply.

The Federal Communications Commission issues licenses needed for microwave transmission of radio and/or television signals and land-mobile radio transmission likely to be needed in both construction and operation.

The Department of Agriculture's Forest Service issues land use permits under the Mineral Leasing Act and enforces compliance with regulations governing the use and occupancy of national forest system land and national grasslands.

These authorities, all provided by law, indicate the array of requirements which must be met by the contractors in developing the gas pipeline system.

*Types of agency conflicts that may require Federal inspector to intercede*

The Department of the Interior permits no activities in certain areas or during certain times in order to protect wildlife breeding or feeding grounds, thus forcing work to be done during winter months. The Department of Transportation does not permit welding to be accomplished in temperatures below certain levels.

The Bureau of Land Management and the U.S. Geological Survey require high-quality low-level photography of pipeline routes after snow cover is gone for purposes of detailed alignment review; such photography requires flying at about 300 feet altitude. The Fish and Wildlife Service requires flights during spring and summer to be at a minimum altitude of 1,500 feet to avoid any disturbance of wildlife.

The Department of Interior wants to maximize free and unrestricted access to Federal lands by the general public for recreational purposes.

The Department of Transportation, desiring to minimize any potential interference with pipeline construction and operation, desires to minimize public access.

The Department of the Interior insists on a maximum undisturbed vegetative buffer strip in certain areas for aesthetic reasons, which would increase costs. The Federal Energy Regulatory Commission could rule such extra costs would be an imprudent expenditure.

The Department of the Interior insists on a particular pipeline routing for environmental reasons, but this would require construction through a Federal flood control project. The Corps of Engineers may object.

The above examples indicate the need for an authority with the capability to resolve the differing and conflicting policies that will arise in the gas pipeline project.

*The Federal inspector*

Congress recognized in the enabling legislation, the Alaska Natural Gas Transportation Act of 1976 (Public Law 94-586), the necessity for a coordinating authority to handle matters outlined above and directed the President to appoint a Federal Inspector. Under that law the Inspector would—

- (A) Establish a joint surveillance and monitoring agreement, approved by the President, with the State of Alaska similar to that in effect during construction of the trans-Alaska oil pipeline to monitor the construction of the approved transportation system within the State of Alaska:

(B) Monitor compliance with applicable laws and the terms and conditions of any applicable certificate, rights-of-way, permit, lease, or other authorization issued or granted under section 9;

(C) Monitor actions taken to assure timely completion of construction schedules and the achievement of quality of construction, cost control, safety, and environmental protection objectives and the results obtained therefrom;

(D) Have the power to compel, by subpoena if necessary, submission of such information as he deems necessary to carry out his responsibilities; and

(E) Keep the President and the Congress currently informed on any significant departures from compliance and issue quarterly reports to the President and the Congress concerning existing or potential failures to meet construction schedules or other factors which may delay the construction and initial operation of the system and the extent to which quality of construction, cost control, safety and environmental protection objectives have been achieved.

Other functions were created for the Inspector under the President's "Decision and Report to Congress on the Alaska Natural Gas Transportation System," September 1977, and approved by Congress in Public Law 95-158. He must approve a detailed overall management plan for the pre-construction and construction phases of the project prior to issuance of the certificate to the project sponsor, among other requirements.

It was decided later, however, that these authorities, though significant, were not sufficient to meet all anticipated difficulties. The President determined that the inspector should be given the additional responsibility of coordinating the enforcement of the various Federal agency requirements and he proposed this reorganization.

#### *The reorganization*

The plan would establish an office of the Federal inspector, to be headed by a Federal inspector appointed by the President with the advice and consent of the Senate. Functions relating to the enforcement of specified Federal statutes and regulations and to the enforcement of terms, conditions, and stipulations of grants, certificates, permits and other authorizations issued by Federal agencies with respect to preconstruction, construction, and initial operation of the Alaska Natural Gas Transportation System would be transferred from agencies now performing these functions to the inspector. The inspector in turn would delegate authority to perform these functions to agency-authorized officers appointed by the affected agencies. The agency-authorized officers would serve as field representatives of Federal agencies with statutory responsibilities over any aspect of the Alaska Natural Gas Transportation System, and would be located within the Office of the Federal Inspector and be subject to his supervision.

The inspector also would perform functions assigned, or which could be assigned, to the executive policy board described in the "Decision and Report to the Congress on the Alaska Natural Gas Transportation System" which was approved by Public Law No. 95-158. The plan further provides, however, that the Board, to be created at a later date by executive order, will advise the inspector on the performance of his functions. The inspector would also coordinate the discharge of non-

enforcement activities and compliance by all Federal agencies with section 9 of the Alaska Natural Gas Transportation Act, which requires expeditious actions on permits, leases and other authorizations. The plan further specifies that the inspector will undertake to obtain appropriations for all aspects of his operations. The transfer of functions from Federal agencies to the inspector is to take effect on a date specified by the President, consistent with law; however, on the first anniversary of the operation of the Alaska Natural Gas Transportation System, the enforcement functions transferred from the Federal agencies to the inspector would revert to those agencies.

Some aspects of the plan should be emphasized. The inspector's authority to enforce terms and conditions of licenses and permits will reduce time delays by making it unnecessary to go back to each agency in question. He can make decisions on site.

Although the inspector will function independently of the agencies from whom the permit authorities are transferred, he will be under definite legal restraints. He must carry out terms mandated by law or, through the President, request from Congress a waiver of this application: To the extent, however, that terms and conditions are evolved from agency policy, the inspector will have the discretion to waive their application when it is necessary to resolve conflicting requirements which would affect the progress of the project.

The plan gives the inspector authority to require the Federal agencies to submit scheduling plans for all permits, certificates, grants or other necessary authorizations and to coordinate such scheduling. This coordination should have a very beneficial effect on project development.

Finally, the transfer of enforcement authorities from the agencies to the inspector is only for the duration of the project. They will revert back to the agencies upon completion and after one year of operation of the system.

Although no specific savings were identified by the President the committee agrees that this reorganization should result in a reduction in the cost of construction for the pipeline system and ultimately in savings to American consumers.

#### INFLATIONARY IMPACT

In compliance with clause 2(1)(4) of House rule XI, it is the opinion of this committee that the provisions of this resolution will have no inflationary impact on prices and costs in the operation of the national economy.

#### OVERSIGHT FINDINGS

The committee has maintained continuous oversight of the agencies affected by this legislation, but has made no detailed findings and recommendations other than those contained elsewhere in this report.

#### COST ESTIMATE OF THE CONGRESSIONAL BUDGET OFFICE

The cost estimate prepared by the Congressional Budget Office under section 308(a) and 403 of the Congressional Budget Act of 1974 is contained in the following letter from its Director:

CONGRESSIONAL BUDGET OFFICE,  
U.S. CONGRESS,  
Washington, D.C., April 30, 1979.

HON. JACK BROOKS,  
Chairman, Committee on Government Operations, U. S. House of  
Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: At the request of the committee staff, the Congressional Budget Office has reviewed Reorganization Plan Number 1 of 1979, a reorganization plan to create the office of the Federal inspector for the Alaska Natural Gas Transportation System and establish the position of Federal inspector, as transmitted by the President to the U.S. Congress on April 2, 1979.

The plan transfers to the Federal inspector the authority to supervise the enforcement of terms and conditions of permits and authorizations necessary for and directly related to the pipeline project, including those to be issued by the Department of Agriculture, Interior, Transportation and Treasury, the Environmental Protection Agency, the Federal Energy Regulatory Commission and the U.S. Army Corps of Engineers. The plan provides for the Federal inspector to coordinate other Federal activities related to the pipeline project.

It is estimated that in addition to the position of Federal inspector, approximately 50 support personnel of various general schedule ratings and 100 personnel from the other agencies on detail to the office of the Federal inspector will be necessary. Based on these personnel requirements and projected expenses, it is estimated that the cost of implementing this reorganization plan will be approximately \$3 million in fiscal year 1980, rising to about \$4.5 million by fiscal year 1984. It is expected that the office will be abolished by mid-1986, the first anniversary after the pipeline becomes operational.

Should the committee so desire, we would be pleased to provide further details on this estimate.

Sincerely,

ALICE M. RIVLIN,  
Director.

COMMITTEE ESTIMATE OF COST

The committee agrees with the estimate contained in the submission of the Congressional Budget Office above and presents that estimate as the committee's pursuant to clause 7 of House rule XIII.

SECTION-BY-SECTION ANALYSIS

*Part I. Office of the Federal inspector and transfer of functions*

*Section 101. Establishment of the office of Federal inspector.*—Section 101(a) establishes the office of Federal inspector for the Alaska Natural Gas Transportation System as an independent establishment in the executive branch.

Section 101(b) designates as head of the office the Federal inspector, and sets the inspector's compensation level and terms of appointment.

Section 101(c) requires every Federal agency with statutory responsibility over any aspect of the Alaska Natural Gas Transportation System to appoint an agency-authorized officer, and specifies each agency-authorized officer's duties.

*Section 102. Transfer of functions to the Federal inspector.*—Section 102 transfers subject to the provisions of sections 201, 202, and 203 of the plan, all functions relating to: (1) Enforcement of Federal statutes and regulations, and (2) enforcement of terms, conditions, and stipulations of Federal agencies' grants, certificates, permits, and other authorizations for preconstruction, construction, and initial operation of the Alaska Natural Gas Transportation System. The introduction to section 102 also clarifies the scope of the enforcement powers transferred to the inspector.

Enforcement functions are transferred from the following agencies:

(a) The Environmental Protection Agency: Such enforcement functions of the administrator and others related to compliance with—

(1) National pollutant discharge elimination system permits (sec. 402 of the Federal Water Pollution Control Act). Such permits are required for the discharge of water pollutants into U.S. waters.

(2) Spill prevention, containment, and countermeasure plans (sec. 311 of the FWPCA). Such plans are required for major nontransportation oil storage at camps and other facilities.

(3) Review of permits issued by the Corps of Engineers (sec. 404 of the FWPCA) required for the discharge of dredged or fill materials into navigable waters.

(4) New source performance standards (sec. 111 of the Clean Air Act). Section 111 governs enforcement of standards of performance for new stationary sources of air pollution, such as stationary gas turbines and incinerators.

(5) Prevention of significant deterioration review and approval (secs. 160–169 of the Clean Air Act). Review of construction or modification of most stationary air emission sources which emit over 100 tons per year of any air pollutant.

(6) Resource conservation and recovery permits (Resource Conservation and Recovery Act of 1976). Enforcement of permits for disposal or chemical destruction of hazardous wastes.

(b) Corps of Engineers: Enforcement functions of the Secretary of the Army and others related to compliance with—

(1) Dredged and fill material permits (sec. 404 of FWPCA); enforcement of permits regulating the discharge in U.S. waters of dredged materials and pollutants that comprise fill materials.

(2) Permits for structures in navigable waters (sec. 10 of Rivers and Harbors Appropriation Act of 1899); enforcement of permits for structures, including piers, breakwaters, bulkheads, revetments, power transmission lines, and aids to navigation, as well as for certain work performed in navigable waters.

(c) Department of Transportation: Enforcement functions of the Secretary of Transportation and others relate to compliance with—

(1) The Natural Gas Pipeline Act of 1968 and related regulations.

(2) The Federal Aviation Act and related authorizations and regulations including proposed private airport facilities, air traffic limitations, and height requirements for structures such as microwave transmitter towers.

(3) Permits for bridges across navigable waters (sec. 9 of the Rivers and Harbors Appropriation Act of 1899).



(d) Department of Energy and Federal Energy Regulatory Commission: Enforcement functions of Secretary of Energy, the Commission, and others related to compliance with—

(1) Certificates of public convenience and necessity issued under section 7 of the Natural Gas Act.

(2) Authorization for importation of natural gas from Alberta as predeliveries of Alaskan gas (Sec. 3 of the Natural Gas Act); enforcement of requirements for facilities necessary to transport this gas.

(e) Department of the Interior: Enforcement functions of the Secretary of the Interior and others related to compliance with—

(1) Grants of rights-of-way and temporary use permits for Federal land (sec. 28 of Minerals Leasing Act of 1920). Such permits include those for gas pipelines and related facilities located on Federal lands, as well as those for related temporary uses, including campsites, roads, communications, and monitoring sites.

(2) Land use permits for temporary use of public lands and other associated land uses (secs. 302, 501, and 503-511 of the Federal Land Policy and Management Act of 1976). Such permits provide authority for temporary use of Federal lands in addition to the authority under the Minerals Leasing Act, and include permits for field work in preparation for applications for grants of rights-of-way and other associated uses.

(3) Material sales contracts (the Materials Act of 1947). Such permits regulate the sales of mineral or vegetative material from public lands.

(4) Rights-of-way across Indian lands (Rights of Way Through Indian Lands Act). Grants of rights-of-way are issued by the Secretary, with tribal consent.

(5) Removal permits (the Materials Act of 1947). Such permits regulate removal of mineral or vegetative material from public lands.

(6) Approval to cross national wildlife refuges (National Wildlife Refuge System Administration Act of 1966 and Upper Mississippi River Wildlife and Fish Refuge Act). Issuances of permits for rights-of-way across wildlife refuges must be approved by Interior as compatible with the purposes for which the refuge was established.

(7) Wildlife consultation (the Fish and Wildlife Coordination Act). The Fish and Wildlife Service must be consulted as to the effect of rights-of-way or permits on wildlife resources.

(8) Protection of specified birds (Migratory Bird Treaty Act and Bald and Golden Eagles Protection Act). Interior is responsible for protecting migratory birds and eagles, their nests and eggs. Special use permits or waivers are available except in the case of eagles.

(9) Review of Corps of Engineers dredged and fill material permits (sec. 404 of Federal Water Pollution Control Act). Interior reviews the permits issued under (b) (1) above.

(10) Rights-of-Way across recreation lands (Land and Water Conservation Fund Act of 1965). This provision monitors compliance with restrictions for land acquired or developed with the assistance of the fund.

(11) Historic preservation (National Historic Preservation Act of 1966). The act requires consultation on the effect of system activities on locations covered by its provisions.

(12) Permits issued under the Antiquities Act of 1906. Such permits allow examination by certain institutions of ruins, excavation of archeological sites, and collection of objects of antiquity on or from Federal lands.

(13) System activities requiring coordination and approval under the general authorities of:

(A) The National Trails System Act;

(B) The Wilderness Act;

(C) The Wild and Scenic Rivers Act;

(D) The National Environmental Policy Act of 1969;

(E) The Act of April 27, 1935, dealing with the prevention of soil erosion; and

(F) The Act of June 27, 1960, to provide for the preservation of historical and archeological data.

The enforcement functions under these acts generally require that the purposes and protections set forth in the statute be observed or considered in the performance of system activities.

(f) U.S. Department of Agriculture: Enforcement functions of the Secretary or others related to compliance with—

(1) Associated land use permits under grants of rights-of-way across Federal lands within the jurisdiction of USDA, sec. 28 of the Minerals Leasing Act of 1920). Permits are similar to those issued by Interior in (e)(1) above for lands within Interior's jurisdiction.

(2) Land use permits for associated land uses for lands within USDA's jurisdiction (secs. 501 and 503-511 of the Federal Land Policy and Management Act of 1976). Permits are similar to those issued by Interior in (e)(2) above for lands within Interior's jurisdiction.

(3) Land use permits under the Organic Administration Act of June 4, 1897 and title III of the Bankhead-Jones Farm Tenant Act of 1937. These are permits for land use of a non-right-of-way nature for national forest system lands (under the Organic Administration Act) and national grasslands (under the Bankhead-Jones Act).

(4) Removal of materials under the Materials Act of 1947. Permits are similar to those issued by Interior under (e)(5) above for lands within Interior's jurisdiction.

(5) Removal of objects of antiquity (Antiquities Act of 1906). Permits are similar to those issued by Interior in (e)(12) above for lands within Interior's jurisdiction.

(6) Construction and utilization of national forest roads (Roads and Trails System Act of 1964). Permanent or temporary easements are issued for such roads.

(7) System activities requiring coordination and approval under the general authorities of:

(A) The National Forest Management Act of 1976;

(B) the Multiple Use-Sustained-Yield Act of 1960;

(C) the Forest and Rangelands Renewable Resources Planning Act of 1974;

- (D) the National Trails System Act;
- (E) the Wilderness Act;
- (F) the Wild and Scenic Rivers Act;
- (G) the Land and Water Conservation Fund Act of 1965;
- (H) the Federal Water Pollution Control Act;
- (I) the Fish and Wildlife Coordination Act;
- (J) The Fish and Game Sanctuaries Act;
- (K) the National Historic Preservation Act of 1966;
- (L) an Act of June 27, 1964, to provide for the preservation of historical and archeological data;
- (M) the National Environmental Policy Act of 1969;
- (N) the Watershed Protection and Flood Prevention Act;
- (O) The Soil and Water Conservation Act of 1977; and
- (P) the Act of April 27, 1935, dealing with prevention of soil erosion.

The enforcement functions under these acts generally require that the purposes and protections set forth in the acts be observed or considered in the performance of system activities.

(g) The Department of the Treasury: Enforcement functions of the Treasury and others related to compliance with permits and regulations for interstate transport or storage of explosives.

(h) Enforcement and other functions under the Alaska Natural Gas Transportation Act of 1976, including the enforcement of the terms and conditions described in section 5 of the "Decision and Report to the Congress on the Alaska Natural Gas Transportation System."

#### *Part II. Other provisions*

*Section 201. Executive policy board.*—Section 201 directs the system's executive policy board, to be established by Executive order, to advise the Federal inspector on the performance of his functions. The section also transfers all other functions of the Board which are assigned, or could be assigned pursuant to the decision, to the Federal inspector.

*Section 202. Federal inspector and agency-authorized officers.*—Section 202(a) states the responsibilities of the agency-authorized officers and their operational relationship with the Federal inspector.

Section 202(b) describes the Federal inspector's responsibility for coordinating the discharge of non-enforcement activities and details the elements that this coordination shall and may include. The subsection also provides that an agency and the Federal inspector may agree to the delegation to the Federal inspector of any statutory function vested in the agency and related to the inspector's functions.

Section 202(c) provides for the Federal inspector and agency-authorized officer to carry out the enforcement policies and procedures established by the agencies that nominally administer those authorities, unless the Federal inspector determines that to do so would require action inconsistent with section 9 of the act. Section 9 generally requires the issuance of authorizations as quickly as possible, requires that applications and authorizations for construction and initial operation be expedited and given priority, describes the terms and conditions of authorizations issued under section 9's subsection (a), and describes

a Federal officer's or agency's authority to amend or abrogate terms or conditions in an authorization.

Section 202(d) provides for the Federal Inspector to undertake to obtain appropriations for his operations, including all the functions specified in the act and in the general terms and conditions of the *Decision*, as well as enforcement activities. In consultation with the agencies from which enforcement authority is transferred, the Federal Inspector is to prepare a unified budget which is to be reviewed by the executive policy board.

*Section 203. Subsequent transfer provision.*—Section 203 provides for the functions transferred by section 102 to revert to the original agency one year after initial operation of the Alaska Natural Gas Transportation System.

*Section 204. Incidental transfers.*—In accordance with section 904 (3), (4), and (5) of the Reorganization Act of 1977, section 204 provides for the transfer of personnel, property, records, and unexpended balances of appropriations and other funds with the functions transferred under this plan. The Director of the Office of Management and Budget shall determine these transfers, except that no unexpended balances transferred shall be used for purposes other than those for which the appropriation was originally made. The Director of the Office of Management and Budget is authorized to provide for the termination of the affairs of the office and the Federal inspector upon the abolishment of those entities under the plan.

*Section 205. Effective date.*—Section 205 provides that the plan shall go into effect at such time as the President specifies within the requirements of the Reorganization Act of 1977. The effective date of section 203, dealing with reversion of enforcement power, is dealt with in that section.

APPENDIX

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REORGANIZATION PLAN NO. 1 OF 1979

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MESSAGE

FROM

**THE PRESIDENT OF THE UNITED STATES**

TRANSMITTING

A REORGANIZATION PLAN TO CREATE THE OFFICE OF THE  
FEDERAL INSPECTOR FOR THE ALASKA NATURAL GAS  
TRANSPORTATION SYSTEM AND ESTABLISH THE POSITION  
OF FEDERAL INSPECTOR, PURSUANT TO 5 USC 903





*To the Congress of the United States:*

I am submitting to you today Reorganization Plan No. 1 of 1979 to create the Office of Federal Inspector for the Alaska Natural Gas Transportation System and establish the position of Federal Inspector. Creation of this Office and the transfer of appropriate Federal enforcement authority and responsibility is consistent with my September 1977 *Decision and Report to the Congress on the Alaska Natural Gas Transportation System*. This decision was approved by the Congress November 2, 1977.

The Alaska Gas Transportation System is a 4,748-mile pipeline to be constructed in partnership with Canada. Canada completed legislation enacting a similar transfer last year and has already appointed an official to coordinate its activities prior to and during pipeline construction. The Northwest Alaska Pipeline Company has been selected to construct the pipeline, with completion scheduled in late 1984. Estimated construction costs are \$10-\$15 billion, to be financed by private investment.

Natural gas is among the Nation's most valuable fuels. It is in the national interest to bring Alaskan gas reserves to market at the lowest possible price for consumers. Construction of a gas pipeline from the Prudhoe Bay reserves in Alaska through Canada to points in the West and Midwest United States will provide a system which will deliver more Alaskan natural gas at less cost to a greater number of Americans than any alternative transportation system. Every effort must be made to ensure timely completion of the pipeline at the lowest possible cost consistent with Federal regulatory policies.

As a result of our experience in construction of the Trans-Alaska Oil Pipeline, we recognize the need for the Federal Government to be in a strong position to manage its own role in this project through prompt, coordinated decisionmaking in pre-construction approval functions and in enforcing the terms and conditions of the permits, certificates, leases, and other authorizations to be issued by various Federal agencies. We must avoid duplicating the delays and cost escalations experienced in the construction of the Trans-Alaska Pipeline System. The Plan I am submitting would establish clear responsibility for the efficient functioning of Federal enforcement activities by assigning the Federal Inspector authority to carry out these responsibilities.

The Alaska Natural Gas Transportation Act of 1976 only provided for monitoring the construction of the pipeline. The Plan transfers to the Federal Inspector the authority to supervise the enforcement of terms and conditions of the permits and other authorizations, including those to be issued by the Departments of Agriculture, Interior, Transportation, and Treasury, and the Environmental Protection Agency, the Federal Energy Regulatory Commission, and the U.S. Army Corps of Engineers. The Plan provides for the Federal Inspector to coordinate other Federal activities directly related to the pipeline project. Federal agencies retain their authority to issue permits

and related authorizations, but enforcement of the terms and conditions of these authorizations is transferred to the Federal Inspector. Transfer of enforcement authority from Federal agencies to the Federal Inspector is limited in scope to their participation in this project and in duration to the pre-construction, construction, and initial operation phases of the project.

The *Decision and Report* to the Congress recommended an Executive Policy Board with policy-making and supervisory authority over the Federal Inspector. I plan to sign an Executive Order upon approval of this Plan by the Congress which will create an Executive Policy Board which will be only advisory, but which will enhance communication and coordinate among Federal agencies and with the Federal Inspector. The Plan modifies the *Decision and Report* in that regard. The Federal Inspector will use the policies and procedures of the agencies involved in exercising the transferred enforcement responsibilities to the maximum extent practicable. The Board provides the opportunity for agencies to contribute to the policy deliberations of the Inspector and exercises an oversight role to insure that pipeline activities are carried on within existing regulatory policy. The Board is required to review the budget of the Office of the Federal Inspector and periodically report to me on the progress of construction and on major problems encountered. I am convinced that the Federal Inspector must have authority commensurate with his responsibilities.

Each of the provisions of this proposed reorganization would accomplish one or more of the purposes set forth in Section 901(a) of Title 5 of the United States Code. The appointment and compensation of the Federal Inspector is in accordance with the provisions of the Alaska Natural Gas Transportation Act of 1976, and the Reorganization Act of 1977. The provisions for appointment and pay in this Plan are necessary by reason of a reorganization made by the Plan. The rate of compensation is comparable to rates for similar positions within the Executive Branch. This reorganization will result in a reduction in the cost of construction for the pipeline system and ultimately in savings to American consumers. A small increase in cost to the Federal government will result from the creation of the Office of the Federal Inspector. The Plan requires that the Office and the position of Federal Inspector will be abolished upon the first anniversary date after the pipeline becomes operational.

JIMMY CARTER.

THE WHITE HOUSE, April 2, 1979.



## REORGANIZATION PLAN NO. 1 OF 1979

Prepared by the President and transmitted to the Senate and House of Representatives in Congress assembled, April 2, 1979, pursuant to the provisions of Chapter 9 of Title 5 of the United States Code.

### OFFICE OF THE FEDERAL INSPECTOR FOR CONSTRUCTION OF THE ALASKA NATURAL GAS TRANSPORTATION SYSTEM

#### *Part I. Office of the Federal Inspector and Transfer of Functions*

*Section 101. Establishment of the Office of Federal Inspector for the Alaska Natural Gas Transportation System.*—(a) There is hereby established as an independent establishment in the executive branch, the Office of the Federal Inspector for the Alaska Natural Gas Transportation System (the "Office").

(b) The Office shall be headed by a Federal Inspector for the Alaska Natural Gas Transportation System (the "Federal Inspector") who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate now or hereafter prescribed by law for Level III of the Executive Schedule, and who shall serve at the pleasure of the President.

(c) Each Federal agency having statutory responsibilities over any aspect of the Alaska Natural Gas Transportation System shall appoint an Agency Authorized Officer to represent that authority on all matters pertaining to pre-construction, construction, and initial operation of the system.

*Section 102. Transfer of Functions to the Federal Inspector.*—Subject to the provisions of Section 201, 202, and 203 of this Plan, all functions insofar as they relate to enforcement of Federal statutes or regulations and to enforcement of terms, conditions, and stipulations of grants, certificates, permits and other authorizations issued by Federal agencies with respect to pre-construction, construction, and initial operation of an "approved transportation system" for transport of Canadian natural gas and "Alaskan natural gas," as such terms are defined in the Alaska Natural Gas Transportation Act of 1976 (15 U.S.C. 719 *et seq.*), hereinafter called the "Act", are hereby transferred to the Federal Inspector. This transfer shall vest in the Federal Inspector exclusive responsibility for enforcement of all Federal statutes relevant in any manner to pre-construction, construction, and initial operation. With respect to each of the statutory authorities cited below, the transferred functions include all enforcement functions of the given agencies or their officials under the statute as may be related to the enforcement of such terms, conditions, and stipulations, including but not limited to the specific sections of the statute cited. "Enforcement", for purposes of this transfer of functions, includes monitoring and any other compliance or oversight activities reasonably related to the enforcement process. These transferred functions include:

(a) Such enforcement functions of the Administrator or other appropriate official or entity in the Environmental Protection Agency related to compliance with: national pollutant discharge elimination system permits provided for in Section 402 of the Federal Water Pollution Control Act (33 U.S.C. 1342); spill prevention, containment and countermeasure plans in Section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321); review of the Corps of Engineers' dredged and fill material permits issued under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344); new source performance standards in Section 111 of the Clean Air Act, as amended by the Clean Air Act Amendments of 1977 (42 U.S.C. 7411); prevention of significant deterioration review and approval in Sections 160-169 of the Clean Air Act, as amended by the Clean Air Act Amendments of 1977 (42 U.S.C. 7470 *et seq.*); and the resource conservation and recovery permits issued under the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 *et seq.*);

(b) Such enforcement functions of the Secretary of the Army, the Chief of Engineers, or other appropriate officer or entity in the Corps of Engineers of the United States Army related to compliance with: dredged and fill material permits issued under Section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344); and permits for structures in navigable waters, issued under Section 10 of the Rivers and Harbors Appropriation Act of 1899 (33 U.S.C. 403);

(c) Such enforcement functions of the Secretary or other appropriate officer or entity in the Department of Transportation related to compliance with: the Natural Gas Pipeline Safety Act of 1968, as amended (49 U.S.C. 1671, *et seq.*) and the gas pipeline safety regulations issued thereunder; the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301, *et seq.*) and authorizations and regulations issued thereunder; and permits for bridges across navigable waters, issued under Section 9 of the Rivers and Harbors Appropriation Act of 1899 (33 U.S.C. 401);

(d) Such enforcement functions of the Secretary or other appropriate officer or entity in the Department of Energy and such enforcement functions of the Commission, Commissioners, or other appropriate officer or entity in the Federal Energy Regulatory Commission related to compliance with: the certificates of public convenience and necessity, issued under Section 7 of the Natural Gas Act, as amended (15 U.S.C. 771f); and authorizations for importation of natural gas from Alberta as predeliveries of Alaskan gas issued under Section 3 of the Natural Gas Act, as amended (15 U.S.C. 717b);

(e) Such enforcement functions of the Secretary or other appropriate officer or entity in the Department of the Interior related to compliance with: grants of rights-of-way and temporary use permits for Federal land, issued under Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185); land use permits for temporary use of public lands and other associated land uses, issued under Sections 302, 501, and 503-511 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732, 1761, and 1763-1771); materials sales contracts under the Materials Act of 1947 (30 U.S.C. 601-603); rights-of-way across Indian lands, issued under the Rights of Way Through Indian Lands Act (25 U.S.C. 321, *et seq.*); removal permits issued under the Mate-

rials Act of 1947 (30 U.S.C. 601-603); approval to cross national wildlife refuges, National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd-668jj) and the Upper Mississippi River Wildlife and Fish Refuge Act (16 U.S.C. 721-731); wildlife consultation in the Fish and Wildlife Coordination Act (16 U.S.C. 661 *et seq.*); protection of certain birds in the Migratory Bird Treaty Act (16 U.S.C. 703 *et seq.*); Bald and Golden Eagles Protection Act (16 U.S.C. 668-668d); review of Corps of Engineers dredged and fill material permits issued under Section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344); rights-of-way across recreation lands issued under the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601-4-4601-11); historic preservation under the National Historic Preservation Act of 1966 as amended (16 U.S.C. 470-470f); permits issued under the Antiquities Act of 1906 (16 U.S.C. 432, 433); and systems activities requiring coordination and approval under general authorities of the National Trails System Act, as amended (16 U.S.C. 1241-1249), the Wilderness Act, as amended (16 U.S.C. 1131-1136), the Wild and Scenic Rivers Act, as amended (16 U.S.C. 1271-1287), the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), the Act of April 27, 1935 (prevention of soil erosion) (16 U.S.C. 590a-f), and an Act to Provide for the Preservation of Historical and Archeological Data, as amended (16 U.S.C. 469-469c);

(f) Such enforcement functions of the Secretary or other appropriate officer or entity in the Department of Agriculture, insofar as they involve lands and programs under the jurisdiction of that Department, related to compliance with: associated land use permits authorized for and in conjunction with grants of rights-of-way across Federal lands issued under Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185); land use permits for other associated land uses issued under Sections 501 and 503-511 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761, 1763-1771), under the Organic Administration Act of June 4, 1897, as amended (16 U.S.C. 473, 474-482, 551), and under Title III of the Bankhead-Jones Farm Tenant Act of 1937, as amended (7 U.S.C. 1010-1012); removal of materials under the Materials Act of 1947 (30 U.S.C. 601-603) and objects of antiquity under the Antiquities Act of 1906 (16 U.S.C. 432, 433); construction and utilization of national forest roads under the Roads and Trails System Act of 1964 (16 U.S.C. 532-538); and system activities requiring coordination and approval under general authorities of the National Forest Management Act of 1976 (16 U.S.C. 1600 *et seq.*); the Multiple Use-Sustained-Yield Act of 1960 (16 U.S.C. 528-531); the Forest and Rangelands Renewable Resources Planning Act of 1974 (16 U.S.C. 1601-1610); the National Trails System Act, as amended (16 U.S.C. 1241-1249); the Wilderness Act, as amended (16 U.S.C. 1131-1136); the Wild and Scenic Rivers Act, as amended (16 U.S.C. 1271-1287); the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601); the Federal Water Pollution Control Act (33 U.S.C. 1251 *et seq.*); the Fish and Wildlife Coordination Act and Fish and Game Sanctuaries Act (16 U.S.C. 661 *et seq.* and 694, 694a-b, respectively); the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470-470f); an Act to Provide for the Preservation of Historical and Archeological Data, as amended (16

U.S.C. 469–469c); the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*); the Watershed Protection and Flood Prevention Act, as amended (16 U.S.C. 1001 *et seq.*); the Soil and Water Conservation Act of 1977 (16 U.S.C. 2001 *et seq.*); and the Act of April 27, 1935 (prevention of soil erosion) (16 U.S.C. 590a-f);

(g) Such enforcement functions of the Secretary or other appropriate officer or entity in the Department of the Treasury related to compliance with permits for interstate transport of explosives and compliance with regulations for the storage explosives, Title XI of the Organized Crime Control Act of 1970 (18 U.S.C. 841–848);

(h) (1) The enforcement functions authorized by, and supplemental enforcement authority created by the Act (15 U.S.C. 719 *et seq.*);

(2) All functions assigned to the person or board to be appointed by the President under Section 7(a) (5) of the Act (15 U.S.C. 719e); and

(3) Pursuant to Section 7(a) (6) of the Act (15 U.S.C. 719e), enforcement of the terms and conditions described in Section 5 of the *Decision and Report to the Congress on the Alaska Natural Gas Transportation System*, as approved by the Congress pursuant to Public Law 95–158 (91 Stat. 1268), November 2, 1977 (hereinafter the “*Decision*”).

#### *Part II. Other provisions*

*Section 201. Executive Policy Board.*—The Executive Policy Board for the Alaska Natural Gas Transportation System, hereinafter the “Executive Policy Board”, which shall be established by executive order, shall advise the Federal Inspector on the performance of the Inspector’s functions. All other functions assigned, or which could be assigned pursuant to the *Decision*, to the Executive Policy Board are hereby transferred to the Federal Inspector.

*Section 202. Federal Inspector and Agency Authorized Officers.*—(a) The Agency Authorized Officers shall be detailed to and located within the Office. The Federal Inspector shall delegate to each Agency Authorized Officer the authority to enforce the terms, conditions, and stipulations of each grant, permit, or other authorization issued by the Federal agency which appointed the Agency Authorized Officer. In the exercise of these enforcement functions, the Agency Authorized Officers shall be subject to the supervision and direction of the Federal Inspector, whose decision on enforcement matters shall constitute “action” for purposes of Section 10 of the Act (15 U.S.C. 719h).

(b) The Federal Inspector shall be responsible for coordinating the expeditious discharge of nonenforcement activities by Federal agencies and coordinating the compliance by all the Federal agencies with Section 9 of the Act (15 U.S.C. 719g). Such coordination shall include requiring submission of scheduling plans for all permits, certificates, grants or other necessary authorizations, and coordinating scheduling of system-related agency activities. Such coordination may include serving as the “one window” point for filing for and issuance of all necessary permits, certificates, grants or other authorizations, and, consistent with law, Federal government requests for data or information related to any application for a permit, certificate, grant or other authorization. Upon agreement between the Federal Inspector and the head of any agency, that agency may delegate to the Federal

Inspector any statutory function vested in such agency related to the functions of the Federal Inspector.

(c) The Federal Inspector and Agency Authorized Officers in implementing the enforcement authorities herein transferred shall carry out the enforcement policies and procedures established by the Federal agencies which nominally administer these authorities, except where the Federal Inspector determines that such policies and procedures would require action inconsistent with Section 9 of the Act (15 U.S.C. 719g).

(d) Under the authority of Section 15 of the Act (15 U.S.C. 719m), the Federal Inspector will undertake to obtain appropriations for all aspects of the Federal Inspector's operations. Such undertaking shall include appropriations for all of the functions specified in the Act and in the general terms and conditions of the *Decision* as well as for the enforcement activities of the Federal Inspector. The Federal Inspector will consult with the various Federal agencies as to resource requirements for enforcing their respective permits and other authorizations in preparing a unified budget for the Office. The budget shall be reviewed by the Executive Policy Board.

*Section 203. Subsequent transfer provision.*—(a) Effective upon the first anniversary of the date of initial operation of the Alaska Natural Gas Transportation System, the functions transferred by Section 102 of this Plan shall be transferred to the agency which performed the functions on the date prior to date the provisions of Section 102 of this Plan were made effective pursuant to Section 205 of this Plan.

(b) Upon the issuance of the final determination order by the Director of the Office of Management and Budget for the transfers provided for by subsection (a) of this section, the Office and the position of Federal Inspector shall, effective on the date of that order, stand abolished.

*Section 204. Incidental transfers.*—So much of the personnel, property, records and unexpended balances of appropriations, allocations and other funds employed, used, held, available, or to be made available in connection with the functions transferred under this Plan, as the Director of the Office of Management and Budget shall determine, shall be transferred to the appropriate agency or component at such time or times as the Director of the Office of Management and Budget shall provide, except that no such unexpended balances transferred shall be used for purposes other than those for which the appropriation was originally made. The Director of the Office of Management and Budget shall provide for the terminating of the affairs of the Office and the Federal Inspector upon their abolition pursuant to this Plan and for such further measures and dispositions as such Director deems necessary to effectuate the purposes of this Plan.

*Section 205. Effective date.*—This Plan shall become effective at such time or times as the President shall specify, but not sooner than the earliest time allowable under Section 906 of Title 5 of the United States Code, except that the provisions of Section 203 shall occur as provided by the terms of that Section.