

**ALASKA STATE LEGISLATURE
JOINT MEETING
HOUSE JUDICIARY STANDING COMMITTEE
SENATE JUDICIARY STANDING COMMITTEE**

April 13, 2005

8:38 a.m.

SENATE MEMBERS PRESENT

Senator Ralph Seekins, Chair
Senator Charlie Huggins, Vice Chair
Senator Gene Therriault
Senator Hollis French
Senator Gretchen Guess

HOUSE MEMBERS PRESENT

Representative Lesil McGuire, Chair
Representative Nancy Dahlstrom
Representative Les Gara
Representative Pete Kott
Representative Tom Anderson
Representative Max Gruenberg

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

Attorney General Confirmation Hearing: Mr. David Marquez

CONFIRMATION HEARD AND HELD

PREVIOUS COMMITTEE ACTION

No previous action

WITNESS REGISTER

Mr. David Marquez, Acting Deputy Attorney General
Civil Division
Department of Law
PO Box 110300
Juneau, AK 99811-0300

POSITION STATEMENT: Applicant for Attorney General

ACTION NARRATIVE

CO-CHAIR RALPH SEEKINS called the joint Senate and House Judiciary Standing Committee meeting to order at [8:38:22 AM](#). Present were Representatives Nancy Dahlstrom, Les Gara, Pete Kott, Tom Anderson, and Co-Chair Lesil McGuire, Senators Hollis French, Charlie Huggins, Gene Therriault, and Co-Chair Ralph Seekins.

Confirmation Hearing: Attorney General: Mr. David Marquez

CO-CHAIR SEEKINS announced that the joint Senate and House Judiciary Standing Committee was meeting to determine whether or not to forward the nomination of David Marquez as appointee to be Attorney General for the State of Alaska.

[8:40:45 AM](#)

SENATOR CHARLIE HUGGINS thanked Mr. Marquez for his veteran service.

REPRESENTATIVE TOM ANDERSON asked Mr. Marquez how his experience in corporate law would aide him in the attorney general capacity.

MR. DAVID MARQUEZ detailed the start of his legal career in a private law firm. In 1977 he joined Arco Alaska and advised heads of departments on Alaska resources. He said he understands the burdens and importance of good staff work. Gradually he was given more responsibility within the Arco legal department including the management and supervision of lawyers.

In the early 1990s he related that he became general counsel of Alyeska Pipeline Service Company, which provided him with a first opportunity to serve as a member of an executive team. In that capacity he reported directly to the president and led an entire law department. During that time he managed the significant litigation that Alyeska faced.

He opined that the aforementioned experience would be directly relevant because as attorney general he would provide legal advice to the chief executive of the state and the cabinet. He would bear ultimate accountability and responsibility for managing the legal affairs of the State of Alaska.

[8:44:21 AM](#)

He said he returned to work for Arco Alaska as vice president of external affairs and environmental health and safety. He was

responsible for media, government, community relations and safety programs. During that time, he said, he worked on the Alaska Stranded Gas Development Act as a member of different task forces.

Ultimately he became head counsel for Arco Alaska, which made him a member of the executive team. He reiterated that he held a similar position with Alyeska and that they are equivalent to a cabinet member serving the chief executive of the state.

He expressed the view that his corporate experience is directly relevant to the attorney general post.

[8:46:04 AM](#)

Senator Gretchen Guess joined the meeting.

REPRESENTATIVE LES GARA referred to Mr. Marquez's recent job with Conoco Phillips and asked how he would address the issue of selecting the company to build the Alaska Gas Pipeline.

[8:48:07 AM](#)

MR. MARQUEZ assured the committee his position would override past associations. He maintains an ethical duty to represent his client, which is now the State of Alaska.

CHAIR SEEKINS asked Mr. Marquez the date he left employment with the oil companies.

MR. MARQUEZ answered December 2001.

CHAIR SEEKINS asked whether he remained on retainer.

MR. MARQUEZ responded no.

REPRESENTATIVE GARA asked Mr. Marquez whether he was leaning toward any of the three oil company applicants.

MR. MARQUEZ said the short answer is no. His job will be to review and withhold judgment until the gas cabinet fully evaluates the three.

[8:56:52 AM](#)

REPRESENTATIVE GARA commented many people, including the state, believe the pipeline owners are overcharging for the transportation of Alaska oil.

MR. MARQUEZ agreed. He said his predecessor initiated efforts to renegotiate.

[8:59:02 AM](#)

SENATOR HUGGINS voiced his support for Mr. Marquez.

REPRESENTATIVE GARA shared his concern about when two democrats were fired when the last administration came in. He asked Mr. Marquez whether it is appropriate to consider a person's politics when deciding whether a person should work for or be retained by the Department of Law.

MR. MARQUEZ responded the utmost value would be in their skills, dedication, and experience. It is important for an attorney general to lead a team that would provide support to any administration. Certainly the governor would expect department heads to hire a team that would be the most effective in promoting the goals of the governor.

[9:02:19 AM](#)

REPRESENTATIVE GARA asked Mr. Marquez to clarify whether a person's politics are relevant to them performing a job.

MR. MARQUEZ stated it would have some relevance. A person's political affiliation is important in the context of building a team that one can work with. Cabinet members are political appointees and one would expect that they would surround him or her self with people they could trust.

[9:04:06 AM](#)

CO-CHAIR MCGUIRE commented that what makes up a political party is a set of values and philosophies. She asserted it would be difficult to have a staff with a different set of values.

MR. MARQUEZ said it is not his intention to engage in a political witch-hunt. He is impressed with the current team.

[9:06:26 AM](#)

SENATOR HOLLIS FRENCH urged that all lawyers in the Department of Law should be judged solely by what they do on the clock.

MR. MARQUEZ agreed but speculated there are times when a person's partisanship would be brought into the office and could affect his or her performance.

[9:09:26 AM](#)

REPRESENTATIVE GARA expressed concern and asked Mr. Marquez to clearly state whether he would consider a person's politics above their performance. He indicated there was fear within the DOL concerning this issue and that people were afraid to participate in the political process.

MR. MARQUEZ said all he is concerned about is performance on the job. Partisan activities outside the job are irrelevant so long as it does not affect performance.

[9:11:46 AM](#)

CHAIR SEEKINS stated that a supervisor would look at how employees interact with one other. Politics can have an affect on an employee's performance.

[9:13:36 AM](#)

SENATOR GENE THERRIAULT asked Mr. Marquez how he intends to interact with opposing state and federal issues such as tribal sovereignty issues.

MR. MARQUEZ asserted the governor is generally a strong proponent of state's rights and is engaged in other actions against the federal government. He would look at every opportunity to make sure Alaska government is not thwarted by unnecessary federal intervention.

[9:16:48 AM](#)

SENATOR THERRIAULT expressed concern over the tribal sovereignty issue.

MR. MARQUEZ admitted he has no experience in that area. Tribal sovereignty is a matter of federal law. He would expect to advocate for state sovereignty and ask for the protection of all Alaskans.

[9:19:47 AM](#)

SENATOR THERRIAULT understood that as the top legal advisor to the governor, Mr. Marquez would be looking for any possible erosion of constitutional protection of its citizens. Indian country does not exist in the State of Alaska but he anticipates that the US Congress will eventually take action to reverse that. He asked Mr. Marquez his position on the subject.

MR. MARQUEZ admitted that would be a large departure from current law. It would require the US Congress to amend Indian Country definition in federal law and the overturning of US Supreme Court cases.

[9:25:57 AM](#)

SENATOR GRETCHEN GUESS asked Mr. Marquez to share his approach to conflicts of interest.

MR. MARQUEZ said it is important for the people to have confidence in their attorney general. Ultimately ethics and morality is an individual matter. The ethics laws could be improved and he is ready to work closely with the Legislature.

[9:27:44 AM](#)

SENATOR FRENCH agreed there are deficiencies in the Ethics Act. He asked whether Mr. Marquez had a specific view on how to improve it.

MR. MARQUEZ advised that the DOL has long examined the Ethics Act and how to improve it. They are awaiting action on new legislation.

[9:30:30 AM](#)

SENATOR FRENCH asked whether he had a view on a dollar amount concerning the investment threshold.

MR. MARQUEZ said he did not since the value of stocks fluctuate.

SENATOR FRENCH asked whether problems would be avoided if top administrative officials put their assets in a blind trust.

MR. MARQUEZ admitted that would be appropriate particularly if a high official owned a lot of stock in a smaller company. It is also important to realize the difficulty involved in acquiring a blind trust.

[9:35:29 AM](#)

REPRESENTATIVE GARA said it is important that government not tell people which parties to support. He asked whether Mr. Marquez thought it inappropriate in making personnel decisions to look at an applicants donation records.

MR. MARQUEZ answered it was not inappropriate for an employer to look at a person's complete background.

REPRESENTATIVE GARA asked Mr. Marquez whether it was relevant to consider an applicant or employee's politics outside of work.

MR. MARQUEZ responded he could not draw a clear line. Outside life can have an impact. What is important is job performance.

He could not pledge that he would never look at someone's partisan activities.

[9:39:57 AM](#)

SENATOR HUGGINS asked Mr. Marquez whether there was anything about his prior relationship with the oil industry that the Legislature should be aware of.

MR. MARQUEZ responded no.

SENATOR HUGGINS asked whether anything in his business investment portfolio might cause him to be exposed in the future.

MR. MARQUEZ replied he has no interest in the oil companies. His funds are mostly in mutual funds and bonds. He would make sure the bonds are not from municipalities or other entities in Alaska and that his bond manager doesn't purchase corporate bonds from companies doing business in Alaska.

[9:45:45 AM](#)

REPRESENTATIVE MAX GRUENBERG asked Mr. Marquez to describe how he would resolve conflicts in the best interest of the state.

MR. MARQUEZ said he has been advising executives most of his career and would weigh in on whether any action is legal or illegal.

REPRESENTATIVE GRUENBERG said he is referring to a difficult case where the question is a value judgment. He asked how he would advise on two optional legal courses of action where one might benefit the state and one might benefit a person.

[9:50:02 AM](#)

MR. MARQUEZ replied he would give the advice to best interest of the state and forgo any actions that would benefit an individual.

[9:53:26 AM](#)

SENATOR FRENCH asked Mr. Marquez to discuss his experience in the criminal division of the DOL.

[9:55:03 AM](#)

MR. MARQUEZ said he is very lucky to have the job as legislative liaison as it provided him valuable opportunity to work with lawyers in both divisions.

9:57:19 AM

CO-CHAIR MCGUIRE adjourned the joint meeting at 9:57:39 AM.