

Making Alaskans Whole:

How Regulators Can Restore **Trans-Alaska Pipeline System** Lands and Recover Billions for the Public

In exchange for using public lands, the owners of the **Trans-Alaska Pipeline System (TAPS)** promised to clean up the pipeline when it reaches the end of its useful life. Our government must ensure that the pipeline owners follow through with their agreement. This document summarizes the legal structures that govern TAPS decommissioning and recommends policies to protect working Alaskans.

Key context:

- The Trans-Alaska Pipeline System (TAPS) sits on public land (mostly state land, some federal land).
- A collection of for-profit companies own TAPS. For the most part, the pipeline owners are subsidiaries of major multinational oil corporations. One owner, Harvest Alaska, is a subsidiary of a private Texas firm.
- In order to build and operate TAPS on public land, the pipeline owners signed right-of-way leases with the state and federal governments. In those 1974 leases, the pipeline owners promised to dismantle the pipeline, remove the infrastructure from the landscape, and restore the underlying land when the pipeline is no longer operating.
- State and federal regulators allowed the pipeline owners to collect cleanup funds in advance by imposing a fee on oil shipped through the pipeline. The pipeline owners pre-collected billions of dollars.

Bottom line:

Successful decommissioning means returning unpaid taxes and ratepayer dollars collected by out-of-state oil companies to the state government and Alaskan workers.

1. The pipeline owners promised clean up their mess as a condition for using public lands. If those cleanup funds disappear, Alaskans will foot the bill.
2. If policymakers require the pipeline owners to return excess cleanup fees to oil producers, billions in owed taxes and royalties could help keep the State government afloat.
3. Decommissioning the pipeline will be a massive economic engine. Alaska workers have a lot to gain from timely cleanup, and much to lose if decommissioning is limited in scope, delayed, or doesn't happen at all.



Problems with the current system:

- 1. External fund.** Regulators typically require pipeline owners to store pre-collected cleanup funds in an external trust account. But in this case, regulators allowed the TAPS owners to give the collections to their parent companies, which have been using the funds as tax- and interest-free loans for decades. This system creates undeserved windfall profits for those out-of-state parent companies. More importantly, it incentivizes the pipeline owners to delay or avoid their cleanup obligations. If any one pipeline owner declares bankruptcy or otherwise reneges on its responsibilities, it will be nearly impossible to complete decommissioning.
- 2. Ownership transfers.** Poorly regulated ownership transfers further jeopardize the decommissioning funds. The Alaska Department of Natural Resources, the Regulatory Commission of Alaska, and the federal Department of the Interior are responsible for vetting ownership transfers. But it is unclear that these agencies are willing to do their jobs. When regulators allow well-resourced pipeline owners like BP to transfer their shares to smaller, privately-owned companies like Harvest Alaska, it becomes even more difficult to enforce cleanup obligations.
- 3. Overcollection.** By all estimates, the pipeline owners collected far more money than is necessary to complete decommissioning. Excessive collections provided enormous windfall profits to the pipeline owners at ratepayers' expense. Overcollection also transferred billions in unpaid production taxes and royalties from the State of Alaska to the pipeline owners. This is because the Alaska Department of Revenue calculates production taxes and royalties based on the refinery price of the oil minus the transportation costs. Inflated tariffs increase the transportation cost of oil, and, in turn, decrease the State's tax base. The Permanent Fund would be much larger if the pipeline owners had not used the decommissioning tariff to withhold decades of taxes and royalties.

Policy recommendations:

- Require the pipeline owners to separate pre-collected cleanup funds from their parent companies' assets and place them in a State-owned trust. Creating an external trust account will ensure that the funds are available when the time comes for decommissioning.
- Establish joint and several liability and trailing liability among current and former pipeline owners. If all of the current and former pipeline owners are liable for decommissioning, then there will be less risk that financial distress or evasive tactics of any one owner could imperil cleanup for the entire pipeline.
- Institute reforms that inject transparency & public review into TAPS ownership transfer process.
- Require the pipeline owners to refund excess cleanup funds to shippers. These refunds will trigger back-taxes and royalties.
- Define restoration in a manner that defers to local knowledge and needs and includes lost-use damages. Expansive restoration will create jobs, support long-term economic growth.