

Rec'd 11/15/85



Canadian Embassy

Ambassade du Canada

1746 Massachusetts Ave., N.W.
Washington, D.C. 20036

October 30, 1985

Mr. J. Richard Berman
Deputy Federal Inspector
Office of the Federal Inspector
Post Office Building
1200 Pennsylvania Ave., N.W.
Room 3412
Washington, D.C. 20044

Dear Dick,

Somewhat belatedly, I am pleased to provide you with the Canadian minutes of the July 3 consultations in Ottawa between representatives of the Canadian and United States Governments on the Alaska Natural Gas Transportation System. I would be grateful if this document could be drawn to Mr. Rhett's attention.

I have taken the liberty of sending copies of the minutes to State Department, the Department of Energy and the Federal Energy Regulatory Commission.

If I can be of further assistance, please do not hesitate to contact me.

Yours sincerely,

B.A. Smith
Counsellor

- cc - Charles Higginson, State Dept:
- David Pumphrey, DOE
- Paula Daigneault, ERA
- Susan Court, FERC

MINUTES OF CONSULTATIONS BETWEEN REPRESENTATIVES OF CANADIAN
AND UNITED STATES GOVERNMENTS ON THE ALASKA HIGHWAY GAS PIPELINE
PROJECT: OTTAWA, JULY 3, 1985.

At the request of the Honourable Mitchell Sharp, Commissioner of the Northern Pipeline Agency, consultations were held in Ottawa between representatives of the Canadian and U.S. governments under the provisions of Article 8 of the bilateral agreement between the two countries to review the present status of the Alaska Highway Gas Pipeline Project and of the Canadian and U.S. agencies established to oversee its planning and implementation.

2. The following participated in the meeting, which was held in the Kent Room of the Government Conference Centre in the Centennial Towers:

United States Representatives

John Rhett - Federal Inspector

→ Richard Berman - Deputy Federal Inspector

Canadian Representatives

Mitchell Sharp - Commissioner, Northern Pipeline Agency

Barry Yates - Deputy Administrator, Northern Pipeline Agency

William Scotland - Associate Vice-Chairman of the National Energy Board and previously also Designated Officer in the NPA

Roland Priddle - Assistant Deputy Minister, Petroleum Sector
Department of Energy, Mines and Resources

Ken Vollman - Director General, Pipeline Regulation,
National Energy Board

Brian Hambleton - Deputy Director, U.S. Transboundary Division
United States Branch, Department of
External Affairs

• Frank Gilhooly - Comptroller, Northern Pipeline Agency

Bruce Macdonald - Public Affairs Advisor, Northern Pipeline
Agency

3. Mr. Sharp, in opening the meeting, said he had requested that consultations be held under Article 8 of the Canada-U.S. agreement to review the status of the project and the present and prospective roles of the Northern Pipeline Agency and the

Office of the Federal Inspector during the period they maintained a holding operation. The Commissioner expressed regret the project had not moved forward to completion. He noted the good working relationship that had existed between the NPA and the OFI. He noted the impending departure of Mr. Rhett, but observed that Mr. Berman was expected to provide a continuing link with the OFI.

4. Mr. Rhett said it was remarkable that the two agencies had been able to avoid potentially difficult problems and to resolve issues smoothly, efficiently and in the best interest of both nations. He said it was his goal to see the OFI maintained as a separate entity so that it would be in a position to exercise its existing authority and responsibility as and when the project was revived. The proposal currently being considered in Washington envisaged the OFI being tightly integrated into the Department of Energy, although continuing to exist as a separate entity under the direction of the Office of the Federal Inspector. A new incumbent would require Senate approval. He expected a decision would be made on the future of the OFI by August 1985.

5. Mr. Rhett reported his view that the Northwest Alaskan Consortium had solved the technical problems associated with frost heave and planned to incorporate its methods for dealing with these problems to provide engineering guidance in the form of manuals submitted to the OFI by September 30, 1985, by which time the Consortium would have completed its studies and taken steps to shut down test facilities at Fairbanks, Alaska. The Federal Inspector said he expected the Consortium would close its Los Angeles office in the near future and move the remaining staff of 10 to 12 people to Salt Lake City by the fall. From one to three key people would be retained so as to be in a position to revive the project at the appropriate time, while the remainder would be absorbed into other enterprises of Williams Brothers, which shares a lead role in the project with EXXON.

6. Mr. Rhett said the staff of the OFI then numbered six and it was budgetting for five, but he anticipated the total would be reduced in the foreseeable future to three. The budget requested amounted to \$850,000, which was well above the amount likely to be spent. He noted that the extent to which project sponsors were required to reimburse the OFI and other departments and agencies involved in the project varied enormously. He considered the current U.S. approach to be quite unsatisfactory and said he proposed to recommend that U.S. regulatory bodies in future be either fully reimbursed or not reimbursed at all. Mr. Sharp pointed out that full reimbursement was required in Canada under the provisions of the Northern Pipeline Act.

7. Mr. Rhett informed the meeting that he planned to draw up a memorandum to file (which would remain in draft form so as to preserve its confidentiality) outlining the various steps he considered were required to be undertaken to remobilize the OFI. In part, the memo was also intended to provide a guide for the future regulation of such projects based on the experience of the OFI up to the present time. The Federal Inspector also expressed his belief that it would be necessary to seek further additional waivers of the ANGTS legislation by Congress before the undertaking could proceed, the nature of which he proposed to outline in his memorandum.

8. Mr. Sharp pointed out that it would also be necessary to amend the agreement between the two countries because it had become obsolete in certain respects with the passage of time; this applied particularly to a number of specific financial provisions included in the bilateral agreement.

9. Mr. Rhett suggested that the OFI could be involved in a legal dispute as a result of a request submitted by Yukon Pacific, which is proposing to ship Prudhoe Bay gas to Japan in the form of liquified natural gas. The company has filed under the Freedom of Information Act for all Design Criteria Manuals submitted to the OFI by Northwest Alaskan, which the OFI had refused to provide on the grounds that the information should remain confidential because of its commercial nature. While the OFI was prepared to provide certain summaries of this information, this proposal had encountered objection from the Northwest Alaska Consortium.

10. Mr. Sharp outlined the current status of the Canadian project and the NPA. He noted that the NEB had assumed responsibility for the pre-built Eastern and Western Legs, as provided under the Act. The NPA had transferred all files in connection with Phase One of the undertaking to the NEB, but retained all of those relating to Phase Two. All socio-economic and environmental terms and conditions had been put into effect other than those for the South Yukon, which had been deferred because of a potential conflict between the Charter of Rights and Freedoms as it applied to employment and proposed job preferences for northern residents wishing to work on the project. The Quill Creek facilities established by Foothills Pipe Lines (Yukon) Ltd. for research into thaw settlement problems had been closed down; a final report on the test results was expected to be completed by the end of the year. The design of the second-stage pipeline was essentially on hold, although it was understood the company was reviewing questions relating to pipe size and compression pressure. Mr. Rhett said that the Alaskan Consortium was undertaking a similar review and suggested the possibility that hundreds of millions of dollars could be saved if higher operating pressure than now agreed upon were adopted. He indicated his belief that ultimately agreement might be arrived at on a design pressure of 2160 pounds per square inch.

11. Mr. Sharp, continuing his review, noted that the Vancouver office of the NPA had been closed down on March 31, 1984, and the Whitehorse office in July of the same year. The main administrative office in Calgary was officially closed on March 31, 1985. He expected that the staff of the Agency would be reduced to three by the fall, with only his secretary remaining on a full-time basis. The Commissioner advised that Federal-Provincial-Territorial Consultative Council, established under the Act, now met only on call, rather than quarterly, with the agreement of all its members. Appointments to both the Yukon Advisory Council and the North B.C. Advisory Council had been allowed to expire in view of the lack of activity on the project.

12. Mr. Sharp said that Foothills remained firmly committed to completion of the undertaking, which was evident from the fact that it had applied for membership in the Alaskan Consortium. At issue was the company's contention that it should not be required to match the contribution to date of existing members in view of the fact that its share of the cost of the second-stage project in Canada significantly exceeded that made by any other individual member of the Alaskan group. The Commissioner observed that three competing proposals had been submitted to regulatory authorities for the movement of Canadian gas approved for export to the United States by the NEB in January, 1983, all of which involved utilization of the Eastern Leg to some degree. He suggested implementation of any of these proposals would enhance the continuing viability of that segment of the Alaska Highway Pipeline. At the same time, Mr. Sharp expressed concern about the possibly adverse implications for the pre-build of a new regulatory régime involving U.S. pipelines and Canadian gas imports proposed by the Federal Energy Regulatory Commission. Mr. Rhett, while acknowledging that he had not analyzed the proposal said the proposal appeared to put the pre-build "in great jeopardy".