

February 26, 2025

The Honorable Lyman Hoffman
Co-Chair, Senate Finance Committee
Alaska State Capitol, Room 518
Juneau, Alaska 99801

The Honorable Bert Stedman
Co-Chair, Senate Finance Committee
Alaska State Capitol, Room 516
Juneau, Alaska 99801

The Honorable Donny Olson
Co-Chair, Senate Finance Committee
Alaska State Capitol, Room 508
Juneau, Alaska 99801

Dear Co-Chairs Hoffman, Stedman, and Olson:

This letter is in response to questions raised in the February 10, 2025, meeting of the Senate Finance Committee for the Alaska Gasline Development Corporation (AGDC).

1. The Senate Finance Committee requested AGDC provide a list of when the Alaska State Legislature makes decisions about the Alaska LNG Project and when AGDC informs the Alaska Legislature of their actions.

Attachment 1 is a copy the section of AGDC's enabling statutes that describe the powers and duties (Alaska Statute [AS] 31.25.08) granted to AGDC by the Alaska Legislature, as well as the section regarding confidentiality (AS 31.25.090).

AGDC will inform the Alaska Legislature:

- With ongoing progress of negotiation with private project investors and developers.
- When definitive agreements are signed with private project investors and developers and provide a briefing on non-confidential information.
- With updates during the Front-End Engineering Design (FEED) Stage(s) of the project.
- When the projected timeframe(s) of a Final Investment Decision (FID) is anticipated.
- With updates during construction through operations of the project, assuming AGDC continues to hold equity in the project through these phases.

The Alaska Legislature will make decisions:

- Annually when AGDC presents its operating and capital budget requests.
- At the completion of FEED, and at the completion of FID.

- AGDC will submit a Decision Support Package to the Alaska Legislature, who will determine if the State of Alaska will invest up to 25% individual subproject equity within the Alaska LNG Project.
- The Alaska Legislature will have the right, but not the obligation, to invest in any subproject amount up to 25%.
- When AGDC, the Alaska Department of Revenue, or the Alaska Department of Natural Resources present recommendations for legislation that supports the project (*e.g.*, competitive changes to statewide property tax, implementation of an Alaskan direct investment program, etc.).

2. The Senate Finance Committee requested information regarding the 'Buy America' programs.

There are two Buy America programs:

- 1) "Buy American" is the domestic content preferences program generally applied to direct federal procurement.
- 2) "Buy America" is the domestic preferences program generally applied to awards made with federal financial assistance.

Attachment 2 provides a fact sheet detailing Buy American and Buy America program information. Additionally provided is the website address to the Build America Buy America program <https://www.commerce.gov/oam/build-america-buy-america>.

AGDC is working with Glenfarne to develop and construct the Alaska LNG Project. As currently being discussed, the project would not use any federal funds. AGDC has requested clarification whether the use of federal loan guarantees will make AGDC subject to Buy America program requirements.

Please contact the AGDC office if you have further questions.

Sincerely,



Frank T. Richards
President

Enclosures:

Attachment 1 – AGDC's Enacting Statutes on Powers and Duties, and Confidentiality

Attachment 2 – Buy American vs Buy America Fact Sheet

cc: Jordan Shilling, Director, Governor's Legislative Office
Rob Carpenter, Deputy Director, Legislative Finance Division
Josie Stern, Policy Analyst, Office of Management and Budget

ATTACHMENT 1

AGDC's Enacting Statutes:

Powers and Duties (Sec. 31.25.080) and Confidentiality, Interagency Cooperation (Sec. 31.25.090)

Sec. 31.25.080. Powers and duties.

(a) In addition to other powers granted in this chapter, the corporation may

(1) determine the form of ownership and the operating structure of an in-state natural gas pipeline developed by the corporation and may enter into agreements with other persons for joint ownership, joint operation, or both of an in-state natural gas pipeline or an Alaska liquefied natural gas project;

(2) plan, finance, construct, develop, acquire, maintain, and operate a pipeline system and other transportation mechanism, including pipelines, compressors, storage facilities, and other related facilities, equipment, and works of public improvement, in the state to facilitate production, transportation, and delivery of natural gas or other related natural resources to the point of consumption or to the point of distribution for consumption;

(3) lease or rent facilities, structures, and properties;

(4) exercise the power of eminent domain and file a declaration of taking under AS 09.55.240 - 09.55.460 to acquire land or an interest in land that is necessary for an in-state natural gas pipeline or an Alaska liquefied natural gas project; the exercise of powers by the corporation under this paragraph may not exceed the permissible exercise of the powers by the state;

(5) acquire, by purchase, lease, or gift, land, structures, real or personal property, an interest in property, a right-of-way, a franchise, an easement, or other interest in land, or an interest in or right to capacity in a pipeline system determined to be necessary or convenient for the development, financing, construction, or operation of an in-state natural gas pipeline project or an Alaska liquefied natural gas project or part of an in-state natural gas pipeline project or an Alaska liquefied natural gas project;

(6) transfer or otherwise dispose of all or part of an in-state natural gas pipeline project, an Alaska liquefied natural gas project, or an interest in an asset of the corporation;

(7) elect to provide transportation of natural gas as a contract carrier, common carrier, or otherwise;

(8) provide light, water, security, and other services for property of the corporation;

(9) conduct hearings to gather and develop data consistent with the purpose and powers of the corporation;

(10) advocate for new pipeline capacity before the Federal Energy Regulatory Commission;

(11) make and execute agreements, contracts, and other instruments necessary or convenient in the exercise of the powers and functions of the corporation under this chapter, including a contract with a person, firm, corporation, governmental agency, or other entity;

(12) sue and be sued in its own name;

(13) adopt an official seal;

(14) adopt bylaws for the regulation of its affairs and the conduct of its business and adopt regulations and policies in connection with the performance of its functions and duties;

(15) employ fiscal consultants, engineers, attorneys, appraisers, and other consultants and employees that may, in the judgment of the corporation, be required and fix and pay their compensation from funds available to the corporation;

(16) procure insurance against a loss in connection with its operation;

(17) borrow money as provided in this chapter to carry out its corporate purposes and issue its obligations as evidence of borrowing;

(18) include in a borrowing the amounts necessary to pay financing charges, to pay interest on the obligations, and to pay the interest, consultant, advisory, and legal fees, and other expenses that are necessary or incident to the borrowing;

(19) receive, administer, and comply with the conditions and requirements of an appropriation, gift, grant, or donation of property or money;

(20) do all acts and things necessary, convenient, or desirable to carry out the powers expressly granted or necessarily implied in this chapter;

(21) invest or reinvest, subject to its contracts with noteholders and bondholders, money or funds held by the corporation, including funds in the in-state natural gas pipeline fund (AS 31.25.100) and the Alaska liquefied natural gas project fund (AS 31.25.110), in obligations or other securities or investments in which banks or trust companies in the state may legally invest funds held in reserves or sinking funds or funds not required for immediate disbursement, and in certificates of deposit or time deposits secured by obligations of, or guaranteed by, the state or the United States;

(22) enter into, as it determines to be necessary or appropriate, any swap or hedge, cap, or other contract providing for payments based on levels of or changes in interest rates or indices or in the cost or price of any commodity, supply, or expense expected to be used or incurred in connection with the acquisition, construction, or operation of any facility or property owned, leased, or operated by the corporation, or an option with respect to any of the foregoing;

(23) except as provided in (g) of this section, acquire an ownership or participation interest in an Alaska liquefied natural gas project, natural gas treatment facilities, natural gas pipeline facilities, liquefaction facilities, marine terminal facilities related to the infrastructure of an Alaska liquefied natural gas project, or an entity or joint venture that has an ownership interest in or is engaged in the planning, financing, acquisition, maintenance, construction, and operation of an Alaska liquefied natural gas project;

(24) after consultation with the commissioner of revenue and the commissioner of natural resources, enter into contracts relating to an Alaska liquefied natural gas project, including contracts for services related to operation, marketing, transportation, gas treatment, marine terminal operation, or liquefaction.

(b) Upon commencement of construction of an in-state natural gas pipeline, the corporation shall analyze potential natural gas pipelines and other transportation mechanisms connecting to industrial, residential, or utility customers in other regions of the state. If the corporation finds that a natural gas pipeline or other transportation mechanism analyzed under this subsection is in the best interest of the state and can meet the needs of industrial, residential, or utility customers at commercially reasonable rates, the corporation may finance, construct, or operate the natural gas pipeline or other transportation mechanism as necessary. When developing or constructing a connecting line or other transportation mechanism, the corporation shall, to the maximum extent feasible, use existing land, structures, real or personal property, rights-of-way, easements, or other interests in land acquired by the corporation.

(c) The corporation may not develop or construct a natural gas pipeline that is a competing natural gas pipeline project for purposes of AS 43.90.440.

(d) The corporation shall establish a schedule of reasonable fees, rental rates, and other charges, and collect fees, rentals, and other charges for use of the facilities of the corporation.

(e) If commitments to acquire firm transportation capacity for the in-state natural gas pipeline are received in an open season conducted by the corporation, the corporation shall, within 10 days after accepting and executing the written commitments received during the open season, report the results of the open season to the president of the senate and the speaker of the house of representatives and inform the public of the results of the open season through publication on the Internet website of the corporation and in a press release or other announcement to the media. The results made public must include the name of each prospective shipper, the amount of capacity allocated, and the period of the commitment. If the corporation determines that the commitments received during the open season are not sufficient to permit the corporation to continue the development or construction of the natural gas pipeline, the corporation shall report that to the legislature within 30 days.

(f) [Repealed, § 71 ch 14 SLA 2014.]

(g) The power in (a)(23) of this section may not be exercised by an entity or subsidiary of the corporation that is advancing the development of an in-state natural gas pipeline.

Sec. 31.25.090. Confidentiality; interagency cooperation.

(a) The corporation shall have access to information of departments, agencies, and public corporations of the state that is directly related to the planning, financing, development, acquisition, maintenance, construction, or operation of an in-state natural gas pipeline. The corporation shall avoid duplicating studies, plans, and designs that have already been provided or obtained by other state entities. All departments, agencies, and public corporations of the state shall cooperate with and shall provide information, services, and facilities to the corporation upon its request and, except for requests from the Alaska Gasline Inducement Act coordinator appointed under AS 43.90.250, give priority to processing authorization applications and other requests of the corporation.

(b) Upon request by the corporation, a state entity shall provide water, sand and gravel, other nonhydrocarbon natural resources, and a permit or a lease to the corporation at the usual and customary rates, except as provided in (d) of this section. Review of and action on a request shall be conducted and taken as provided in AS 38.34.020. In this subsection, "state entity" means a state department, authority, or other administrative unit of the executive branch of state government, a public university, or a public corporation of the state.

(c) That part of the cost of providing, under (b) of this section, water, sand and gravel, or other nonhydrocarbon natural resources, or of entering into a lease or issuing a permit, that is borne by the corporation for an in-state natural gas pipeline project that is owned in whole or in part by the corporation may not be included in the rate base in a proceeding under AS 42 or before the Federal Energy Regulatory Commission.

(d) Notwithstanding any contrary provision of law, the Department of Natural Resources shall grant the corporation a right-of-way lease under AS 38.35 for the gas pipeline transportation corridor at no appraisal or rental cost if

(1) a complete right-of-way lease application under AS 38.35.050 is submitted;

(2) the lease application is made the subject of notice and other reasonable and appropriate publication requirements under AS 38.35.070; and

(3) the corporation submits the application for the right-of-way lease and agrees to be bound by those right-of-way lease covenants set out in

(A) AS 38.35.120 for an in-state natural gas pipeline that the corporation intends to be a common carrier; or

(B) AS 38.35.121 for an in-state natural gas pipeline that the corporation intends to be a contract carrier.

(e) After approval by the commissioner of natural resources, a right-of-way lease received by the corporation under (d) of this section may be transferred to a successor in interest under the same terms and conditions applicable to the right-of-way lease granted to the corporation.

(f) The corporation may enter into confidentiality agreements necessary to acquire or provide information to carry out its functions. If a state agency determines that a law or provision of a contract to which the

state agency is a party requires the state agency to preserve the confidentiality of the information and that delivering the information to the corporation would violate the confidentiality provision of that law or contract, the state agency shall

(1) identify the applicable law or contract provision to the corporation; and

(2) obtain the consent of the person who has the right to waive the confidentiality of the information under the applicable law or contract provision before the state agency transfers the information to the corporation.

(g) The portions of records containing information acquired or provided by the corporation under a confidentiality agreement are not subject to AS 40.25.100 - 40.25.295. The corporation may enter into confidentiality agreements with a public agency, as defined in AS 40.25.220, to allow release of confidential information. The portions of the records and files of a public agency bound by a confidentiality agreement that reflect, incorporate, or analyze information subject to a confidentiality agreement under this subsection are not public records. Confidentiality agreements entered into under this subsection are valid and binding against all parties in accordance with the terms of the confidentiality agreement.

(h) Information and trade secrets of the corporation are confidential and not subject to AS 40.25.100 - 40.25.295 if the corporation determines that disclosure would cause commercial or competitive harm or damage to the corporation. Information that discloses the particulars of a business or the affairs of a private enterprise, investor, advisor, consultant, counsel, or manager that is developed or obtained by the corporation and related to the development, financing, construction, or operation of an in-state natural gas pipeline project by the corporation is confidential and not subject to AS 40.25.100 - 40.25.295. The corporation may waive the confidentiality described in this subsection, except for information that is confidential under another provision of state law or under a federal law or regulation and except for information acquired from another person that is subject to a confidentiality agreement, if the waiver is consistent with the interests of the state and will facilitate the development, financing, or construction of an in-state natural gas pipeline. On the date that the in-state natural gas pipeline project becomes operational, the corporation shall make available, upon request under AS 40.25.100 - 40.25.295, records that were exempt from AS 40.25.100 - 40.25.295 under this subsection or (g) of this section, unless the corporation determines that

(1) maintaining the confidentiality of the information is necessary to protect the economic interests of the corporation or the state; or

(2) disclosure of the information will violate another provision of state law, a federal law or regulation, or the terms of a confidentiality agreement or other agreement to which the corporation is a party or that is binding on the corporation.

(i) Subject to limitations on the disclosure of confidential information in (g) and (h) of this section, the corporation shall provide to the commissioner of natural resources and the commissioner of revenue access to information that is related to the development of contracts under AS 38.05.020(b)(10) and (11).

ATTACHMENT 2

Buy American vs Buy America Fact Sheet

<https://www.madeinamerica.gov/media/documents/buy-american-vs-buy-america-fact-sheet.pdf>