

## NORTH SLOPE ULTRA LOW SULFUR DIESEL TRANSITION AGREEMENT

This *North Slope Ultra Low Sulfur Diesel Transition Agreement* ("Agreement") is entered into by and among the State of Alaska ("State"), BP Exploration (Alaska) Inc. ("BPXA"), and ConocoPhillips Alaska, Inc. ("CPAI") on June 17, 2005.

### Recitals

1. Alaska is the largest state in the country, but ranks 48<sup>th</sup> among the states in population. Alaska ranks 50<sup>th</sup> among the states in population density due to its large size and small population. Due to low population densities and limited road systems, large geographic areas of the state, including the North Slope, are essentially rural in nature. The North Slope oilfields lie at the edge of the Beaufort Sea over 300 miles from Fairbanks and over 700 miles from Alaska's major population center in Anchorage.
2. BPXA and CPAI are operators of all of the currently producing oilfields on the North Slope of Alaska, including the Prudhoe Bay field and the Kuparuk River field.
3. Diesel engines are the largest remaining contributor to the overall mobile source emissions inventory in the United States. Since the mid-1990's, the U.S. Environmental Protection Agency ("EPA") has required reductions in certain emissions from mobile sources. Diesel engines and diesel fuel remained largely unregulated until EPA adopted regulations for motor vehicles in 2001 and nonroad engines in 2004. These rules are entitled *Control of Air Pollution from New Motor Vehicles: Heavy Duty Engine and Vehicle Standards and Highway Diesel Fuel Sulfur Control Requirements*, adopted on January 18, 2001 (66 Fed. Reg. 5003, January 18, 2001), and *Control of Emissions of Air Pollution From Nonroad Diesel Engines and Fuel*, adopted on June 29, 2004 (69 Fed. Reg. 38959, June 29, 2004) ("EPA Rules").
4. The EPA Rules establish design and emission standards for certain diesel engines and establish a phased process for the transition to the use of diesel fuel with a concentration of less than 15 parts per million ("ppm") sulfur ("ultra low sulfur diesel" or "ULSD").
5. The State was given the opportunity to develop an alternative to the general plan contained in the EPA Rules for the transition to ULSD and the State submitted a transition plan for EPA approval on June 13, 2003 (the "2003 Draft Plan"). The 2003 Draft Plan, not yet approved by EPA, contains an alternative implementation process for rural areas of the state. The plan for rural areas is based on a community-choice approach, which allows communities to choose their own fuel supply strategy between September 2006 and June 2010. Thereafter, all communities must supply only ULSD for all diesel powered vehicles.

6. Implementation of the EPA Rules for motor vehicles and nonroad engines presents many challenges in Alaska. The State desires to overcome these challenges and accomplish the transition of all motor vehicles and nonroad diesel engines to ULSD as early as possible but no later than June of 2010. The EPA Rules require new emission control equipment in model year 2007 heavy-duty trucks and buses with a gross vehicle weight rating greater than 8,500 pounds. The new emission controls will require these sources to operate using ULSD. Motor vehicle manufacturers are expected to configure all diesel vehicles, regardless of size, to run on ULSD in the 2007 model year. Using fuel with higher sulfur content in these vehicles could cause engine damage, loss of warranty, and federal penalties. Following the general plan contained in the EPA Rules in urban Alaska will ensure that ULSD will be available for these new vehicles.
7. Implementation of the community-choice approach in rural Alaska will give rural areas more flexibility during the period of September 2006 to June 2010 to fully implement the EPA Rules. This approach still requires rural areas to develop an implementation strategy, but allows more time to plan and implement a workable solution. The State has spent the past several years working with stakeholders in rural areas, including the North Slope oil producers, to discuss specific geographical issues associated with the community-choice approach.
8. The State's rural transition plan provides that rural areas of the state will not have to use ULSD in all motor vehicles until 2010. Because these rural areas would also have an exemption from the requirements of 40 CFR 80.29(a)(1), the rural transition plan would allow these areas to use higher sulfur fuel in their motor vehicles unless a model year 2007 or later vehicle is introduced into a specific rural area. At that time, ULSD fuel would have to be provided for the model year 2007 or later diesel vehicle. Model years 2006 or older vehicles could continue to use the higher sulfur diesel fuel until June 2010.
9. The North Slope oilfields contain a system of privately owned or controlled gravel roads that connect drill pads and facilities in the Prudhoe Bay field and the Kuparuk River field. This road system connects to the Dalton Highway at a security checkpoint near Deadhorse. Other North Slope oilfields operated by BPXA and CPAI are not connected to this road system. None of these areas are densely populated; nor do they possess any of the other attributes of an urban area.
10. Alaska refineries are relatively small in size and, as recognized in the 2003 Draft Plan, the amount of diesel produced by them is a small percentage of their overall fuel production. The existing facilities on the North Slope are simply topping plants. BPXA operates a topping plant in Prudhoe Bay and CPAI operates one in Kuparuk. Each company is a part owner of both plants. The topping plants take a "slip stream" of the North Slope crude oil and produce arctic-grade diesel for

multiple uses, including freeze protection, nonroad engines, stationary engines and motor vehicles operated in connection with North Slope oilfield activities.

11. It is the policy of the State to conserve, improve and protect its natural resources and control air pollution in order to enhance the health, safety, and welfare of the people of the State and their overall economic and social well-being. It is the policy of the State to improve and coordinate the environmental plans and programs of the State, in cooperation with the federal government, regions, local governments, other public and private organizations, and individuals, and to develop and manage the basic resources of water, land, and air consistent with fulfilling its responsibility as trustee of the environment for the present and future generations. The State's intent in entering into this Agreement is to coordinate and achieve implementation of the EPA Rules in the North Slope oilfields operated by BPXA and CPAI in a timely and proactive manner consistent with these policies.
12. The State recognizes the difficulties of requiring the use of ULSD in the North Slope oilfields as early as 2006, but would like ULSD to be used on the North Slope sooner than 2010. The State has determined that the classification of the North Slope oilfields as rural is in the best interests of the State. The State has also determined that this rural area should have a faster transition timeframe for compliance with the EPA Rules than the other rural areas subject to the community-choice approach. If production of ULSD on the North Slope is achieved in the timeframes provided in this Agreement, this faster transition will also apply to non-road accessible oilfields operated by BPXA and CPAI that would have been classified as rural under the 2003 Draft Plan. In addition, BPXA and CPAI, as operators of all of the currently producing oilfields on the North Slope, will begin to use ULSD in a much broader range of diesel combustion sources than the EPA Rules require once ULSD is produced on the North Slope. Finally, any excess ULSD produced on the North Slope will be available to other North Slope communities and consumers.
13. The State acknowledges that other companies and individuals operate diesel combustion engines on the North Slope and will be subject to the EPA Rules. This Agreement is not intended to impose any obligation whatsoever on BPXA or CPAI to ensure ULSD compliance by third parties.

### Agreement

1. In recognition of the foregoing, the State will classify as rural all lands north of Atigun Pass in the State's transition plan and will secure EPA approval for the State's transition plan with this classification.
2. The State's decision is to classify this area as rural as it applies to the BPXA and CPAI operated oil fields. BPXA and CPAI agree that:

- a. All model year 2007 or newer diesel vehicles used for North Slope oilfield purposes will operate using ULSD;
- b. BPXA and CPAI will make all reasonable endeavors to produce ULSD on the North Slope by December 31, 2007;
- c. BPXA and CPAI will notify the State by April 30, 2007, whether the conversion module needed to produce ULSD will be transported on the 2007 North Slope sealift;
- d. BPXA and CPAI will notify the State by August 1, 2007, whether the conversion module is in transit on the 2007 North Slope sealift and whether North Slope operations are proceeding to receive and install the conversion module;
- e. If ULSD production capability is achieved on the North Slope then BPXA and CPAI will thereafter phase-in use of ULSD in all (excluding locomotive and marine) diesel combustion sources used in their North Slope operations, not just those required by the EPA Rules to use ULSD. BPXA and CPAI will make their excess ULSD available for sale either directly or through a wholesale distributor or marketer to other North Slope communities or consumers;
- f. However, if ULSD production capability is not fully operational on the North Slope by June 1, 2008, then the State may direct BPXA and CPAI, in the State's sole discretion based on then-existing circumstances, to implement their own individual fuel supply strategy to comply with the EPA rules then in place based on an urban definition for all road accessible oilfield areas;
- g. In the event that BPXA and CPAI notify the State that the conversion module will not be transported on the 2007 North Slope sealift or the conversion module is not transported with the 2007 North Slope sealift, the State may direct BPXA and CPAI, in the State's sole discretion based on then-existing circumstances, to implement their own individual fuel supply strategy to comply with the EPA rules then in place based on an urban definition for all road accessible areas.
- h. Except as otherwise provided in this Agreement, all contractor agreements entered into by CPAI and BPXA (each, a "Contracting Operator") as North Slope field operators, after the execution date of this Agreement, shall require the contractor to use ULSD in all diesel combustion sources (excluding locomotive and marine) while in use on North Slope surface facilities operated by the Contracting Operator once ULSD is produced on the North Slope. An exception to the foregoing requirement shall exist for

all non-ULSD fuel in the fuel tank of any diesel engine that was last used by or for a party other than a Contracting Operator.

3. BPXA and CPAI will provide a joint progress report to the Alaska Department of Environmental Conservation on March 31 and September 30 of each year, starting on September 30, 2005, and ending on September 30, 2008.
4. This Agreement is governed by Alaska law. The parties agree that this Agreement may be enforced as a contract by (a) the Attorney General (for Alaska) and (b) BPXA and CPAI in any state or federal court in Alaska.
5. In the event that BPXA and CPAI fail to perform under paragraph 2 above, the State may sue to enforce those obligations. The commitment to make all reasonable endeavors to produce ULSD on the North Slope by December 31, 2007 is not enforceable.
6. This Agreement (a) may be amended only in writing by the parties or their successors, (b) is binding on the parties and their respective successors and assigns, and (c) is not intended to confer any rights or remedies upon any other persons. Where an act required of BPXA or CPAI under this Agreement is subject to regulatory approval or action, the time limits stated in this Agreement will be deemed extended as may be necessary to accommodate the time involved in securing those regulatory approvals if BPXA and CPAI have acted with reasonable diligence to obtain those approvals.
7. Each of the persons signing below on behalf of a corporate party represents and warrants that he or she has the authority to execute this Agreement on behalf of the party for which he or she signs. Each of the persons signing below on behalf of the State represents and warrants that he or she holds the office shown and is authorized to exercise the powers of that office, and that such office is empowered with the authority to execute this Agreement and bind the State to its terms.
8. Nothing in this Agreement is intended to reduce, eliminate or supersede any other obligations BPXA or CPAI may have under any other state or federal law or regulation.
9. Neither BPXA nor CPAI shall be liable for any failure or delay in performance under this Agreement if such delay or default is caused by conditions beyond their reasonable control including, but not limited to acts of God, government restrictions, wars, insurrections and/or any other cause beyond the reasonable control of the party whose performance is affected provided that, as a condition to the claim of non-liability, they give the State prompt written notice, with full details following the occurrence of the cause relied upon. Dates by which obligations are scheduled to be met will be extended for a period of time equal to the time lost due to any delay caused by any event covered by this paragraph.

10. The State, CPAI, and BPXA acknowledge that issues may be encountered in the implementation of this Agreement that were not identified and considered by the parties before the execution of this Agreement. If such issues arise, the Department of Environmental Conservation may grant exceptions to the obligations undertaken by CPAI and BPXA in this Agreement upon request by either CPAI or BPXA. The obligation will not apply until ADEC answers the request.

STATE OF ALASKA

DEPARTMENT OF ENVIRONMENTAL CONSERVATION

By Kurt Fredriksson

6/21/05

Kurt Fredriksson, Commissioner

BP EXPLORATION (ALASKA) INC.

By A. Marshall  
President, BPXA

6/17/05  
Date

CONOCOPHILLIPS ALASKA, INC.

By J. L. Bowler RB  
President, CPAI

6/20/05  
Date