NAPTP Statement in Response to Obama Administration's Corporate Reform Option for Large Pass-through Entities

(Wednesday, February 22, 2012, Washington, D.C.) Today, the Obama Administration announced the President's Framework for Business Tax Reform, which includes options for reforming the corporate tax code and lowering the corporate tax rate to 28%. While the National Association of Publicly Traded Partnerships (NAPTP) supports sound tax policy proposals, it does not believe that the option advanced to tax large pass-through entities, which includes most publicly traded partnerships (PTPs), more like corporations is such a proposal.

"We do not agree that this option, which if enacted could threaten the PTP tax structure that has proven to be the most efficient and effective means of directing capital to our critical domestic energy infrastructure, should be considered," said Mary Lyman, NAPTP's executive director. "We call on Congress to reject this idea when it takes serious action on tax reform, which we do not expect to occur this year."

Most PTPs, which are also known as master limited partnerships or MLPs, are engaged in natural resource or real estate businesses, which are capital intensive businesses that are almost exclusively located in, and are strategic to, the United States. A significant amount of the natural gas, crude oil, natural gas liquids, and refined products (such as gasoline) produced and consumed every day in the United States is transported by pipelines and stored in facilities owned by these PTPs. Approximately 25 percent of the propane delivered to rural businesses and homeowners is delivered by assets owned by PTPs. PTPs have also played and will continue to play a leading role in building the energy infrastructure needed to facilitate the production, processing, and transportation of U.S. natural gas and crude oil from new sources, including shale and non-conventional formations, for the benefit of the American consumer.

Subjecting PTPs to taxation as corporations would increase the cost of capital for PTPs; disrupt and reduce investment by PTPs in U.S. energy infrastructure; discourage the creation by PTPs of permanent pipeline, refinery and storage jobs as well as construction jobs in the U.S.; retard the growth of domestic natural gas and crude oil production; increase the cost of energy delivered to U.S. industries, utilities and consumers; and increase U.S. reliance on foreign sources of energy. The NAPTP, its members and PTP investors will continue to vigorously communicate our message to our elected representatives in Congress that:

- The PTP structure sanctioned by tax legislation in 1987 and relied upon by businesses and investors for over thirty years has been extremely successful at encouraging investment in energy infrastructure;
- PTPs which invest in natural resources operate in the best interests of the United States as a whole as well as its individual citizens, all of whom are consumers of energy directly or indirectly; and
- Any proposal to tax as corporations large pass-through entities, including PTPs engaged in natural resource and real estate activities, should be rejected.

The first PTP was formed over thirty years ago. In 1987, Congress passed legislation which sanctioned the PTP structure but severely restricted PTPs to entities earning over 90 percent of their income from certain strategic business activities. Like real estate investment trusts (REITS), PTPs generally provide smaller investors with a liquid investment in pass-through entities owning stable assets that provide an attractive cash yield and overall return. These PTPs generate mostly ordinary income on which investors pay federal income taxes at ordinary income rates, currently up to 35%.

PTPs are largely owned by individual investors. Based on our research, approximately 80 percent of PTP equity interests owned by such investors are owned by individuals who are over 50 years old, many of whom are using the cash distributions received from PTPs to supplement their retirement income or their plans for retirement. Taxing PTPs at the entity level would significantly reduce the return on their investment, and in doing so would substantially reduce a dependable source of income for these older individuals.

PTPs have been the leaders in investing new capital to build, acquire and expand the energy infrastructure in the U.S. necessary to transport, store, and process domestic production of natural gas, crude oil, natural gas liquids and refined products. Since 2007 the largest 15 PTPs have invested over $50 billion of capital to build, expand and maintain the U.S. energy infrastructure, which has resulted in the creation of a significant number of jobs, even during the recession.

This includes investments in pipeline, processing and storage infrastructure that facilitates the growth of natural gas, crude oil and natural gas liquid production across the U.S. from such shale and non-conventional plays as the Barnett, Eagle Ford, Haynesville, Piceance, Bakken, Jonah/Pinedale, Marcellus and the developing Utica. The technological breakthroughs by the domestic energy industry in developing these formations have provided the U.S. a substantial resource base of environmentally friendly natural gas, but infrastructure is required to get this production treated, processed and transported to market.

For instance, one of the largest natural gas pipeline construction projects in U.S. history is a 1,679-mile pipeline with the capacity to transport up to 1.8 billion cubic feet per day of production from the Rocky Mountains across eight states to markets in the Midwestern and Northeastern U.S. This was a $6.8 billion project that generated approximately 20,000

construction jobs from 2007 to 2009 during the height of the recent recession. A PTP was the developer, operator and leading capital provider in this project. Another PTP is near completion of a 270-mile pipeline project in Louisiana to support the development of natural gas production from the Haynesville shale. This project entailed $1.5 billion of capital investment and created approximately 3,600 construction jobs. Notably, these jobs were created by PTPs at a time when the underemployment rate in the U.S. was (and still is) over 15 percent.

A recent study by the Independent Natural Gas Association of America (INGAA) Foundation stated that, in the next 25 years, North America will require approximately $250 billion of investment in natural gas, crude oil and natural gas liquid infrastructure. INGAA also recently released a study finding that planned and potential investments in natural gas, oil and natural gas liquids midstream infrastructure in the Lower-48 states will create more than 125,000 jobs annually and add more than $260 billion to the GDP by 2035. A large portion of this investment will be made by PTPs.

As recently as 2008, Congress passed legislation to expand activities generating qualifying income for PTPs to include the transportation and storage of renewable fuels and to treat industrial source CO2 as a natural resource. Given the capital intensive nature of energy infrastructure, the lower cost of equity capital associated with PTPs results in lower costs to gather, process, transport, store and deliver U.S.-produced energy to U.S. consumers. That in turn results in lower energy bills for U.S. consumers.

In conclusion, taxing PTPs as corporations would increase the cost of capital for PTPs; disrupt and reduce investment in the U.S. energy infrastructure by PTPs; discourage the creation of permanent and construction jobs; retard the growth of domestic natural gas and crude oil production; increase the cost of energy delivered to U.S. industries, utilities and consumers; and increase U.S. reliance on foreign sources of energy. The proposal, if enacted, would also be harmful to most older Americans who have invested in PTPs, many of them in retirement or planning for their retirement.

The NAPTP will continue its outreach efforts with members of Congress to highlight the important policy benefits associated with the PTP structure.