

The original documents are located in Box C33, folder “Presidential Handwriting, 1/19/1976 (2)” of the Presidential Handwriting File at the Gerald R. Ford Presidential Library.

Copyright Notice

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material. Gerald Ford donated to the United States of America his copyrights in all of his unpublished writings in National Archives collections. Works prepared by U.S. Government employees as part of their official duties are in the public domain. The copyrights to materials written by other individuals or organizations are presumed to remain with them. If you think any of the information displayed in the PDF is subject to a valid copyright claim, please contact the Gerald R. Ford Presidential Library.

THE WHITE HOUSE
WASHINGTON

January 19, 1976

ADMINISTRATIVELY CONFIDENTIAL

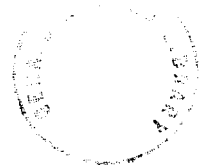
MEMORANDUM FOR: FRANK G. ZARB
FROM: JAMES E. CONNOR
SUBJECT: Alaskan Gas Transportation
Issue Paper

The President reviewed your memorandum of January 14th on the above subject and approved the following:

"Option 2 -- Sub-Option 2 - Set a period of one year for the FPC and other designated Federal agencies to submit recommendations to the President, who would then make a final recommendation to the Congress. "

Please follow-up with appropriate action.

cc: Dick Cheney



THE WHITE HOUSE
WASHINGTON

January 16, 1976

MR PRESIDENT:

Frank Zarb's memo of 1/14/76
Alaskan Gas Transportation Issue Paper

Staffing of the above memorandum resulted in
the following:

Option 1 - No action at this time.

Favored by Bill Seidman see comments TAB A.

Option 2 - Expediting legislation;

Sub-option 2: favored by Messrs. Buchen,
Cannon, Marsh and Scowcroft -- comments at
TAB B.

Jim Connor





FEDERAL ENERGY ADMINISTRATION

WASHINGTON, D.C. 20461

January 14, 1976

OFFICE OF THE ADMINISTRATOR

MEMORANDUM FOR THE PRESIDENT

FROM: FRANK G. ZARB *FZ*

SUBJECT: ALASKAN GAS TRANSPORTATION ISSUE PAPER

Enclosed is an issue paper on possible alternatives to expedite delivery of Alaskan gas to the lower-48 states. Substantial quantities of gas could be available by the early 1980's if construction and the regulatory process proceed on schedule.

The issue paper describes possible legislation to expedite the decision process and limit litigation. This legislation could be announced in the State of the Union Message or subsequent Energy Message.

Enclosure

ISSUE: ALASKAN GAS TRANSPORTATION SYSTEM

What action(s) should the Administration take to expedite selection and approval of one of the two competing Alaskan Gas Transportation Systems?

BACKGROUND

The Nation's need for additional supplies of natural gas necessitates that the gas reserves in Alaska's North Slope be developed and transported to the Lower-48 States at the earliest practicable time and in an economical and environmentally sound manner.

Two proposals for transporting Alaskan Gas to the U. S. are now before the Federal Power Commission (FPC). A recent report by the Department of Interior indicates that either of these systems would be economic and that delays in construction could inflate the ultimate cost of the systems. The two systems are (see Fig. 1):

(1) The Trans Alaska or El Paso proposal (this proposal involves shipment of liquefied natural gas to the West Coast from the Southern Alaska terminus of a pipeline).

(2) The Trans Canada or Arctic Gas proposal.

The Interior study and environmental impact statements have identified some important issues which have to be addressed and resolved:

- ° There are significant uncertainties with both systems which may delay or even prevent their construction. The Arctic Gas consortium will be heavily resisted by environmentalists and will have to await resolution of Canadian concerns. The El Paso system is dependent on the concept of displacement and will have to overcome possible California objections.*
- ° The cost to the regional gas consumers will vary between the two systems and may, because of current regulations or pricing practices, burden one group of regional consumers over another. Thus, the final decision may involve revised pricing procedures to distribute equitably the costs of the system.

* Displacement involves replacing the natural gas transported from the Gulf Coast to the West Coast with Alaskan Gas and re-routing the displaced Gulf Coast gas to the East Coast and Midwest.

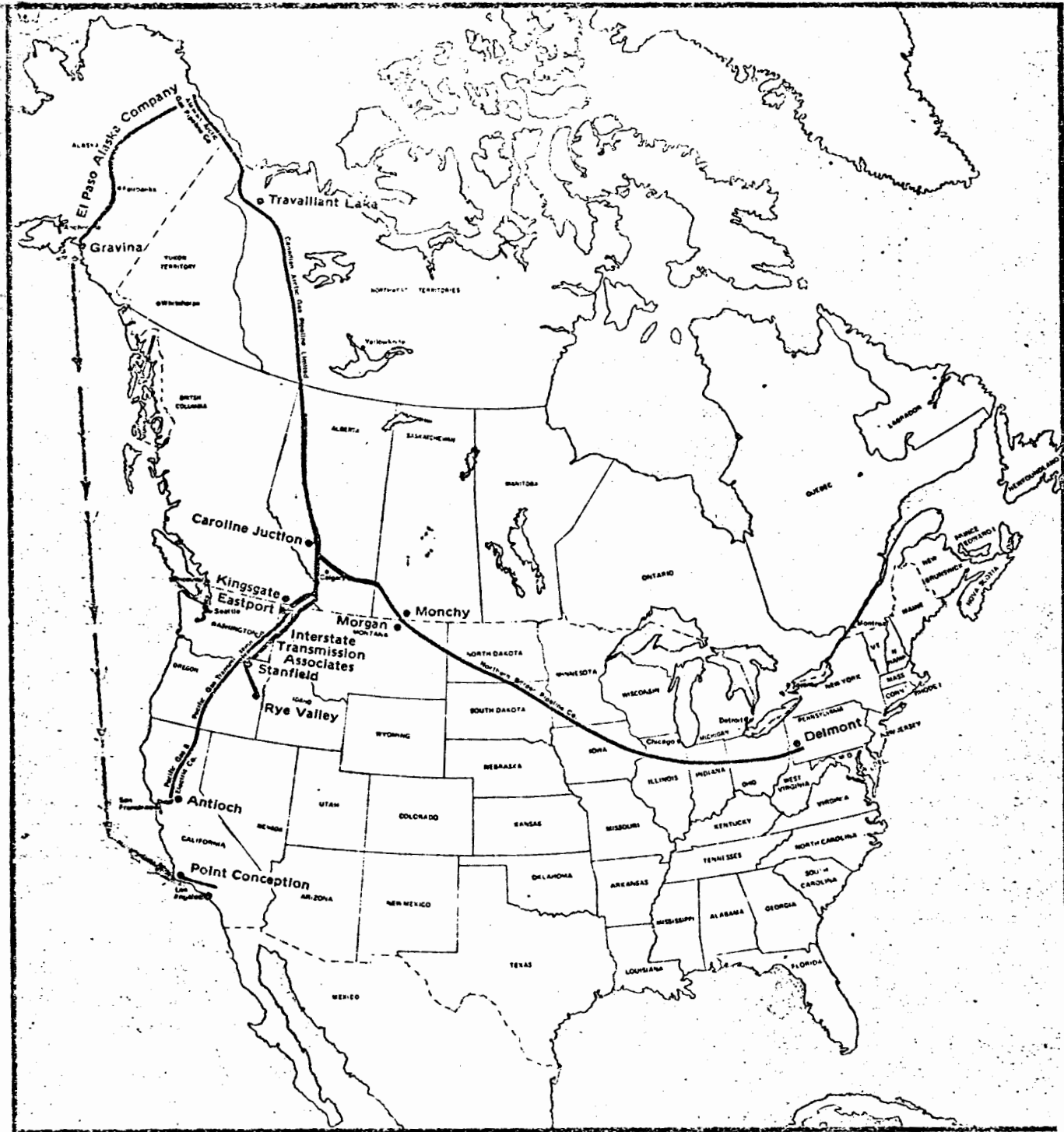


Figure I Proposed Pipeline Routes for the Alaska Natural Gas Transportation Systems.

Innovative regulatory procedures (such as allowing full cost of service pass-through) and broad participation by those parties benefiting most directly from the project will likely be required if a completely private financing is to be arranged for either of the systems. However, the possibility still exists that Federal financial assistance might become necessary.

Only one of these systems will receive approval.

The current selection procedure will require about one year for FPC approval, and, possibly, several years of litigation on environmental and other grounds. The experience with the Trans-Alaskan Oil Pipeline, in which there was a delay of several years, is an indication of the kind of delays that could evolve (although the environmental impact statement process has improved since then).

In the legislation on the Trans-Alaska Oil Pipeline, Congress directed that all Federal agencies issue the appropriate permits and other certificates and also provided that Federal actions concerning approvals were not subject to judicial review under the National Environmental Policy Act or any other law.

The following Agency actions are expected to be necessary; they illustrate the numerous areas of possible delay:

Federal Power Commission

- Issue a certificate of public convenience and necessity for the construction and operation of the transportation system (including the allowable tariff).
- Authorize gas sale by Prudhoe Bay gas producers.
- Issue certificates of construction of related pipelines by other companies for distribution of gas in the lower-48 States.
- Approve agreements, including quantities and price, between parties affected by proposed displacement if the El Paso proposal is chosen.

Interior Department

- Permits for rights-of-way over Federal land both in Alaska and the lower 48 States.

EPA (and State)

- Permits for discharge of liquid waste into waters of the State -- if relevant.

Corps of Engineers

- Permits for river crossings and for dredging of river bottoms.

Coast Guard

- Various approvals regarding construction and operation of LNG tankers for El Paso project.

Other Federal Agencies

- FMC, Public Health Service, Maritime Administration, FCC.

Individual State Approvals

- Alaska authorization on the Natural Gas Maximum Efficient Rates (MER) of production. Any other State authorization or permits regarding roads, sewage, coastal zone impacts, etc. Some States may institute additional certification requirements to minimize adverse effects or to influence the selection process.

Congressional Situation

To date, several legislative proposals have been introduced in both Houses which would either expedite approval or mandate the selection of one of the competing proposals. At present, it does not appear that there is sufficient Congressional support now for legislation to select either of the alternative routes.

Informal discussions with Senate Commerce Committee staff members indicate some interest in process legislation, but there appears to be no consensus on a particular approach. They also indicate that the Committee members will probably want to hold hearings prior to taking any action on a bill.

Both the FPC and the Interior Department have issued draft Environmental Impact Statements (EIS) on the two proposed systems.

OPTIONS

Option 1. Take no action at this time.

Under this option, no legislative action would be proposed and the current process will be allowed to proceed. It is possible that the Administration could propose legislation after the FPC decision is made, but a decision on this would be deferred.



PROS:

- Allows the current regulatory process to continue and to clarify technical, environmental and economic problems that are now unknown. The additional time may help define the type and scope of legislation needed.
- To propose legislation at this time would provide Congress with an opportunity to add provisions unwanted by the Administration.

CONS:

- May result in greater delay in the final decision, since even if legislation is proposed after the FPC decision, it will have to be considered by a new Congress and will take some time to enact.
- Lack of Administration initiative may allow Congress to seize the initiative and either propose expediting legislation or actually select one of the competing proposals.

Option 2. Propose Legislation to Expedite the Decision Process.

Propose legislation setting forth the procedures for review and approval of the selected system, and expediting the decision process.

There are three sub-options:

Sub-option 1

Establish a process in which the FPC would be allowed one year to complete the decision and issue a certificate of convenience and necessity. Certain designated Federal agencies would submit reports to the FPC concerning various aspects of the decision-making process (e.g., EPA on environment; DOT on tanker safety; State on U.S.-Canadian relations, etc.), and FPC would consider the findings in the reports in making its decisions. The Congress would then be given a certain number of months to review and disapprove of the decision. Failure to disapprove the decision would allow the project to proceed and preclude judicial review. In addition, jurisdiction of the courts to review other Federal actions would be removed in the same fashion as in the Trans-Alaskan Oil Pipeline Act, previously described.

PROS:

- FPC has established procedures and expertise for deciding such issues.
- FPC is an independent regulatory agency, and by involving other agencies, it could reduce Congressional resistance to the process.
- Avoids Presidential involvement in a controversial decision.

CONS:

- Since the FPC is an independent agency, it would not necessarily have to take into consideration broader executive agency economic, foreign policy, and political considerations.
- FPC's ability to consider some important issues, such as the environmental impacts, financing requirements or U.S.-Canadian relationships, is limited.
- Would result in a major decision being made by an independent agency, that is not a part of the Administration.

Sub-option 2

Set a period of one year for the FPC and other designated Federal agencies to submit recommendations to the President, who would then make a final recommendation to the Congress. The Congress would have a similar right of disapproval as in Sub-option 1, and judicial review would be limited in the same fashion.

PROS:

- Allows the President a role in the decision-making process on this important issue.
- Allows better consideration of those issues which FPC may not be equipped to handle.
- Allows completion of the FPC process.

CONS:

- Could be subject to greater Congressional resistance because of the larger role of the Administration.
- Is a more cumbersome procedure.
- Will require a controversial decision from the President, which will create ill-will regardless of the outcome.

For both Sub-options 1 and 2, the Congressional review could be either a one-House veto within a specified period of time (60-90 days) or would require a concurrent resolution to disapprove. Congress would probably prefer the one-House veto, as concurrent resolution would make disapproval more difficult.

If Congress disapproves a Presidential or FPC recommendation, there are various possibilities of future action: 1) the FPC would begin its decision-making process again, 2) Congress or the Administration could recommend another proposal within a specified period of time (perhaps 90 days), or 3) the recommendation would remain in effect, but would be subject to normal judicial review, or perhaps expedited judicial review as outlined in Sub-option 3, below. The actual process, in the event of disapproval, would be defined in the legislation.

Sup-option 3

FPC Determination and Expedited Judicial Review

Instruct the FPC to (1) choose between the two systems and make all necessarily related decisions by a specified date and (2) consider the input of interested executive branch agencies which would be required to submit views by a specified earlier date.

The Legislation would also establish an expedited judicial review procedure whereby all interested parties would have to file any suits against the decision within a limited time period (e.g., 60 days), to a specific court (either an existing court or a special court). Judicial review of the non-FPC decisions could either be coordinated in this same court or removed from judicial review altogether as with the Alaska Pipeline legislation, previously described.

PROS:

- ° Allows the final governmental decision to be made by the entity that has the most expertise on most of the technical issues.
- ° Takes the decision out of the political process, thus limiting political conflicts which would otherwise ensue.
- ° Puts all interested parties (governmental and private) on notice that they would have only a limited period in which to participate in the decision-making process and to litigate the FPC determination.

CONS:

- If the court does not allow the FPC decision to stand or refer the issue back to the FPC for reconsideration, the transportation of Alaskan natural gas to the lower 48 States would be considerably delayed (unless Congress intervenes at that point to dictate a prompt decision).
- By taking the decision entirely out of the political process, it does not allow the Executive Branch adequate input to the decision-making process.
- Since there would be no time limit on when a judicial decision may be rendered (as opposed to when suits must be filed), a final decision could be considerably delayed; possibly one year or more beyond the FPC decision.

AGENCY RECOMMENDATIONS

- Option 1 - No action at this time: CEA, OMB, EPA.
- Option 2 - Expediting legislation:
 - Sub-option 1: No agencies support this sub-option.
 - Sub-option 2: FEA, State, Treasury, Commerce, Interior, CIEP.
 - Sub-option 3: No agencies support this sub-option.

PRESIDENTIAL DECISION

Option 1 _____

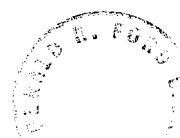
Option 2

Sub-option 1

Sub-option 2 MC7

Sub-option 3 _____





THE WHITE HOUSE

WASHINGTON

January 15, 1976

MEMORANDUM FOR JAMES E. CONNOR

FROM:

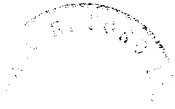
L. WILLIAM SEIDMAN

LWS

SUBJECT:

Alaska Gas Transportation Issue Paper

I recommend Option 1 -- take no action at this time. There is every reason to believe that the FPC will make a reasonable decision on this issue. Moreover, there is no compelling reason for Presidential involvement at this time in what could become a highly politicized issue. This option leaves open the opportunity for future Presidential involvement if that is considered wise.





THE WHITE HOUSE

WASHINGTON

January 15, 1976

MEMORANDUM FOR: JIM CONNOR
THROUGH: PHIL BUCHEN *P.B.*
FROM: KEN LAZARUS *KL*
SUBJECT: Zarb Memo Re Alaskan Gas
Transportation

Counsel's Office has reviewed the attached draft Memorandum for the President and supports Option 2, sub-option 2, with two reservations:

(1) In order to improve our initial bargaining posture vis-a-vis the Congress and to ensure the constitutional purity of a legislative proposal, provision for Congressional review should be in the form of a joint resolution rather than a concurrent resolution or one-House veto. Obviously, we recognize that this type of review provision would not ultimately emerge from the legislative process.

(2) In the second paragraph on page 6 of the Memorandum, several alternatives are presented in the event Congress disapproves a Presidential or FPC recommendation. Within the context of Option 2, sub-option 2, the only logical alternatives would be (a) recommend another proposal within a specified period of time; or (b) affirmative legislation. In any event, we would strongly object to provision for judicial review of the substantive decision reached in this area.



THE WHITE HOUSE

WASHINGTON

January 15, 1976

MEMORANDUM FOR: JIM CONNOR
FROM: JIM CANNON
SUBJECT: Alaskan Gas Transportation
Issue Paper

With respect to Frank Zarb's issue paper, I recommend Option 2, Sub-option 2; i.e., submit legislation now which would prescribe a review process and timetable with the selection of a route for a natural gas pipeline made by the President and subject to Congressional review.



Staffing

THE WHITE HOUSE
WASHINGTON

January 19, 1976

ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR:

FRANK G. ZARB

FROM:

JAMES E. CONNOR

SUBJECT:

Alaskan Gas Transportation
Issue Paper

The President reviewed your memorandum of January 14th on the above subject and approved the following:

"Option 2 -- Sub-Option 2 - Set a period of one year for the FPC and other designated Federal agencies to submit recommendations to the President, who would then make a final recommendation to the Congress."

Please follow-up with appropriate action.

cc: Dick Cheney



THE WHITE HOUSE



FROM
THE WHITE HOUSE
WASHINGTON, D.C.

Wm R. Zerbe

The Honorable Frank Zarb
Federal Energy Administration
New Post Office Building
12th & Pa. Avenue - Room 3400
Washington, D.C. 20461

January 16, 1976

MR PRESIDENT:

Frank Zarb's memo of 1/14/76
Alaskan Gas Transportation Issue Paper

Staffing of the above memorandum resulted in
the following:

Option 1 - No action at this time.

Favored by Bill Seidman see comments TAB A.

Option 2 - Expediting legislation;

Sub-option 2 favored by Messrs. Buchen,
Cannon, Marsh and Scowcroft -- comments at
TAB B.

Jim Connor



THE WHITE HOUSE

WASHINGTON

January 15, 1976

MEMORANDUM FOR JAMES E. CONNOR

FROM:

L. WILLIAM SEIDMAN

LWS

SUBJECT:

Alaska Gas Transportation Issue Paper

I recommend Option 1 -- take no action at this time. There is every reason to believe that the FPC will make a reasonable decision on this issue. Moreover, there is no compelling reason for Presidential involvement at this time in what could become a highly politicized issue. This option leaves open the opportunity for future Presidential involvement if that is considered wise.

THE WHITE HOUSE

WASHINGTON

January 15, 1976

MEMORANDUM FOR: JIM CONNOR
THROUGH: PHIL BUCHEN *P.B.*
FROM: KEN LAZARUS *KL*
SUBJECT: Zarb Memo Re Alaskan Gas
Transportation

Counsel's Office has reviewed the attached draft Memorandum for the President and supports Option 2, sub-option 2, with two reservations:

(1) In order to improve our initial bargaining posture vis-a-vis the Congress and to ensure the constitutional purity of a legislative proposal, provision for Congressional review should be in the form of a joint resolution rather than a concurrent resolution or one-House veto. Obviously, we recognize that this type of review provision would not ultimately emerge from the legislative process.

(2) In the second paragraph on page 6 of the Memorandum, several alternatives are presented in the event Congress disapproves a Presidential or FPC recommendation. Within the context of Option 2, sub-option 2, the only logical alternatives would be (a) recommend another proposal within a specified period of time; or (b) affirmative legislation. In any event, we would strongly object to provision for judicial review of the substantive decision reached in this area.

THE WHITE HOUSE

WASHINGTON

January 15, 1976

MEMORANDUM FOR: JIM CONNOR
FROM: JIM CANNON
SUBJECT: Alaskan Gas Transportation
Issue Paper

With respect to Frank Zarb's issue paper, I recommend Option 2, Sub-option 2; i.e., submit legislation now which would prescribe a review process and timetable with the selection of a route for a natural gas pipeline made by the President and subject to Congressional review.



FEDERAL ENERGY ADMINISTRATION

WASHINGTON, D.C. 20461

January 14, 1976

OFFICE OF THE ADMINISTRATOR

MEMORANDUM FOR THE PRESIDENT

FROM: FRANK G. ZARB *gz*

SUBJECT: ALASKAN GAS TRANSPORTATION ISSUE PAPER

Enclosed is an issue paper on possible alternatives to expedite delivery of Alaskan gas to the lower-48 states. Substantial quantities of gas could be available by the early 1980's if construction and the regulatory process proceed on schedule.

The issue paper describes possible legislation to expedite the decision process and limit litigation. This legislation could be announced in the State of the Union Message or subsequent Energy Message.

Enclosure

ISSUE: ALASKAN GAS TRANSPORTATION SYSTEM

What action(s) should the Administration take to expedite selection and approval of one of the two competing Alaskan Gas Transportation Systems?

BACKGROUND

The Nation's need for additional supplies of natural gas necessitates that the gas reserves in Alaska's North Slope be developed and transported to the Lower-48 States at the earliest practicable time and in an economical and environmentally sound manner.

Two proposals for transporting Alaskan Gas to the U. S. are now before the Federal Power Commission (FPC). A recent report by the Department of Interior indicates that either of these systems would be economic and that delays in construction could inflate the ultimate cost of the systems. The two systems are (see Fig. 1):

(1) The Trans Alaska or El Paso proposal (this proposal involves shipment of liquefied natural gas to the West Coast from the Southern Alaska terminus of a pipeline).

(2) The Trans Canada or Arctic Gas proposal.

The Interior study and environmental impact statements have identified some important issues which have to be addressed and resolved:

- There are significant uncertainties with both systems which may delay or even prevent their construction. The Arctic Gas consortium will be heavily resisted by environmentalists and will have to await resolution of Canadian concerns. The El Paso system is dependent on the concept of displacement and will have to overcome possible California objections.*
- The cost to the regional gas consumers will vary between the two systems and may, because of current regulations or pricing practices, burden one group of regional consumers over another. Thus, the final decision may involve revised pricing procedures to distribute equitably the costs of the system.

* Displacement involves replacing the natural gas transported from the Gulf Coast to the West Coast with Alaskan Gas and re-routing the displaced Gulf Coast gas to the East Coast and Midwest.



Figure I Proposed Pipeline Routes for the Alaska Natural Gas Transportation Systems.

Innovative regulatory procedures (such as allowing full cost of service pass-through) and broad participation by those parties benefiting most directly from the project will likely be required if a completely private financing is to be arranged for either of the systems. However, the possibility still exists that Federal financial assistance might become necessary.

Only one of these systems will receive approval.

The current selection procedure will require about one year for FPC approval, and, possibly, several years of litigation on environmental and other grounds. The experience with the Trans-Alaskan Oil Pipeline, in which there was a delay of several years, is an indication of the kind of delays that could evolve (although the environmental impact statement process has improved since then).

In the legislation on the Trans-Alaska Oil Pipeline, Congress directed that all Federal agencies issue the appropriate permits and other certificates and also provided that Federal actions concerning approvals were not subject to judicial review under the National Environmental Policy Act or any other law.

The following Agency actions are expected to be necessary; they illustrate the numerous areas of possible delay:

Federal Power Commission

- Issue a certificate of public convenience and necessity for the construction and operation of the transportation system (including the allowable tariff).
- Authorize gas sale by Prudhoe Bay gas producers.
- Issue certificates of construction of related pipelines by other companies for distribution of gas in the lower-48 States.
- Approve agreements, including quantities and price, between parties affected by proposed displacement if the El Paso proposal is chosen.

Interior Department

- Permits for rights-of-way over Federal land both in Alaska and the lower 48 States.

EPA (and State)

- Permits for discharge of liquid waste into waters of the State -- if relevant.

Corps of Engineers

- Permits for river crossings and for dredging of river bottoms.

Coast Guard

- Various approvals regarding construction and operation of LNG tankers for El Paso project.

Other Federal Agencies

- FMC, Public Health Service, Maritime Administration, FCC.

Individual State Approvals

- Alaska authorization on the Natural Gas Maximum Efficient Rates (MER) of production. Any other State authorization or permits regarding roads, sewage, coastal zone impacts, etc. Some States may institute additional certification requirements to minimize adverse effects or to influence the selection process.

Congressional Situation

To date, several legislative proposals have been introduced in both Houses which would either expedite approval or mandate the selection of one of the competing proposals. At present, it does not appear that there is sufficient Congressional support now for legislation to select either of the alternative routes.

Informal discussions with Senate Commerce Committee staff members indicate some interest in process legislation, but there appears to be no consensus on a particular approach. They also indicate that the Committee members will probably want to hold hearings prior to taking any action on a bill.

Both the FPC and the Interior Department have issued draft Environmental Impact Statements (EIS) on the two proposed systems.

OPTIONS

Option 1. Take no action at this time.

Under this option, no legislative action would be proposed and the current process will be allowed to proceed. It is possible that the Administration could propose legislation after the FPC decision is made, but a decision on this would be deferred.

PROS:

- Allows the current regulatory process to continue and to clarify technical, environmental and economic problems that are now unknown. The additional time may help define the type and scope of legislation needed.
- To propose legislation at this time would provide Congress with an opportunity to add provisions unwanted by the Administration.

CONS:

- May result in greater delay in the final decision, since even if legislation is proposed after the FPC decision, it will have to be considered by a new Congress and will take some time to enact.
- Lack of Administration initiative may allow Congress to seize the initiative and either propose expediting legislation or actually select one of the competing proposals.

Option 2. Propose Legislation to Expedite the Decision Process.

Propose legislation setting forth the procedures for review and approval of the selected system, and expediting the decision process.

There are three sub-options:

Sub-option 1

Establish a process in which the FPC would be allowed one year to complete the decision and issue a certificate of convenience and necessity. Certain designated Federal agencies would submit reports to the FPC concerning various aspects of the decision-making process (e.g., EPA on environment; DOT on tanker safety; State on U.S.-Canadian relations, etc.), and FPC would consider the findings in the reports in making its decisions. The Congress would then be given a certain number of months to review and disapprove of the decision. Failure to disapprove the decision would allow the project to proceed and preclude judicial review. In addition, jurisdiction of the courts to review other Federal actions would be removed in the same fashion as in the Trans-Alaskan Oil Pipeline Act, previously described.

PROS:

- FPC has established procedures and expertise for deciding such issues.
- FPC is an independent regulatory agency, and by involving other agencies, it could reduce Congressional resistance to the process.
- Avoids Presidential involvement in a controversial decision.

CONS:

- Since the FPC is an independent agency, it would not necessarily have to take into consideration broader executive agency economic, foreign policy, and political considerations.
- FPC's ability to consider some important issues, such as the environmental impacts, financing requirements or U.S.-Canadian relationships, is limited.
- Would result in a major decision being made by an independent agency, that is not a part of the Administration.

Sub-option 2

Set a period of one year for the FPC and other designated Federal agencies to submit recommendations to the President, who would then make a final recommendation to the Congress. The Congress would have a similar right of disapproval as in Sub-option 1, and judicial review would be limited in the same fashion.

PROS:

- Allows the President a role in the decision-making process on this important issue.
- Allows better consideration of those issues which FPC may not be equipped to handle.
- Allows completion of the FPC process.

CONS:

- Could be subject to greater Congressional resistance because of the larger role of the Administration.
- Is a more cumbersome procedure.
- Will require a controversial decision from the President, which will create ill-will regardless of the outcome.

For both Sub-options 1 and 2, the Congressional review could be either a one-House veto within a specified period of time (60-90 days) or would require a concurrent resolution to disapprove. Congress would probably prefer the one-House veto, as concurrent resolution would make disapproval more difficult.

If Congress disapproves a Presidential or FPC recommendation, there are various possibilities of future action: 1) the FPC would begin its decision-making process again, 2) Congress or the Administration could recommend another proposal within a specified period of time (perhaps 90 days), or 3) the recommendation would remain in effect, but would be subject to normal judicial review, or perhaps expedited judicial review as outlined in Sub-option 3, below. The actual process, in the event of disapproval, would be defined in the legislation.

Sup-option 3

FPC Determination and Expedited Judicial Review

Instruct the FPC to (1) choose between the two systems and make all necessarily related decisions by a specified date and (2) consider the input of interested executive branch agencies which would be required to submit views by a specified earlier date.

The Legislation would also establish an expedited judicial review procedure whereby all interested parties would have to file any suits against the decision within a limited time period (e.g., 60 days), to a specific court (either an existing court or a special court). Judicial review of the non-FPC decisions could either be coordinated in this same court or removed from judicial review altogether as with the Alaska Pipeline legislation, previously described.

PROS:

- Allows the final governmental decision to be made by the entity that has the most expertise on most of the technical issues.
- Takes the decision out of the political process, thus limiting political conflicts which would otherwise ensue.
- Puts all interested parties (governmental and private) on notice that they would have only a limited period in which to participate in the decision-making process and to litigate the FPC determination.

CONS:

- If the court does not allow the FPC decision to stand or refer the issue back to the FPC for reconsideration, the transportation of Alaskan natural gas to the lower 48 States would be considerably delayed (unless Congress intervenes at that point to dictate a prompt decision).
- By taking the decision entirely out of the political process, it does not allow the Executive Branch adequate input to the decision-making process.
- Since there would be no time limit on when a judicial decision may be rendered (as opposed to when suits must be filed), a final decision could be considerably delayed; possibly one year or more beyond the FPC decision.

AGENCY RECOMMENDATIONS

- Option 1 - No action at this time: CEA, OMB, EPA.
- Option 2 - Expediting legislation:
 - Sub-option 1: No agencies support this sub-option.
 - Sub-option 2: FEA, State, Treasury, Commerce, Interior, CIEP.
 - Sub-option 3: No agencies support this sub-option.

PRESIDENTIAL DECISION

Option 1 ____

Option 2

Sub-option 1 ____

Sub-option 2 ____

Sub-option 3 ____

1955

THE WHITE HOUSE

ACTION MEMORANDUM

WASHINGTON

LOG NO.:

Date: January 14, 1976

Time:

FOR ACTION:

cc (for information):

- ✓ Phil Buchen
- ✓ Jim Cannon
- ✓ Max Friedersdorf
- ✓ Jack Marsh
- ✓ Bill Seidman
- ✓ Brent Scowcroft
- ✓ Rogers Morton

FROM THE STAFF SECRETARY

DUE: Date:

Thursday, January 15

Time:

3 P.M.

SUBJECT:

Frank Zarb memo 1/14/76 re
Alaskan Gas Transportation Issue Paper

ACTION REQUESTED:

- For Necessary Action
- For Your Recommendations
- Prepare Agenda and Brief
- Draft Reply
- For Your Comments
- Draft Remarks

REMARKS:

Morton - (no comments per Mr. Hughes) x
 Cannon - option 2 (see comments) ✓
 Seidman - option 1 (see comments) ✓
 Buchen - option 2 (see comments) ✓
 Friedersdorf - concurs in memo (?)
 Marsh - option 2 - sub-option 2
 Scowcroft - option 2 - sub-option 2 (per Harman)

PLEASE ATTACH THIS COPY TO MATERIAL SUBMITTED.

If you have any questions or if you anticipate a delay in submitting the required material, please telephone the Staff Secretary immediately.

Jim Connor
For the President

THE WHITE HOUSE

WASHINGTON

January 15, 1976

MEMORANDUM FOR: JIM CONNOR
FROM: BOB WOLTHUIS *BW*
SUBJECT: Frank Zarb memo 1/14/76 re Alaskan Gas
Transportation Issue Paper

The Office of Legislative Affairs concurs with subject memorandum.