The Power of the Big Three:

A Case Study on Petroleum Development in Alaska

by

Richard A. Fineberg
Independent Analyst, Fairbanks Alaska

June 6, 2016

Feedback Welcome – Please Contact:
Richard A. Fineberg
PO Box 416
Ester, Alaska 99725

Phone:	907 479-7778
Email:	fineberg@alaska.net
Web Site:	http://www.finebergresearch.com

The Power of the Big Three:
A Case Study on Petroleum Development in Alaska

Introduction

At the far northwest corner of the North America continent, separated from the Lower-48 states by Canada's western provinces, Alaska is by far the largest state in the union, with a varied and spectacular land mass more than twice the size of Texas and famed since the days of Jack London for wilderness and wildlife adventure stories in the extreme Arctic and subarctic conditions of one of the nation's youngest and least populated states. Discovery nearly half a century ago at the nation's largest oil field, where the northern edge of the continental coastal plain slips into the Arctic Ocean at Prudhoe Bay on Alaska's North Slope, has brought riches to Alaska and its oil producing companies. Against this unusual backdrop, this state's small population base offers opportunities for individuals to develop perspectives on these proceedings. Due to this combination of unique history and circumstances, Alaska case studies have the potential to provide useful insights and methodological lessons with global import regarding the inherently complex political and economic issues of petroleum development. For these reasons, I feel fortunate to have been able to observe petroleum development in this remote state for more than four decades.

This case study reviews Alaska petroleum development from a global perspective, examines how recent developments are related to Alaskan history and introduces research methodology that may prove useful for analysis of current events. As oil prices soared for 15 years before the 2014 global oil price crash, Alaska and the three major oil producers took in big bucks. In recent years, as Alaska struggled with its petroleum tax controversy, the impacts of the global oil price crash and the inevitable natural decline of what was formerly known as the nation's largest source of daily oil production, I watched from my cabin in the woods outside Fairbanks as misinformation and strange silences

blurred important historical facts and regarding the consolidation, conduct and profitability of the three major oil-producing companies operating at Prudhoe Bay. Because important aspects were either out of focus or strangely absent from discussion, it appeared to me that significant lessons from this case study were escaping public attention. For example, when President Obama came to Alaska in 2015, his primary concern was climate change. Consequently, news reports paid virtually no attention to the fact that in this remote state three large oil companies –- British Petroleum, ConocoPhillips and ExxonMobil –- control more than 90 percent of the state's oil production from the Prudhoe Bay field.

The major producers also reaped additional profits from ownership of the Trans-Alaska Pipeline System (TAPS), described when built as the world's largest privately financed construction project. Because pipeline tariffs (shipping charges) are added to production costs, TAPS tariffs reduced the industry tax base for payments to the state revenues, while handicapping competition from other North Slope producers. It is therefore noteworthy that TAPS overcharges by the major producers have been a frequent subject of litigation. But when Alaska's recent petroleum revenue problems were considered once more at the end of 2015, the subjects of TAPS tariffs and the consolidation of the North Slope petroleum industry's corporate structure were both missing from the state's deliberations on petroleum policy problems.

Because the strange silence on these important subjects continued in 2016 while the industry, legislators and the governor debated on what to do about cash flow problems created by the global oil price crash, when solutions emerge from the current policy paralysis It seems unlikely that new state policies will address the consolidated structure of the North Slope production and the dubious conduct of the major North Slope producers, as demonstrated by the recent examples of industry misinformation on the tax cut controversy and the court records on TAPS tariff overcharges. For policy purposes, this report therefore seeks to place these subjects in proper perspective and concludes with six recommendations.

Four Background Questions

While statistics are a useful starting point for petroleum analysis, it is useful to look carefully at the background to these numbers to identify the multiple factors that constitute the principal sources of profits and make sure that the numbers are understood in their appropriate context. To deal with petroleum development policy it is also necessary to distinguish empirical facts from unsupported generalizations while putting background information – sometimes missing from consideration -- in perspective. To demonstrate the utility of background information, answers to the following four questions will open the doors to consideration of issues that will prove to be essential to the understanding of Alaska resource development issues.

Does the Alaska state fiscal system fail to produce information on production profits that is conducive to public understanding?

The troubling answer to this question is "yes." Despite geographic and demographic characteristics that make Alaska a useful subject for case studies, annualized petroleum data, as recorded in the state fiscal system, cannot be analyzed with the generally used calendar year data on petroleum statistics. That is because Alaska's fiscal year system moves the last portion of the previous calendar year to the next fiscal year, where that half-year subtotal is combined with the first portion of the next calendar year. For this reason, the annual data reported in state fiscal year totals differs from calendar year totals. State use of this system therefore creates confusion and makes it difficult for members of the public to monitor company performance and payments to the state in terms of the more widely used data on petroleum production volume, prices and trends.

Is the North Slope corporate enterprise profitable for its producers?

Once again, "yes" is the answer. For reasons stated above, state data on North Slope producer profits is not readily available for analysis. However, when the ConocoPhillips stockholder shares went to the public market near the start of the current century, the federal Securities Exchange Commission (SEC) required that company to report its economic data from specific oil-producing regions that

included Alaska. These results, regarded as generally indicative of the other major North Slope producer profits, were significant. In marked contrast to that company's erratic global earnings, between 2007 and 2012 ConocoPhillips North Slope net profits ranged from a steady annual profit of $1.5 billion to $2.3 billion annually. In marked contrast to that company's consistently strong and steady profits from the North Slope during this period, inconsistent oil profits and losses from the rest of the world plummeted to a reported net loss of more than $16 billion in 2008. Required reports from ConocoPhillips show that for the years 2007 through 2009, without Alaska ConocoPhillips would have lost approximately $6 billion. But North Slope profits earned in those three years enabled that company to break even.

From the standpoint of public policy, do the major producers use their consolidation and economic power to promote passage of new laws that would enhance their profitability?

Yes. In 2013 and 2014 the major producers provided significant funding for their campaign to enact and then retain a state tax cut, which favored producer interests with a profits-based production tax at low prices (no state taxes on oil production until the market price exceeded production costs), while replacing the state's ACES progressive oil profits tax with a flat tax at higher prices (which would greatly increase industry profits at rising prices). While the Legislature debated the SB21 tax cut in 2013, in its suite of slides ConocoPhillips presented a highly misleading bar chart on industry profitability on six separate occasions to committees in both state houses. The following year, much of the 2014 campaign money was spent on television advertising, in which British Petroleum repeatedly ran an historically inaccurate television advertisement.

Do the three major North Slope producers also use their ownership of the Trans-Alaska Pipeline System (TAPS) to reduce their reported net profits (and therefore the taxes they must pay), to the detriment of both the state and their competitive North Slope producers?

Yes. The 2002 decision and order in the TAPS tariff case by the Regulatory Commission of Alaska (RCA) called attention to both current and

historical pipeline overcharges by the TAPS owners with the following two significant findings:

- For the years under consideration in this case – between 1997 and 2000--the RCA determined that TAPS charges by the owner companies on the roughly eleven percent of oil under state jurisdiction were significantly higher than the amount necessary to enable the TAPS Owners to cover all costs, including reasonable returns on investment. The RCA therefore ordered a reduction in TAPS tariffs, from approximately $3.05 per barrel to $1.96 per barrel.
- In issuing this finding, the RCA also noted that during the first 20 years of TAPS operations, between 1977 and 1996 the major North Slope producers had overcharged their competitors in pipeline tariffs by the extraordinary sum of more than $9.9 billion. While the earlier 20-year overcharges were not eligible for recovery in this case, the RCA formally offered this background finding to support their order to reduce the tariffs at issue (between 1997 and 2000), as well as future pipeline tariff charges.

The preceding RCA decision and order in this case gave the overcharged North Slope producers and shippers long overdue support and indicated that the consolidated North Slope producers were using their ownership control of the pipeline to enhance economic gains and help keep competitors from the nation's largest oil field. Although my brief testimony in this case played only a minor role (the independent North Slope parties were doing the heavy lifting in this month-long case), since I was testifying as an expert witness I had a ringside seat, from which I could review the conflicting testimony from both sides.

The driving economic force in this case was that pipeline tariffs, filed annually, included guaranteed profits for the pipeline owners that could be increased if their overcharges managed to survive the regulatory and court follow-up proceedings. Theoretically under common carrier law, to ship oil from the North Slope across Alaska all producers had to pay the same per-barrel tariff. But that was only theory. Because the producers that also owned the Trans-Alaska Pipeline System through their subsidiaries they would retain their own

excess pipeline tariff payments, the non-owning companies would have to pay the filed tariff overcharges out of pocket. Additionally, the pipeline tariffs included a profit allowance for the pipeline owners that would also be augmented by increased pipeline shipping charges if those charges, filed in the annual tariff proceedings, managed to survive the regulatory and court follow-up proceedings. Finally, there was another overcharge incentive for all shippers: higher transportation costs also cut industry payments to the state for all shippers by reducing the tax base for production profit. To summarize: due to overlapping ownership of production and pipeline facilities, the major producers were the primary beneficiaries of high tariff rates.

Three Remarkable Statements from Alaskan History (1997 and 2007)

Although the 2002 TAPS tariff decision attracted little notice and the major producers continued to extract even more money from pipeline overcharges, statements issued separately in 1997 and 2007 by two knowledgeable and notable individuals referred to the pipeline producer-owner conduct and profits associated with Alaska's unusual pipeline arrangement. In these two statements, a senior oil company official and a Nobel laureate economist both identified problems associated with consolidated corporate control of Alaska's petroleum pipelines that raised questions about the conduct of three dominant North Slope oil companies. But in this era of information overload, these statements received little attention in Alaska. Also in 2007, a third statement -- by former governor on a different but related economic subject – was similarly overlooked in this remote state. While the governor's statement referred to the Permanent Fund Dividend (PFD) program, Alaska's failure to acknowledge these informed statements by persons with first-hand experience on economic issues in Alaska adds this important lesson: When modern political systems cope with public policy issues on economic issues such as petroleum development, information essential to understanding problems associated with these issues is liable to go unrecognized.

By taking a closer look at the pattern of silence on these issues, this historical approach will serve the dual purposes of indicating the significance of Alaska pipeline tariff issues, while demonstrating the lesson that research on the complex subject of petroleum development policies may sometimes require careful effort to look beyond information prominently displayed in press and historical studies to find facts, statements and background information that may be pertinent to public policy but may not be readily available in this era of information overload.

In the first example of a significant statement on TAPS problems that was ignored in Alaska, in 1997 Archie Dunham, a Conoco Oil company veteran who had just been promoted to serve as president of that company, told in an interviewer with *Hart's Oil & Gas Investor* why his company had traded its North Slope Milne Point field to British Petroleum and left Alaska at the end of 1993. According to Dunham:

> It broke my heart to trade Milne Point, but we had to do it. All the value of that property was taken away from us in the pipeline tariffs. It was a valuable strategic lesson.

At that time ConocoPhillips was a North Slope field operator that had no stake in Alyeska's TAPS and Dunham's statement indicated that major producers at Prudhoe were using their control of the Alyeska transportation system from the nation's largest oil field to overcharge their competitors, extracting added profits through excessive pipeline tariffs.

Despite Dunham's little-noticed 1997 complaint about alleged pipeline tariff overcharges, five years later his company came back to this state. How this reversal came out is a story worth telling: In 1999 British Petroleum was planning a global take-over of one of its original North Slope partners, Atlantic Richfield (ARCO). But the Federal Trade Commission – not the state of Alaska -- refused to let British Petroleum expand its Alaska properties through the British Petroleum-ARCO takeover on anti-trust grounds, and therefore required British Petroleum to sell its newly-acquired ARCO assets. This aspect of merger-mania enabled the Phillips Petroleum company to purchase ARCO's Alaska holdings in 2000, joining its larger partners British Petroleum and ExxonMobil in Alaska as

the third major North Slope “Big Three” producing company with ownership stake in TAPS. Two years later, Dunham’s Conoco Oil formally merged with Phillips Petroleum. Completion of this merger with the new North Slope producer and holder of a major stake in TAPS put Dunham on the owner side of the pipeline fence. With his broken heart apparently cured, Dunham briefly served as the chairman and CEO of the newly formed ConocoPhillips before retiring in 2004.

In 2007 -- ten years after Dunham’s broken heart statement -- noted economist Joseph Stiglitz vociferously complained about industry cheating in Alaska. His published reference to pipeline tariff overcharges were more specific than Dunham’s. Moreover, six years earlier Stiglitz had been awarded a Nobel Prize for his research on problems he attributed to asymmetrical information that handicapped individuals, competitors and developing nations in their dealings with industry. This time, in an introductory chapter to the 2007 publication of the book *Escaping the Resource Curse*, which he co-edited with two Columbia University colleagues, Stiglitz reported that major oil company producers in this oil-rich state were supposed to share their gross receipts with the state government but were not playing honestly. Here is an excerpt from this Nobel Laureate’s overlooked statement:

> By overestimating their costs by just a few pennies per gallon (and multiplying those pennies by hundreds of millions of gallons) the oil companies would increase their profits enormously. They could not resist the temptation. They also found other ways to cheat, such as selling their oil to their own subsidiaries, recording a lower than fair market value … or using other subsidiaries to ship their oil out and then reporting fictionally high shipping cost.

Noting that expensive and time-consuming investigations in Alaska led to a series of delayed settlement payments in excess of six billion dollars from major North Slope oil producers, Stiglitz said that in Alaska “there was no doubt that cheating had occurred.”

These critical observations by Stiglitz in 2007, based on his first-hand experience in this state some 20 years earlier, were supported by subsequent state and federal regulatory tariff orders that were upheld by court decisions. The TAPS owners had again raised the controversial tariffs for the remaining

interstate shipments, based on their reported costs of the TAPS renovation program, known as Strategic Reconfiguration (SR). Independent North Slope producers and shippers appealed this increase, and in May 2007 the national pipeline regulatory counterparts at the Federal Energy Regulatory Commission (FERC) ordered a tariff reduction that closely matched the RCA's 2002 tariff decision. In a strongly-worded and highly detailed decision, federal administrative law judge Carmen Cintron concluded that the owners' tariff charges of more than $5.00 per barrel should be brought down to approximately $2.04 per barrel, reducing the TAPS owners' tariff charges by approximately 60 percent. Although the federal judge was using a different tariff methodology under FERC guidelines, she recommended that the FERC tariff should be reduced to within four percent of the state RCA's reduced tariff order, issued five years earlier.

Despite Stiglitz credentials and the growing body of regulatory and court and decisions against the pipeline owners, in the state of Alaska the Stiglitz statements were virtually unnoticed. The year after his comments about the industry's cheating in Alaska appeared in print, in 2008 four Alaska university professors who published *The Political Economy of Oil in Alaska: Multinationals vs. the State* made no direct reference to Stiglitz or his criticism of oil industry conduct in Alaska. Instead, the academics praised the oil producing companies as "good corporate citizens." Although the authors mentioned numerous examples of industry financing of political campaigns and concerns about the effectiveness of state environmental regulation, they also praised citizen oversight, borrowed a phrase from a Canadian study to characterize Alaska, somewhat paradoxically, as a "mature but dependent state" and concluded that "Alaska, as a resource owner, potentially can equal the influence of the oil industry and is not dependent on it."

From a methodological perspective, it should be noted that in their 2008 publication the Alaskan academics apparently failed to recognize the distinction between specific facts and generalizations by ignoring the documented evidence on North Slope consolidation and profitability, as well as the views of Nobel Laureate Stiglitz on this subject. While the documented court evidence on tariffs

can be difficult to follow because the legal cases usually involve prior-year tariff filings and the tariff decisions don't get made in court until subsequent challenges and their opposing views can be reviewed, the 2007 FERC tariff overcharge decision against the industry was not an isolated incident. Between the RCA's 2002 tariff decision and the state Supreme Court's 2008 denial of the industry's appeal to a 2006 lower-court decision upholding the 2002 tariff order, there were about half a dozen legal decisions against the TAPS pipeline owners. Nevertheless, the academics failed to observe that the state had frequently failed to protect the interests of independent shippers from the major North Slope petroleum firms that were getting rich from North Slope development. Moreover, the opening chapter of their book featured a section titled, "Alaska: The Exception that Proves the Rule?" From a linguistic standpoint, this rhetorical homage to Alaskan exceptionalism depended on the phrase that at least two distinguished authors -- Sir Arthur Conan Doyle (in the words of Sherlock Holmes) and Ambrose Bierce (in The Devil's Dictionary) – had previously ridiculed for linguistic abuse of the words "prove" and "rule."

The third significant statement about Alaska's management of oil revenue that was largely ignored in this state, which was also issued publicly in 2007, was made by former Alaska Governor Steve Cowper, whose comments appeared in his chapter of *Sovereign Wealth Management*, an international study sponsored by the BlackRock investors and published in London, England. At that time Cowper was heading a team that was advising the West African country of Sao Tome and Principe (STP) on dealing with oil development. Although some Alaskans were proud to think that nations dealing with wealth from extractive industries should adopt the Alaska PFD model, Cowper did not share that view. Viewing state economic issues from a long-term perspective, Cowper carefully separated the PFD program from the Permanent Fund itself, told readers that although the PFD program had augmented the subsistence economy in rural areas of the Alaska, in STP "the money would be better spent on infrastructure

improvements which would create a relatively skilled local workforce" and warned that in urban areas the Alaska PFD program

> … is almost certain to cause major revenue problems when oil production in Alaska declines to a certain level. If STP follows the team's recommendations to adopt the Alaska model (not including the "dividends"), the irony may be that STP will have an ongoing income stream to support an adequate level of public services after its oil production declines, while in Alaska, political opposition to using Permanent Fund earnings for anything but "dividends" causes its public sector to collapse.

It is a matter of conjecture whether Cowper's 2007 statement was overlooked due to information overload, the oil industry's domination or some other combination of factors. In any event, this important but unnoticed public statement by an informed public official underscores the need to study the historical record carefully in order to find statements that will help put developments in perspective. Based on his past experience – he served as chair of the Alaska House Finance Committee and the state's Permanent Fund Corporation before he was elected governor in 1986 -- Cowper's views on this subject are significant. Although I served on his staff as an economic consultant when he was governor, I cannot claim credit for his views and do not speak for him. I share his insightful 2007 observation because it serves as ironic and prophetic introduction to the problems faced by Alaskans after oil prices crashed, dramatically and globally, in the summer of 2014. In the wake of that sudden development, as Alaska's Legislature and governor struggle today over how to cut essential state services that the state can no longer finance, the PFD program is not on the chopping block and the current governor's recently proposed PFD reduction is not a popular solution, just as Cowper had predicted. Because it figures prominently in state fiscal policy, the Permanent Fund and its dividend program will be discussed below. At this point, however, to provide additional background relevant to recent Alaska developments it is now time to discuss a development that occurred in 2007 but did not vanish in the silence that shrouds the two significant statements of that year.

2007 – 2011: Historical Background Notes

Coincidentally, it was 2007 when Sarah Palin, then in her first year as governor, called the state Legislature into special session to reconsider the progressive oil tax bill that had been proposed and enacted shortly before her election. Formerly a highway community mayor, Palin had risen to the governor's office while condemning corruption on the part of legislators, some of whom were under FBI investigation and convicted for accepting oil industry bribes. For this reason she wanted to free the state's new tax measure from the taint of corruption. The 2007 special session made headlines, but it was surrounded by confusion that shows how policy deliberations were clouded by shortcomings in the state system of fiscal reporting. Historical marks of that confusion were not hard to find: Although she took credit for fighting "Big Oil" and corruption, a trade journal analysis later found that Palin's ACES proposal would have reduced the new progressive tax rates; it was the legislators who had raised the progressive oil tax rate at the special session.

Because I was retained by the Palin administration to ensure that measures proposed by visiting consultants would be practical for Alaskans to execute, I watched the 2007 special session from another ringside seat. When I met with consultants and members of the state administration oil team as they made plans for the special session, I found no indication that the governor had established clear policy guidelines or economic goals for her team to implement. Palin's team was operating in something of a leaderless vacuum. This was only the first of several glaring discrepancies between the statements of Governor Palin and her actions. During the 2007 special session, as a member of the governor's team I worked on a legislative fix for the ongoing tariff overcharge problems by the major North Slope producers. At Governor Palin's session-end press conference I was among those who received special thanks for my efforts. But when the Palin administration failed to mandate remedial tariff legislation to deal with this problem, I did not feel like I was part of that team.

With her typical propensity for superficial statements rather than substance, Palin bragged about the name she had given the revised progressive

Alaska oil tax bill called ACES, which she had derived from the acronym that stood for Alaska's Clear and Equitable Share. From the standpoint of policy, I thought the progressive oil tax bill made great sense. But the state's administrative system produced information so poorly that I later wrote that from the standpoint of policy analysis the ACES acronym should be understood as something very different -- Alaska's Confusing and Elusive System. As I made this observation, I noted that adding the word "Hidden" to the revised acronym would change ACES to ACHES, and the latter would be accompanied by PAINS, standing for what I considered to be Alaska's "Partial Artificial Incomplete Numbering System." This was one of many substantive issues Palin left unaddressed when she resigned from her office as governor in July 2009, roughly 16 months before her elected term was scheduled to expire.

In addition to her failure as governor to deal with administrative petroleum revenue management issues, Palin's premature departure played a pivotal role in shaping the events in Alaska that transpired during the last three years. Despite her moral crusade against oil industry influence and her frequent references to "crony capitalism," when she abandoned her elected position she handed the reigns of state governorship to Lieutenant Governor Sean Parnell, who had a long history of close ties with ConocoPhillips. After serving in high office for more than 16 months as a fill-in for Palin, Parnell managed to get himself elected to the state's high office as governor in 2010. From that position, Palin's successor launched an aggressive campaign to cut the Alaska's tax on the oil industry.

Despite Governor Parnell's efforts to secure tax cuts for industry producers, for the next two years the state senate blocked his efforts. One of the leading legislative defenders of the ACES progressive tax bill, and opponent of Parnell's proposed tax cut was Democrat Senator Joe Paskvan, a hard-working attorney from Fairbanks who developed strong information on behalf of the state as co-chair of the Resources Committee. When he and Senator Joe Thomas, another Fairbanks Democratic senator and tax cut opponent, lost their seats in the 2012 elections, the leadership of that body changed hands, improving the prospects for Parnell and ConocoPhillips to enact an Alaska tax cut proposal to

replace ACES. This political change in Alaska occurred in an unusual year that was filled with other developments, external to Alaska, that contributed to significant in-state affairs in subsequent years.

2012: Three External Events

The following review of the three external developments of 2012 serves dual purposes, providing understanding of subsequent events while demonstrating, with regard to methodology, that in order to understand socio-political developments it is necessary to place background information in proper perspective. Watching as recent events unfolded in Alaska, I could see that these external developments, each in its own way in this era of information overload, temporarily clouded perceptions by creating confusion that made it difficult for members of the public to focus in the short run on what was actually going on. But from my cabin outside Fairbanks, I was able to gain insights into the complexities of each subject. The following account of the external issues that emerged in 2012 will contribute to the understanding the remarkable Alaska developments of recent years.

In one of the major 2012 external developments 2012, the Center for Global Development (CGD) urged resource developing nations to adopt the Alaska Permanent Fund and its dividend program with publication of the book, *The Governor's Solution: How Alaska's Oil Dividend Could Work in Iraq and Other Oil-Rich Countries.* CGD editor Todd Moss introduced the subject by asking, “What’s Alaska Got to Do with . . . Iraq?” Due to the global significance of the Alaska programs for dealing with petroleum wealth and the impacts of the PFD program on Alaska’s economy and state financing system, this question warrants consideration. In this book published by CGD in 2012, two chapters -- the centerpiece by former Alaska Governor Jay Hammond, (“Daipering the Devil: How Alaska Helped Staunch Befouling by Mismanaged Oil Wealth: A Lesson for Other Oil Rich Nations”) with a follow-up by Alaska economist Scott Goldsmith (“The Alaska Permanent Fund Dividend: A Case Study in the Direct Distribution of Resource Rent”) -- were accompanied by two additional chapters prepared

and written by international specialists for CGD. On recent review of these four chapters I was surprised to find that the Alaska writers did not correctly connect the dots between Alaska and Iraq, while the international specialists did not discuss – and apparently spent little time looking at – details of the first-hand accounts from Alaska.

In introducing the Hammond centerpiece chapter, Moss celebrated the former governor's humor, as well as his brutal honesty in bluntly admitting that "failure to veto the repeal of the state income tax was, in retrospect, wrong." According to Moss, Hammond's essay, which was published posthumously and lightly edited, candidly pointed out "a critical lesson for some of the new oil-producing economies: cash transfers must be accompanied by broad and transparent taxation." Without taxation, Moss continued, "citizens have little incentive and even less capacity to hold the government accountable for public spending. Taxation is the basis for accountability. Which brings us from Juneau to Baghdad." Hammond had created the Alaska Permanent Fund investment account and its PFD program, hoping to create a militant ring of dividend recipients who would resist runaway spending of oil riches that would reduce their dividend payments, but this is not the whole story of how his plan turned out. In retrospect, he had serious misgivings about the Alaska political system he had promoted. For example, in explaining his failure to veto the Legislature's income tax repeal during his description of the lengthy negotiations he went through to establish the Permanent Fund, he noted that "Alaskans were thinking with their wallets instead of their heads." At another point in his narrative, he told readers that "we were foolishly funding government from unsustainable sources." He also made this additional comment: "Are we Alaskans hooked on handouts? You bet!" A short time later he said: "It makes little sense to pay out ever-increasing dividends if we have no means of recouping whatever is necessary to fund essential government programs." Looking at the issue of public involvement from a long-term perspective, in his introductory remarks Hammond said: "While the gush of oil wealth in the late 1970s provided the potential for financing state

government, the jury is still out as to whether we have the ability to administer state government prudently."

In view of Hammond's difficulties securing support for the Alaska Permanent Fund and the doubts he later expressed about the PFD effects on its recipients, is it likely that the Alaska'a PFD model could be successfully implemented in countries with different political systems and cultures?

While Hammond was no longer living when this book was published, the second Alaska chapter in the CGD book also failed to explore the significance of the ongoing PFD controversy, as well as Alaska's associated data problems. In his introductory section, however, Goldsmith did note that

> "although the dividend has created a strong constituency defending the Alaska Permanent Fund . . . there is concern that the dividend will prevent the fund from being used for its ultimate purpose which is to help support the economy after production ends."

Goldsmith further undermined the case for exporting the Alaska PFD program by using text numbers that were apparently disconnected from the data tables he presented at the end of the chapter, where only one of the first four budget numbers in the sixth paragraph of Goldsmith's introductory section was confirmed. That number -- the highest annual share of state petroleum revenues (50%) -- was determined from the first table by dividing annual figures in column 3 by their counterparts in column 2. But the lowest annual petroleum production revenue estimate in the text (9%) could not be found in the tables, where the lowest figure (11.24%), increased the annual petroleum revenues in 1999 by approximately $500 million. The third text figure in the introductory paragraph -- $149 billion in petroleum production revenue since 1977 – was approximately $46 billion greater than the total found by adding the annual figures in the third column of the table. This 44.4% difference could not be confirmed because the annual table figures were listed in nominal dollars. With one right, one wrong and one unconfirmed, the fourth and final number in the text paragraph (per-capita percentage of government services) was not found in the tables.

In sum, Hammond's candid confirmation of PFD problems and Goldsmith's disconnects between table and text both undermined the case for exporting the Alaska PFD program. The net effect of the 2012 CGD publication was to strengthen the political status of the controversial PFD program in Alaska by calling that program to international attention. But at the same time, the number flaws in the narrative combined with other shortcomings to weaken the case for what the CGD authors described as "the Iraqi experiment." Analysis of this publication therefore demonstrates the importance of carefully examining background factors to distinguish conclusions supported by specific information from unsupported general statements.

The second external event emerging in 2012 was the U.S. federal government preparation to join the Extractive Industries Transparency Initiative (EITI), an international organization with approximately 40 member countries seeking better economic reporting on economic development. While the U.S. was supposed to take international leadership in promoting public information on corporate payments to government, in key respects this country's legal framework often favored confidentiality over public disclosure. When two Interior Department officials tasked by President Obama came north to tell us about EITI in 2012, I pointed out that in Alaska confidentiality hampered public release of corporate data, petroleum tax issues were complicated and controversial and state tax audits were years overdue. In light of the national support for private enterprise, I asked the government representatives who were initiating U.S. participation in the international movement how this country would handle public disclosure of corporate economics and reconciliation of government payments. The federal representatives responded that these questions should be addressed to the EITI's new U.S. Multi-Stakeholder Group (MSG) -- an organization that had yet to be established in this country. They said that after its creation the U.S. EITI would consist of three groups -- government, industry and civil sector representative. Collectively, these groups would be jointly responsible for implementation and oversight of these issues.

Although I had doubts about the U.S. EITI process and felt that my ability to represent public versus private enterprise interests might be handicapped by chronic computer communication problems from my remote cabin, to assist members of the civil sector I agreed to take part in the U.S. EITI. During preparations, volunteer campaigners for improved company disclosure informed me that the U.S. government had failed to implement corporate reporting provisions, which had been enacted by Congress several years earlier but were not yet in operation due to a combination of court decisions and industry opposition. The public interest advocates were hoping that because European nations were executing the U.S. Dodd-Frank provisions overseas, this might enable this new U.S. organization to use Dodd-Frank provisions to strengthen U.S. corporate reporting requirements.

In this complicated situation, ConocoPhillips supported EITI. But this is what ConocoPhillips said about EITI in a posted statement of Feb. 28, 2012:

> "ConocoPhillips endorses the Extractive Industries Transparency Initiative (EITI) …., We believe that the EITI process is superior to the Dodd-Frank Act . Although the Dodd-Frank disclosure provisions are not ideal as currently proposed, we do believe they can be implemented in a way that will not undermine the Extractive Industries Transparency Initiative (EITI) or cause significant competitive harm. The disclosure rules of the Dodd-Frank Act as currently proposed could further erode the competitiveness of U.S. energy companies."

In other words, ConocoPhillips was only ostensibly supporting USEITI, while using that organization to weaken -- not strengthen -- U.S. implementation of the Dodd-Frank disclosure provisions. This observation caused me to think: However well-intentioned the civil sector advocates of improved corporate disclosure might be, did they realize that they might wind up giving the U.S. industry an opportunity to delay the development of improved public information on the economics of resource development that the international EITI was seeking? Dealing with these national and international concerns from my cabin outside Fairbanks, I saw the difference between theory and practice, as well as the importance of looking carefully at general statements to understand their real-world effects.

In the third Alaska-related external development of 2012, ConocoPhillips was retaining its Alaska production and transportation holdings while selling its downstream refining and marketing operations. This corporate action suggested to some observers that Alaska's North Slope petroleum operations were valuable to its owners. Although corporate profits from U.S. oil operations had always been somewhat mysterious due to national laws protecting corporate confidentiality to assure a competitive environment, one bright spot shed some light on this ongoing controversy. In the wake of the Enron scandal of 2001 Congress had charged the federal Securities and Exchange Commission (SEC) with implementing more stringent disclosure requirements to protect consumers. Consequently, following the ConocoPhillips merger in 2002 that company was forced to report annual profits from its major global producing regions, including Alaska**,** for consideration by potential investors. The other two major North Slope producers did not have to disclose this information, but it was generally understood that the British Petroleum and ExxonMobil shared similar operating costs and profits in Alaska. Since North Slope production accounted for approximately 98 percent of ConocoPhillips Alaska profits, that data provided a potentially useful estimate of the company's North Slope profitability under the progressive ACES tax regime.

Despite the fact that the federal government required ConocoPhillips to publicly report its Alaska production data, that information was somewhat complicated to decipher and the company sometimes distorted the picture of its Alaska profitability. In Alaska public perception of petroleum profits had been further blurred by factors that included industry propaganda and information overload, as well as the complexity of data information, due to state organization of data summaries into state fiscal years instead of calendar years, which makes data harder to follow and is further compounded by auditing delays. To help set the stage for subsequent developments, a summary review with hard numbers on ConocoPhillips Alaska profitability under ACES, based on official company reports, will follow.

During the six-year period under the ACES tax regime between 2007 and 2012, ConocoPhillips annual profits from Alaska oil production were remarkably strong and steady. As reported by ConocoPhillips to the federal SEC, the company's annual profits during this six-year period only ranged from an annual low mark of $1.54 billion (in 2009, following a global price crash) to a high of $2.315 billion, for average annual earnings of slightly over $2 billion per year. In contrast to the company's healthy Alaska returns, the company's global performance was erratic, plummeting to a company reported net loss of more than $16 billion in 2008. Breaking the ConocoPhillips data into two three-year periods to examine Alaska profitability, the records show that without Alaska's oil, between 2007 and 2009 ConocoPhillips would have lost approximately $6 billion globally. But over that three-year period, the company's relatively steady annual oil profits from the North Slope neutralized its global loss, enabling the company to break even. In the three year that immediately followed this six-year period's lowest (but still sizeable) Alaska annual profits under ACES in 2009, during the next three years, the segment from 2010 through 2012 ConocoPhillips averaged slightly over 1.99 billion per year, rising steadily with an average increase of approximately 14% per year to reach $2.28 billion in 2012. Because the sixth and final year of data was still unfolding in 2012, at that time perspective on these figures was not as clear as the summary in this retrospective account. However, this analysis showed that during this period the North Slope was exceptionally profitable for its major producers.

Subsequent events will show that industry propaganda and information overload have combined with state failures to deal with the complex fiscal problems associated with dependence on oil and the volatility of that commodity's price, seriously increasing the extreme difficulties this oil-dependent state has recently encountered in the wake of the recent global oil price crash.

2013: The Misleading ConocoPhillips Chart

During the industry's successful 2013 legislative tax cut campaign, in its suite of slides supporting this case ConocoPhillips Alaska presented a flawed

and misleading chart to legislative committees on six separate occasions. In every copy of this erroneous document, a diminishing green swath at the top of 13 bars of equal height created the exaggerated and false impression that when current oil prices increased between $80 and $130 per barrel under ACES industry production profits would decline, steadily and dramatically at state expense. In fact, the opposite was the case. Although oral testimony on this chart was technically accurate on carefully selected elements, the chart itself was inaccurately labeled and lacked comprehensive data on industry per-barrel production costs, taxes and profits for the prices shown. Uncorrected in each of its several presentations, this misleading graphic overview made the rounds electronically, helping ConocoPhillips replace the progressive ACES tax with a flat tax, even though ACES was already giving the industry numerous tax breaks and was not eating up all the industry profits at real-world prices. Moreover, if prices soared to levels never seen before a simple tax cap could have enabled the state and industry to share profits equally. The following paragraphs will explain how ConocoPhillips used this document to support the industry's tax cut.

Examining this chart to figure out how ConocoPhillips came up with data presented only graphically, I saw that the company was taking advantage of the ambiguity of the term "Marginal Share" of government and industry production returns, which appeared at the top of the chart without definition. The term "marginal" generally refers to a relatively small cash increment, but as used in the oil patch this term also refers to the entire difference between the market price of a barrel of oil and that barrel's costs of production and transportation – a much larger sum of money. At the left side of the misleading ConocoPhillips chart, the bars were identified as percentages of the "Marginal Share." But at the bottom of the chart, figures shown beneath the vertical bars were incorrectly identified as representing the "ANS West Coast Oil Price," with oil prices increasing at five-dollar per barrel intervals, from $80 per barrel on the left to $130 per barrel on the right. Notably missing from this chart was a clarifying label that would inform readers that the term "marginal share" shown in this chart actually represented only a $1 per-barrel price increase -- not the entire "ANS West Coast Oil Price"

per barrel. And at the bottom of the chart, the mislabeled vertical bars incorrectly appeared to represent the gross value and total profits per barrel -- not the marginal $1 per barrel price increase, which actually represented only a tiny fraction of the total profits earned at increasing prices. Further contributing to this misimpression, the vertical bars were also labeled as representing the ACES "Progressivity effect." In each bar, the state share was shown in red, increasing from left to right as oil prices rose. In the bar on the left, incorrectly shown as representing $80 per barrel, the red portion occupied approximately half the bar. To the right, in the 11 intervening bars the red portion rose steadily as prices increased, filling almost the entire portion of the last bar on the right, which was incorrectly labeled as representing marginal revenue at $130 per barrel.

At the top of each bar the diminishing green swath represented the industry share, which dropped from approximately 30 percent of the left-hand bar to approximately 10 percent of the bar at the far right. Due to the mislabeling, this diminishing green swath gave the false impression that under the progressive ACES tax regime the industry received less revenue as oil prices increased. But in fact, as noted above, the vertical bars in the ConocoPhillips chart represented additional marginal revenue available as oil prices increased – not a decrease in total petroleum revenues. Each time that chart was presented, the company's economic specialist told viewers what the chart showed. But he failed to explain why ConocoPhillips thought the declining marginal revenue percentage – which represented only a tiny fraction of the gross per-barrel revenue – was important. Consequently, the improperly labeled chart formally entered the record to make the rounds electronically, with the diminishing green swath at the top of each bar creating confusion by incorrectly indicating that the industry was receiving less money as oil prices increased between $80 and $130 per barrel.

While I was unraveling this inaccurate, undocumented and poorly labeled ConocoPhillips chart in 2013. During that year, I was also taking part in U.S. EITI meetings by teleconference as the Civil Sector of that organization sought enhanced transparency on resource development economics. That long-distance effort required a great deal of preparation and follow-up time, while computer

problems at my remote cabin were making it more time consuming and difficult to deal with both projects. For these reasons, by the end of 2013 I was exhausted. With the statewide referendum on the repeal of the passage of the SB21 tax cut bill scheduled for August 2014, I informed my colleagues that I could no longer participate actively by long distance in the U.S. EITI global transparency initiative efforts. Because I did not feel that the U.S. civil sector volunteers had sufficient resources to cope with our industry counterparts and deliver a work product that would serve the public interest, I also told them that I did not support their U.S. EITI application to the international organization.

Despite the fact that the company's actual strong and steady performance under ACES at historical prices contradicted this chart's false impression, in 2013 ConocoPhillips repeatedly included this chart in its set of slides. By this action, the company put this misleading chart into the legislative record, with its diminishing green swath creating the erroneous impression that under ACES at historical prices the industry was making less revenue at state expense as oil prices increased. In fact, the opposite was the case. In addition to demonstrating the importance of the distinction between facts and unsupported general statements, this widely circulated ConocoPhillips chart also blurred the difference between the record of historical facts and the uncertainty of future economic data. From a policy standpoint, if these empirical distinctions had been clearly recognized, the division of windfall gains at higher future oil prices than ever recorded to date might have been readily fixed with a state revenue tax sharing cap, while the effects of low oil prices on the state might have been more carefully considered to avoid the current problems. But ConocoPhillips was using this chart to claim that within the historical range of oil prices the producers were making less money as oil prices rose under ACES, when the green swath actually represented industry revenues that were increasing historically with rising oil prices.

2014: British Petroleum Advertising Misinformation

Although 2014 marked the second year in a row that a major North Slope producer had plagued Alaska with a piece of frequently repeated misinformation, that year was tumultuous for Alaska on so many fronts that this incident was scarcely noticed. In this incident, the distributor of misinformation was British Petroleum, which began the year by inundating the television airwaves with a mistaken piece of historical information on oil production in its advertisement aimed at supporting the SB21 oil tax cut, recently passed by the Legislature and up for reconsideration in a statewide referendum scheduled for August 2014. According to press reports, in this campaign the petroleum industry outspent the public tax cut opponents by 20 to 1 – much of it on television time -- to preserve the tax cut at the polls by the narrow statewide voting margin of less than 53% to 47%.

North Slope producing partner British Petroleum began its television advertisement with this inaccurate statement by one of its North Slope workers:

> "Twenty years ago two million barrels a day flowed down the pipeline. Today it's about five hundred thousand."

In fact, state records show that twenty years earlier the amount flowing down the pipeline, which had been decreasing for several years, was actually 1.56 million barrels per day – approximately 22% less than the peak of 2.01 million barrels of North Slope production per day, which actually occurred seven years earlier.

The tax cut referendum was only one of the several important developments of 2014. The statewide referendum vote took place in the same month that the global oil price crash hit this remote and oil-dependent state in August 2014, which was the last month that the average oil price exceeded $100 per barrel. Six months later, in February 2015, the average price had dropped to $51.36 – roughly half the price of the oil price before the price crash, from which this state is still reeling. Two months later, in the second statewide election that year, former Alaska Governor Sean Parnell lost his seat to another Republican candidate Bill Walker, who was running as an independent on a unity ticket with

a Democratic running mate for lieutenant governor. Writing about Parnell's defeat, political analyst Jeff Singer observed,

> "This was one of the stranger races of a very turbulent election year….Parnell's poor relationship with the legislature, his huge tax cut for oil companies, and his eventual decision to reject the Medicaid expansion led to a general sense of fatigue with the incumbent."

In preparing this erroneous television advertisement, British Petroleum apparently chose its featured speaker carefully; the company's representative was Frank Paskvan, a British Petroleum employee on the North Slope and the brother of the former state Senator Joe Paskvan, who had developed facts that encouraged opposition to oil tax cuts until the industry managed to run him out of office in the 2012 election. In light of the careful selection of its speaker, the factual inaccuracy of this frequently repeated British Petroleum advertisement raises this question: Was this North Slope oil producer simply sloppy in its failure to check its facts, or was that company trying to weaken opposition to the new tax cut by distributing misinformation?

In this regard, it should be noted that the major producing companies were not alone in creating misinformation that results in the confusion that surrounded the economic issues of Alaska's oil production. On May 1, 2014, the state university's Institute for Social and Economic Research (ISER) posted an extended on-line report by veteran economist Scott Goldsmith endorsing Senate Bill 21 (SB21), along with a slide show he presented that day to the Anchorage Resources Development Council. Former Governor Tony Knowles, an Alaska political leader who grew up in Oklahoma with past industry connections, commended Goldsmith's support of SB21 as "an objective and knowledgeable third-party analysis" that could "help shine a light on the facts." But review of Goldsmith's presentation identifies a selective failure to examine fundamental issues. In his report, which included approximately 60 charts and graphs, between the first and last chapters of his text, Goldsmith never provided the figures on industry profitability. Nor did he discuss the pipeline transportation overcharges, their impact on state revenues or the state's auditing difficulties.

From the standpoint of policy, these were not the only shortcomings in his report. In his introduction Goldsmith warned that “[f]uture revenues are very sensitive to oil prices and costs of production and are difficult to forecast.” But he ignored his own caveat, immediately following his warning with predictions of increasing jobs, based on assorted problematical assumptions about future economic factors, including historically rising oil prices. Less than four months after his report, the oil price crash proved that this veteran economic analyst’s forecast assumptions were highly unrealistic.

In sum, while the shortcomings in Goldsmith’s latest economic report demonstrated the state contribution to public policy failures and the tumultuous backdrop to the oil price crash played out in 2014, the misleading advertising campaign by British Petroleum marked the second time in successive years that a major North Slope oil producer, in its campaign to reduce oil tax payments, had repeatedly distributed subtle but seriously flawed misinformation to the public.

2015: State Budget Deficits, Headlines and Strange Silences

In 2015, recently elected Alaska Governor Bill Walker was telling the public in that the magnitude of the state budget crisis required consideration of all ingredients of state revenue and spending elements. In view of the governor’s approach, the continued relative silence on questions involving the major North Slope producers and their conduct was somewhat surprising. On the summer solstice -- Sunday, June 21, 2015 -- the *Fairbanks Daily News-Miner* published an editorial headlined, “Budget conversation must continue: with state in serious revenue trouble, all options must be on the table.” According to that editorial, to deal with this economic oil crisis “all aspects of state government and potential revenue” needed to be reviewed. The editorial concluded that “(n)othing should be declared exempt from consideration, regardless of the wishes of legislators or other interest groups. If the state is to find a way forward that will be the least burdensome to its people and its future, all ideas need to be in the mix.” Despite this exhortation to put everything on the table, the editorial made no reference to the centralized control of North Slope production, the repeated misinformation by

two of the three major oil companies in their recent tax cut campaigns, the industry's North Slope profitability record or their practice of tariff overcharges by the major producers.

When President Barack Obama visited Alaska for several days at the end of August, this isolated state was in the national spotlight. The President apparently hoped that scenes of far north villages threatened by melting glaciers, crumbling permafrost and rising sea levels would alert the world to the immediate dangers of climate change. Since this subject was the focus of his visit, information about the unusually structured consolidation of North Slope production and its economic effects did not receive national coverage. Reporters who covered the President's visit later told me that they heard no reference whatsoever to the control of North Slope production by three major producers, or to the conduct of those powerful companies.

Six months after the *Fairbanks Daily News-Miner* summer solstice editorial calling for consideration of all aspects of the state's revenue problems, winter solstice was approaching as the difficulties the Alaska public has encountered making sense of its budget problems appeared. On Dec. 17, 2015, in a news article from Juneau Associated Press reporter Becky Bohrer informed state readers that Governor Walker's second presentation that month showed "a drastic change from the half-billion dollar surplus projected when he announced his budget plan last week." Bohrer's article opened with the news that the budget surplus the governor had originally reported had been transformed to a $427 million deficit one week later because the governor's original fiscal summary had incorrectly displayed oil production tax and royalty revenues going to the general fund, where the funds would be available to spend, creating an erroneous revenue surplus under the governor's plan.

Although this story was a significant news item with useful background information on the budget process, the article did not provide specific budget numbers on the misreporting of the state's originally reported bottom-line figure and its subsequent correction. The following background data will help provide perspective on the state's unsettled fiscal policy problems. In the absence of oil

revenue cuts, due to the global crash in oil prices continued financing of state spending would result in a budget deficit of approximately $7 billion per year. Alaska had repealed its state income tax some 30 years earlier with the establishment of the Permanent Fund, which by this time had grown to exceed $50 billion in savings. But many members of the public, hooked on annual Permanent Fund dividends, opposed use of the Petroleum Fund to deal with the current problem. To make the draw on the fund more palatable, Walker was focusing on reducing state savings while proposing to change the PFD from guaranteed annual payment to an amount that would fluctuate with the ups and downs of petroleum revenue.

The governor's plan to deal with the deficit included the transfer petroleum revenue to the statutory budget reserve from the Constitutional Budget Reserve Fund (CBRF) because use of the latter source would require a three-quarter vote of both House and Senate and is therefore more difficult to access. But according to Bohrer's news article the proposed transfer was "far from a done deal." State budget director Pat Pitney, who works for Governor Walker, told Bohrer that the mistake in the bottom line had occurred because the administration was making so many changes in developing this plan that she didn't catch the bottom-line error in the financial figures in the presentation of the original plan the governor had announced one week earlier.

The fact that state's budget director got the state budget numbers wrong for the governor's release stood out as a clear reminder of the difficulties that the public has encountered in trying to put the various aspects of the state budget in perspective. However, while investigating background information to this article suggests that if someone reading this article concluded that Governor Walker had intentionally mis-stated the bottom-line numbers in his initial statement for political purposes, that reader probably would have been mistaken. In looking for facts related to this article, I found several statements in Governor Walker's previous release that acknowledged the seriousness of the budget deficit problems the state was facing. For example, in his first release of the plan Governor Walker noted that "a sharp drop in the price of oil…blew a gaping hole

in the state's budget. This year, revenues are expected to cover just 40 percent of our cost."

"It's not easy," the governor said in his initial statement, but "this is an opportunity to evaluate all the services, eliminate any that are redundant or unnecessary…and find ways to provide essential services. "My team is working hard to do these things," he continued, noting that "we're looking at everything" and "[n]othing is sacred except Alaska's best interests …. The reality is this: we could lay off every state employee paid with state general funds – road crews, correctional officers, troopers – and it would still not close the budget gap." Governor Walker concluded the introduction of his plan to deal with the state's financial deficit problem with this statement: "Spending cuts alone will simply not get us there. And cutting too much too fast can do great harm to our economy." In the release the following week, Governor Walker was still emphasizing the need to deal with problems that the state faced due to the price crash, but he was not claiming that the problems of budget cuts would be easy to resolve. In keeping with these concerns, Governor Walker later expressed his support for the Natural Gas pipeline project, which would follow budget cuts and other tax increases as what he called "Phase Two" of his proposed solution to the budget deficit problem.

Near the end of 2015, with the winter solstice approaching as the state public continued to struggle with the complexity of the difficulties of dealing with massive economic problems resulting from the 2014 oil price collapse, members of the Alaska public had to focus on state budget data. This may be one reason why members of the Alaskan public paid little attention to the U.S. EITI problems with two of this state's major oil producers, which emerged the week after Bohrer's Associated Press article on the state's erroneous budget figures appeared. in submitting its first annual report in accord with global requirements, disclosed that only 12 of the 45 U.S. companies working on the U.S. EITI transparency and reconciliation project had provided the required data on their federal income tax payments. All three major North Slope producers were listed as participating members of the U.S. EITI Multi-Stakeholder Group (MSG),

known as “in-scope” companies. But only one of these three -- British Petroleum – had reported its U.S. federal income tax payments. Alaska’s other two other major North Slope producers -- Exxon Mobil and ConocoPhillips – had not complied with global EITI disclosure requirements for its participating companies.

The refusal of two of the three major North Slope producers to provide data on their federal income tax payments at the U.S. EITI was particularly surprising in view of the fact that for the past three years industry representatives from both companies had participated in the U.S. EITI’s Multi-Stakeholder Group (MSG) meetings. Additionally, as noted above, ConocoPhillips CEO Ryan Lance had expressed support for the U.S. EITI’s efforts. But at the same time that the ConocoPhillips chief executive endorsed U.S.EITI transparency effort, he also expressed the hope that the MSG would come up with compromises that would weaken certain disclosure provisions that he felt would put disclosing companies at a competitive disadvantage. Members of the U.S. EITI civil sector were disappointed with U.S. company failures to comply with global EITI reporting standards and were also concerned that this failure to comply with the reporting standards global organization’s reporting standards might cause the global EITI organization to reject the U.S. candidacy application for membership. But in light of the global EITI emphasis on cooperation among industry, government and civil sector representatives, the members of the U.S. EITI civil sector had to question whether they could publicly criticize companies for the U.S. industry’s failure to comply with transparency requirements. While debating this problem, some of the volunteer members of the U.S. EITI Civil Sector were still hopeful that the U.S. EITI platform might eventually lead to better corporate reporting by calling public attention to the importance of transparency and company noncompliance.

Meanwhile in Alaska, as that state struggled with the consequences of the global oil price collapse the year 2015 ended with developments on both fronts that might have raised serious questions about the conduct of Alaska’s major North Slope producers. But as noted in this case study, in Alaska little or no attention was paid to the refusal by ConocoPhillips and ExxonMobil to report their payments to the IRS, as required by global EITI standards. While

information overload may help explain why policy makers and the Alaska public overlooked paradoxical failure of two of the state's major North Slope producers to comply with global EITI reporting standards, other explanations include the economic and advertising power of the major North Slope producers and fear that the major producers, if challenged, might decide to leave Alaska. In any event, 2015 ended with industry performance on two fronts – the Civil Sector of the U.S. EITI Multi-Stakeholder Group and the state Alaska – raising serious questions about the conduct of Alaska's major North Slope producers.

This legislative oversight may be chalked up to information overload, but when the unusual consolidation of North Slope production in Alaska, along with the recent distribution of misinformation and the consequential tax cuts is considered, the state failure to alert the public to the dubious performance of the major Alaska producers at the U.S. EITI can be recognized as another significant state shortcoming in dealing with energy issues. In this regard, failure to keep the public informed may be added to a list of state administrative performance flaws, identified previously in this report.

2016: Alaska's Continuing Policy Paralysis

In the scheduled 90-day legislative session at the start of 2016, the Legislature held numerous public hearings on the fiscal crisis. The Legislators heard diverse and often conflicting opinions and took no significant action. Even though legislative deliberations continued for another month in a constitutionally allowed special session, the legislative policy paralysis continued. Near the end of May, when the Legislature finally adjourned without passing legislation to deal with the state fiscal gap, Governor Bill Walker immediately called a special session to deal with the consequences of greatly reduced petroleum revenues. As Legislature struggled with what to do to close the state fiscal gap, this impasse was the second year in a row for Alaska's policy paralysis.

To deal with this ongoing problem, Governor Walker brought a number of fiscal proposals to the legislative special session. One of his two major proposals was to cut the state's costly capital credit system, under which the state currently

loses money by compensating petroleum companies for their efforts, even when low oil prices remove tax payments to the state. The second major proposal was to restructure the source of funding to meet the annual state budget and Permanent Fund Dividend requirements by transferring oil revenue payments directly to the PFD program. Under this restructuring plan, annual dividend payment amounts to citizens would vary with oil prices, as necessary, while the Permanent Fund annual earnings could be more easily accessed to help reduce the current government budget deficit. The largest of his remaining proposals was the re-establishment of the state income tax, which had been abandoned when oil revenues began to flood the state coffers in 1980.

Although Governor Walker has received praise for his political courage in proposing a broad range of unpleasant budget choices for consideration, once again his proposals did not win legislative support. As this complicated picture unfolded in 2016, members of the Republican majority did not support the governor's proposals, apparently because they did not want to commit political suicide by creating increased taxes on the oil industry, cutting Permanent Fund Dividend payments and putting new taxes on the general population. On the other side of the political fence, members of the Democratic minority were supporting the governor's proposals. The following paragraphs will provide further insights into the 2016 legislative session and the state's continued failure to solve its current revenue deficit problems.

Many people who testified agreed that in the absence of oil revenues state spending must be cut, but NIMBY – "Not in my Back Yard" – also ruled the day. Many of the citizens who testified registered strong opposition to the adverse effects in rural communities of budget cuts to programs that delivered necessary public services in rural Alaska, as well as strong opposition to Permanent Fund Dividend reductions because the PFD provided them with needed income in rural communities where income-producing jobs were lacking. Additionally, some observers have suggested that as a matter of policy it would not be wise to increase oil tax payments when the industry is now suffering from the price crash because those companies would then leave the state.

While there is nothing illegal about apparent legislative conflict of interest in this isolated state with its small population base, it should be noted that both houses were currently headed by legislators with industry ties. House Speaker Michael Chenault, who served as the vice president of an oil industry service firm when he entered politics in 2001, has been Speaker of the House for four consecutive terms. Senator Kevin Meyer, who worked for ConocoPhillips when he headed the Senate Finance Committee the year that SB21 was passed (as noted above), is now the President of the Senate.

As the Legislature approached the final month of its scheduled 90-day session in 2016, two recent news reports from Juneau demonstrated how the controversy over budget deficit proposals has led to the current legislative paralysis. In a March 19 news article, Senate Finance Committee leaders said the state income tax proposal was unlikely to pass, and that new revenue would be most likely to come from the governor's proposed change to the Permanent Fund Earnings Reserve Account. But one month later, as the regular session's end approached, another news article from Juneau reported that Senate President Meyer said he didn't think the Senate would support restructuring the Alaska Permanent Fund earnings.

During this year's session, pro-industry attitudes on the part of other legislators were frequently seen. For example, at a Legislature-sponsored "lunch and learn" meeting at the Capitol on Feb. 2, Republican Senate Resources Chair Cathy Geissel, who is married to an engineer who works for a consulting firm that boasts its historical ties to the Trans-Alaska Pipeline Service Company, warmly welcomed TAPS engineer Rob Annett to Juneau to tell the press about the difficulties of keeping oil running on TAPS. The Alyeska engineer delivered unstinting praise of his company's efforts to deal with issues of low pipeline throughput. But he did not mention the documented regulatory decisions of chronic and historic pipeline tariff overcharges by TAPS owners who are also major producers, or his company's operational problems that included project delays and the failure to anticipate the wax build-up at low flow that the pipeline company now faces. This was only one example of information bias in the

legislative deliberations. A few months later, in responding to a reporter's question about her views on the capital credits issue, Senator Geissel commented in an April 10 *Petroleum News* interview that the industry returns to the state "all the credits they receive plus a whole lot more," which includes royalties for the state" and "energy security for Cook Inlet," as well as North Slope "jobs and throughput for TAPS, as I like to call it our aorta from our medical background, coming from the heart of our state government revenue source." Following this superfluous description of the TAPS, without mentioning the major producer overcharges and guaranteed profits from that pipeline, she immediately concluded, "So the credits are doing what we want them to do. The fact is we've got to figure out how we can afford them."

On the other side of the political fence, different points of view on policy issues were also voiced. For example, Representative David Guttenberg, a Democrat from Fairbanks with a pipeline background, feels that "the state has taken a poor policy approach." In an interview with *Petroleum News*, he explained that legislators don't have access to industry long-term planning and investment capabilities, and that the state tends to have a short-term view "because it's always two years until the next election." In this regard, he noted that when they planned ACES a decade ago legislators didn't consider the possibilities of prices rising above $100 or falling below $40 per barrel. Additionally, he told his interviewer that the state is further handicapped by having so many different tax regimes and different players that "[t]here are too many moving gears to do one thing and have everybody be happy," and that greater transparency is needed.

Dan Donkel, an independent oil investor from the Lower-48, Dan Donkel offered another perspective on the current situation. Based on past experience in Alaska, he claimed that state policies deliberately aided the major oil producers by administrative measures that included increasing annual lease rates that smaller companies could not afford to pay during the lengthy interim between leasing and the start of production. In light of the complexity and controversial nature of the various solutions to the state's fiscal problems as the state

government struggled over what to do about the current and future problems created by the 2014 price crash for the second year in a row, perhaps it was not altogether surprising that Alaska paid virtually no attention to this complaint. But even more surprising is the fact that public officials did not devote attention to the report from the U.S. EITI, where two of Alaska's major producers -- ConocoPhillips and ExxonMobil -- were included in the list of companies that had refused to adhere to the global EITI's transparency standards by providing that organization with data on company federal income tax payments for reconciliation. As noted above, although this company reporting failure jeopardized the U.S. EITI chances for international approval and further called the conduct of these companies into question, this issue was largely overlooked in Alaska.

Without attempting to predict the outcome of this complicated situation in 2016, the conclusions to this report, based on historical facts, recent developments and the methodology presented in this case study, will follow.

Case Study Conclusions

Due to this state's remote location, its unique size and small population base and the discovery half a century ago of the nation's largest oil field at Prudhoe Bay (which, according to the EIA, still ranks third in the nation today in proven reserves) the lessons of the Alaska case study provide insights relevant to other nations around the globe as they cope with booms in resource development. In this era of information overload faulty information is sometimes rapidly and widely circulated without regard for accuracy or relevance. This case study has therefore employed a methodology that distinguishes specific facts from unsupported generalizations and relies on careful examination of background information to make sure that the facts presented are both reliable and understood in their proper context.

As noted in this report, events of the last five years have combined with the history of Alaska petroleum development to point to the importance of the consolidated power of three major oil companies that have controlled more than

90 percent of North Slope oil production while owning a similar controlling share of the 800-mile pipeline link to the tanker terminal on the state's southern coast. Although oil production at Prudhoe Bay has brought wealth to Alaska and its major oil producers, chronic pipeline overcharges by the major producers handicap their competitors while reducing revenue payments to the state. Pipeline tariff litigation history and recent examples of repeated distribution of corporate misinformation in pursuit of reducing tax payments to maximize shareholder profitability constitute empirical evidence that calls corporate conduct into question.

The following lessons from this Alaska case study, which are based on this approach, will conclude with six recommendations in three categories: The first three recommendations are related to petroleum development in Alaska; secondly, from a global perspective this case study also raises two questions about approaches to resource development advocated by international –oriented organizations; finally, the sixth recommendation in this report underscores the importance of the its methodology, which is designed to cope with information overload by making sure that general propositions are supported by specific and relevant facts.

1. The misleading ConocoPhillips chart was repeatedly presented to legislative committees during the industry's victorious tax cut legislation campaign in 2013 without significant legislative challenge or objection. After legislators supported industry by replacing the progressive ACES tax with a flat tax, when a statewide referendum challenging that act was held in 2014 the industry outspent the tax cut opponents by 20-to-1, thereby defending their legislative tax cut by a narrow margin. The principal British Petroleum television advertisement was historically inaccurate in that year, thereby using industry misinformation to cloud the principal arguments with for the second successive year. These salient examples of faulty industry information point to the need for legislation to assure accurate information on petroleum profitability, while imposing penalties for misinformation on this subject.

2. For reasons noted in this report, Governor Walker's current proposal to fund and participate in the North Slope natural gas pipeline project is subject to question. The major oil producers have chronically used their control of TAPS to overcharge competitors and reduce state revenues. Because the proposed natural gas pipeline project requires a significantly larger share of transportation costs, it would produce less return on investment than an oil pipeline. Additionally, the North Slope natural gas pipeline is a risky, high-cost investment, under consideration since oil pipeline construction began, but never built, while the state is in the midst of a financial crisis that has drastically reduced government services. In light of these factors, at this time state investment in the natural gas pipeline project should not be considered.

3. With important state budget problems and solution proposals currently hanging in legislative limbo in 2016, the Alaska case study also points to the conclusion that the state suffers operationally from administrative shortcomings that include failure to anticipate the potential consequences of oil price volatility, the extreme consolidation of economic production and the state's extreme dependence on that commodity, as well as failure to develop efficient auditing program and establish a clear reporting systems**.** To assure receipt of revenue essential to the implementation of public services, actions correcting these administrative shortcomings should be implemented.

4. The lessons of this Alaska case study have global implications. For example: Even though the goals of the Extractive Industries Transparency Initiative (EITI) are commendable, the findings of the Alaska case study raise the following question regarding the global transparency initiative: If a state operating in this country's framework cannot generate the information necessary to effectively monitor the performance of its resource-producing companies, is it practical to assume that cultures in other countries will be able to use these procedures to protect the public interest from the profit-seeking efforts of the producing companies?

5. Also from a global perspective, Alaska's inability to restrain spending and the assure the availability of savings to deal with the 2014 price crash calls

into question the wisdom of the global proposal to export Alaska's Permanent Fund Dividend (PFD) program to other countries in order to improve the outcome of resource development. As noted in the case study, the Center for Global Development (CGD) praised Alaska Permanent Fund and PFD founder Jay Hammond for his candor but ignored his frequent negative comments about the attitudes of Alaska PFD recipients. CGD's oversight in advocating export of the Alaska Permanent Fund program demonstrates the need to carefully examine background details that support general conclusions.

6. Many problems discussed in this report reflect the difficulties created by electronic information overload. The increased amount of information generated by computers and telephonic equipment is a mixed blessing that has broadened information for general consumption but has also created the need to devote more research time to avoid erroneous conclusions based on misinformation or generalizations based on unsupported facts. To deal with this problem, this analysis has developed the practice asking the following two questions to distinguish facts from unsupported information: (1) Is the presented information factual? (2) If so, has the background information been examined to assure that the facts are relevant, have not been misinterpreted or omitted from analysis due to political considerations, technological problems or information overload?

In conclusion, it should be noted that although the findings and recommendations of this case study from Alaska may seem controversial to some readers, the information on which this report is based was carefully developed by using the methodology presented in this report and spelled out in the preceding recommendation. Because the conclusions presented in this report are in accord with facts and the background information is understood in proper perspective, this Alaska case study has performed the dual purpose of supporting its findings while developing research methods that will prove useful in this era of information overload for analyzing resource development and other multi-faceted policy issues.