

**ALASKA STATE LEGISLATURE  
HOUSE RESOURCES STANDING COMMITTEE**

April 1, 2015

2:04 p.m.

**MEMBERS PRESENT**

Representative David Talerico, Co-Chair  
Representative Mike Hawker, Vice Chair  
Representative Bob Herron  
Representative Craig Johnson  
Representative Kurt Olson  
Representative Paul Seaton  
Representative Andy Josephson  
Representative Geran Tarr

**MEMBERS ABSENT**

Representative Benjamin Nageak, Co-Chair

**COMMITTEE CALENDAR**

CONFIRMATION HEARING(S):

Alaska Gasline Development Corporation Board Of Directors

Joe Paskvan - Fairbanks

- CONFIRMATION(S) ADVANCED

Rick Halford - Eagle River

- CONFIRMATION(S) ADVANCED

Hugh Short - Bethel

- CONFIRMATION(S) ADVANCED

**PREVIOUS COMMITTEE ACTION**

No previous action to report

**WITNESS REGISTER**

JOE PASKVAN, Appointee  
Board of Directors  
Alaska Gasline Development Corporation (AGDC)

Fairbanks, Alaska

**POSITION STATEMENT:** As an appointee, answered questions.

RICK HALFORD, Appointee

Board of Directors

Alaska Gasline Development Corporation (AGDC)

Eagle River, Alaska

**POSITION STATEMENT:** As an appointee, answered questions.

HUGH SHORT, Appointee

Board of Directors

Alaska Gasline Development Corporation (AGDC)

Bethel, Alaska

**POSITION STATEMENT:** As an appointee, answered questions.

HAROLD HEINZE

Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of the three appointees to the Board of Directors of the Alaska Gasline Development Corporation.

#### **ACTION NARRATIVE**

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**CO-CHAIR DAVID TALERICO** called the House Resources Standing Committee meeting to order at 2:04 p.m. Representatives Seaton, Olson, Josephson, Tarr, Herron, Hawker, and Talerico were present at the call to order. Representative Johnson arrived as the meeting was in progress.

#### **CONFIRMATION HEARING(S):**

#### **Alaska Gasline Development Corporation Board of Directors**

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**CO-CHAIR TALERICO** announced that the only order of business is the continuation of the committee's confirmation hearings begun on March 23, 2015, for Mr. Joe Paskvan, Mr. Rick Halford, and Mr. Hugh Short, appointees to the Alaska Gasline Development Corporation (AGDC) Board of Directors.

**CO-CHAIR TALERICO** noted that committee members have received a copy of the [March 12, 2015,] transcript of the Alaska Gasline Development Corporation's Board of Directors meeting.

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REPRESENTATIVE HAWKER presumed all committee members agree that the aforementioned transcript accurately reflects the process [that occurred during the March 12 Board meeting]. He said he left [March 23] confirmation hearing concerned about the interpretation being heard of the March 12 AGDC Board meeting and the decision making process that was undertaken at that meeting. Today's conversation, he continued, is not anything personal about any individual, rather it is the committee's duty to have the best qualified people on the AGDC Board. With the exception of one of the appointees, there is not a lot of compliance with the statutory guidelines [for appointees to the AGDC Board] that the governor was requested to consider. He is therefore looking at the actions during the March 12 AGDC Board meeting to see how the decision making process was approached. A focus of his concern is the timeframe of who, what, when in relation to the votes that were taken at that meeting. During the March 23 confirmation hearing, Mr. Paskvan was asked why he voted for [Resolution 2015-01] to now increase the pipe sizes without any kind of analysis or technical explanation for why those were the right sizes to go to. Mr. Paskvan's answer was that he voted for the resolution because the contractor team wouldn't be available to the board in the future [to look at increased pipe sizes]. He asked Mr. Paskvan whether the aforementioned is a fair recollection.

JOE PASKVAN, Appointee, Board of Directors, Alaska Gasline Development Corporation (AGDC), replied yes, the "A Team" was in the process of being disbanded and it was important to use that team to get a rough order of magnitude cost for the increased volume through the 36-inch pipe. He said he also thought it was prudent for Alaska to be positioned to move forward if the Alaska Liquefied Natural Gas (LNG) Project would falter. He recalled his testimony as being that the first objective is to move the Alaska LNG Project (AK LNG) forward and that the Alaska Stand Alone Pipeline (ASAP) Project only moves forward if AK LNG doesn't, and to make certain that due diligence is done to ensure that Alaska's backup plan is economically viable.

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REPRESENTATIVE HAWKER said the point is that the basis for taking the vote was the losing of the engineering team. Drawing attention to page 110 of the March 12 transcript where the actual vote occurred, he noted that up until that time the only dialogue was about looking at the pipe size and not until after

the vote is it entered into the record on page 111 that there might be a problem with the loss of the engineering team. So, he posited, it was a hindsight reason, not a foresight reason. Continuing, he said this is troubling because a board of directors is needed that listens to the staff and in this case the AGDC Board made a big decision on pipe size and starting off on a new project without having anything entered into the record that indicated the merits of that decision. The reason given to the committee for this was the loss of the engineering team, but that was an afterthought that didn't occur before the vote. The aforementioned is concerning because it is important to have a board that makes the most rational decisions that can be made on this project.

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REPRESENTATIVE HAWKER continued, saying he is also concerned in regard to the question about whether the AGDC Board took a vote with the knowledge it would likely be violating contractual agreements that exist with the Alaska LNG Project. Very clear statements were made before this committee that the AGDC Board had no knowledge it would likely be violating contractual agreements at the time the vote was made and that the Board learned about that after the vote. But, he pointed out, after that first vote there was a second vote. Drawing attention to the transcript, he noted that on page 148 Mr. Parady [Fred Parady, Deputy Commissioner, Department of Commerce, Community & Economic Development] makes a motion that, subject to the modification of Administrative Order 271, the Board directs the staff of AGDC to further assess the components associated with the resolution and develop a rough order of magnitude cost estimate and impact to the schedule of the ASAP Project. Mr. Short then asks [page 149] whether there is any legal reason that the Board cannot move forward with the resolution that passed and a reconfigured ASAP. After some debate, Mr. Dubler [Vice President, Commercial Operations, AGDC] states on page 154 that there are contractual issues with going above 500 million cubic feet per day and that if AGDC goes over 500 the data it has received from AK LNG won't be able to be used on the ASAP Project. So, Representative Hawker explained, Mr. Dubler is basically saying that AGDC itself would have to do it over again because AGDC cannot use data that was developed with the other project. Representative Hawker returned to the transcript, noting that on page 155 a roll is called and everyone votes in favor of the motion despite being told there are some contractual, legal, technical problems with it. He said this and the other aforementioned issue cause him a great deal of

concern regarding the appointees to the Board, adding that his concern is with the judgement in making the decisions that need to be made in an incredibly technical and professional arena.

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REPRESENTATIVE JOSEPHSON offered his respect for Representative Hawker, but stated he would like to extend another perspective for the record. He said he disagrees with the statement that only one of the three nominees meets the requirements of Title 31. It is a "shall consider" test, it is not a cumulative test, and it doesn't say that one thing should be weighed more or less than other considerations. He said he also disagrees with Representative Hawker's comment that this was an effort to increase the size of the ASAP pipeline. Rather, he views this as a consideration, a request for information, but far from any decision to do that. Relative to violating contractual agreements, he said it is very important to note that on page 154 of the transcript Mr. Dubler doesn't say this would constitute a violation of a contract with AK LNG; Mr. Dubler does say that there could be a legal issue. However, Representative Josephson continued, the side of the coin in the AGDC office that is AK LNG can march forward just as it always has; what Mr. Dubler was advising was that there could be some information sharing problems with the other side of the coin, the ASAP line; that is what could be legally implicated. There are three agreements, Representative Josephson added, each with a different data sharing agreement: ASAP can still use data from the Alaska Pipeline Project (APP), the Alaska Gasline Inducement Act (AGIA) as included in the termination agreement, and ASAP can use data from the cooperation agreement from the Denali Project and from the Trans-Alaska Pipeline System (TAPS) historical data. Thus, there are other ways for ASAP to get the data that it might need to consider issues about expansion or compression and that is all that's contemplated here.

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REPRESENTATIVE TARR said she would like to associate herself with Representative Josephson's comments. She said she thinks the appointees under consideration meet the requirement of the statute. She noted that there are also information sharing pieces to the AK LNG joint venture agreement. In that situation the parties have the right to own, use, sell, and adapt for their own personal or joint operations outside of AK LNG. She observed on page 154 of the transcript that Mr. Dubler states, "... when you said legal, that technically that isn't a legal

issue, but that is a consequence of the action that the Board's contemplating." She interpreted that as the Board being told that there is not a legal issue with the action being taken but there are some limitations to that and to take that under advisement; the members present that day took that under advisement and voted unanimously to move forward. Had this conversation taken place after the meeting or after there was an opportunity to change action, she said, that might be more concerning. But this conversation happened during the same meeting where the Board had the opportunity to hear from legal counsel and could have rescinded its actions or could have made a different proposal.

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REPRESENTATIVE OLSON said he has read the March 12 transcript several times and has the feeling that there may have been previous discussions on the sizing issue. He requested each of the appointees to answer whether there were other prior meetings where this issue was addressed.

RICK HALFORD, Appointee, Board of Directors, Alaska Gasline Development Corporation (AGDC), replied he first saw the motion at the meeting and he had no discussion about it prior to that.

HUGH SHORT, Appointee, Board of Directors, Alaska Gasline Development Corporation (AGDC), regarding the resolution and the motion passed by the Board, responded that about 10 minutes prior to the meeting start time he participated in some conversations with mostly staff and a couple Board members about 600 [American National Standards Institute (ANSI)] versus 900 [ANSI]. But, he continued, that was the limit to his knowledge of the resolution or the sizing.

MR. PASKVAN answered he did not have any discussion about this issue and was unaware of the resolution's existence until the time of the meeting on March 12. He said his understanding was that this request for reconfiguration of the ASAP Project arose out of [AGDC] subcommittee chairman Dave Cruz's discussions with Mr. Frank Richards [P.E., Vice President, Engineering and Program Management, AGDC] about wanting to ensure that Alaska has a viable backup plan should AK LNG falter.

REPRESENTATIVE OLSON noted the committee did not ask for a verbatim transcript and he feels the transcript is incomplete because several people who listened to the meeting have recollections of things that are not seen in this transcript.

He explained he is trying to ascertain that to the best of the knowledge of the appointees there was nothing that would be in violation of the Open Meetings Act. He asked whether adequate procedures were followed for the Open Meetings Act.

MR. SHORT replied yes.

MR. HALFORD responded yes.

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REPRESENTATIVE SEATON said he is more disturbed about the issue [of the contract] because he sat on the House Resources Standing Committee when it considered [Senate] Bill 138 [Twenty-eighth Alaska State Legislature]. While doing that bill, he had an amendment on the table that said if AK LNG did not progress the state would own 100 percent and use of the data. Mr. Joe Balash, the [Parnell Administration's] representative, requested the amendment be delayed because he wanted to work on something. At the next committee meeting Mr. Balash said it had been worked out and every party would own 100 percent of the data. So, with that assurance the amendment was withdrawn. Now, however, his understanding is that the [Parnell Administration] went forward and agreed to reinsert the old AGIA term of 500 million cubic feet a day into a contract that [the state] does not have the data, only the use of the data up to, or less than, 500 million cubic feet a day. He said he is very disturbed at that and related that he had a meeting with ExxonMobil to try to figure this out. ExxonMobil had talking points and said that since Mr. Dubler had broken confidentiality and released the existence of this contract, which was supposed to be confidential, and the confidential term that [the state] only had the use of the data up to 500 million cubic feet a day that that was where this contractual issue came around. He said he is very disturbed about that because there were a number of issues that were brought up during conference on [Senate] Bill 138 and amendments were put forward. There were objections from Mr. Balash that those things weren't ripe at the time and that they would come back to [the legislature] during special session for consideration of the contracts.

REPRESENTATIVE SEATON continued, pointing out that seven members of the House Resources Standing Committee [Twenty-eighth Alaska State Legislature] signed a letter [dated April 15, 2014, to Governor Parnell and the Alaska State Legislature] regarding many of the things that were withdrawn from incorporation into [Senate] Bill 138. Because the committee was told that the term

was successfully negotiated that [the state] had all of the data, he is concerned as to whether those other terms could have been negotiated in some secret contract. He said he is calling it secret because if the existence of the contract is confidential then it is a secret contract, and it is very disturbing if there is a committing of the state to provisions that the legislature is to be totally unaware of.

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REPRESENTATIVE SEATON further said he is disturbed that anyone affiliated with the state would ever re-insert the AGIA limitation of 500 million cubic feet a day on the state in any way, and reiterated he is more concerned with the possible existence of a contract. When reading page 154 of the transcript he cannot tell whether this is someone's opinion that there might be something in there that is a little squirrely or whether there is a contract. He asked whether the three appointees knew of the existence of a contract and whether they knew the existence of terms in the contract that it would be a contract violation to study having more than 500 million cubic feet a day. He explained he is asking because if a person doesn't know of the existence of a contract and doesn't know THE existence of a term in the contract, the person cannot be bound to that.

MR. HALFORD replied he has never seen a contract, but has heard on several occasions "the intimation that there are provisions that we don't know." He said he shares Representative Seaton's concern.

MR. SHORT responded he has not seen the contract. Drawing attention to page 154 of the transcript, he noted it is his questioning that spurs the existence of this contract and this provision. He further noted that towards the end of the transcript there is a lot of discussion around confidentiality agreements. But, he reiterated, at that point in time he did not know that this contract or this potential provision existed, nor does he know at this point.

MR. PASKVAN answered he has not seen any contract, but he generally understands that any data that is paid for by a party can be used by the party that paid for it. But, in the process that the Board went through on March 12, the Board was not asking for data, the Board was asking for Mr. Richards to obtain these rough cost estimates. Data was not being obtained in the sense of geotechnical data or that type of thing.

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REPRESENTATIVE OLSON asked whether the appointees are aware of the existence of any contracts, secret or otherwise, that have not been put before the legislature.

MR. SHORT replied no.

MR. HALFORD responded no.

MR. PASKVAN answered no.

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REPRESENTATIVE HAWKER said there are two sides to the story regarding Senate Bill 138. He specified that his name is not on the April 15, 2014, letter and that he does not see anything in the letter that has anything to do with information sharing. He said he does not know who on the committee has signed confidentiality agreements for AK LNG's work, but he has.

REPRESENTATIVE OLSON stated he has [signed a confidentiality agreement].

REPRESENTATIVE HAWKER inquired whether the appointees have signed a confidentiality agreement as members of the AGDC Board.

MR. SHORT answered no.

MR. HALFORD replied no.

MR. PASKVAN responded no, but said he understands work is being done on putting together a confidentiality agreement and he has indicated he will sign it once put together.

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REPRESENTATIVE HAWKER asked whether the appointees feel that it really ought to have been their duty to not be making substantial decisions on behalf of AGDC without having been confirmed or having signed a confidentiality agreement in order to be fully briefed on all of the ramifications that their decisions might have. He said everyone knows that there are elements of this that are under the seal of confidentiality until it comes back to the legislature two years from now.

MR. SHORT responded that his personal opinion is that the resolution, as well as the motion, directed staff to come back to the Board with information and begin a process. It was not to go out and spend a significant amount of money, but to come back to the Board next week with some general information, rough order of magnitude, and begin that process. He said he anticipates that the next week's Board meeting will be very detailed and that the Board will go into 600 versus 900 ANSI and ask a lot more questions. A governance committee meeting was held last week, and the attorney general has put together the framework that the Board will have on the agenda next week for confidentiality agreements to be signed by members. It is a process and there is a ways to go in the process, he reiterated.

REPRESENTATIVE HAWKER inquired whether these are new confidentiality agreements that will replace existing confidentiality agreements.

MR. SHORT answered he doesn't know if they replace existing confidentiality agreements.

MR. HALFORD agreed with Mr. Short's statements, and said that is exactly the way he remembers it and the way he considered it.

MR. PASKVAN agreed with the statements of both Mr. Short and Mr. Halford. The Board is just beginning this process, he added, it is general information only, the Board is not soliciting data.

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REPRESENTATIVE SEATON pointed out that the vote by the AGDC Board of Directors was unanimous. Members like Chairman Burns and Mr. Cruz have these confidentiality agreements and obviously the chairman and the other member did not think there was any violation of a contract. Therefore, he does not understand why the appointees are being held to a higher standard than the chairman and the other member who voted in the same manner and who would have had knowledge of confidential contracts and confidential provisions of those contracts. If the people who had knowledge of those did not think it was a problem he does not know why the committee is making a big deal of it as being a problem for people who didn't have knowledge of the contract. He said he doesn't know what aspect the committee is investigating here or trying to get to.

REPRESENTATIVE HAWKER responded he has absolute confidence that the continuing members of the AGDC Board had adequate knowledge

upon which to base their decision. The question being asked here has nothing to do with that, it is what these gentlemen's basis is for making this decision. What is being heard is that they are just getting started, they are just going to start learning and get data. He said he is asking these gentlemen what the basis was for their taking significant votes at a meeting with what he believes was less than a full command of the information that might have been available if they wanted to stop and ask more thorough questions of the folks who were trying to counsel them to slow down. He offered his appreciation to Mr. Short for doing exactly that.

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REPRESENTATIVE JOSEPHSON said his sense is that the sponsor of Senate Bill 138, the Parnell Administration, wanted to create a very powerful board and the administration got what it wanted. The maker of the motion was Mr. Burns, who, along with his board at the permanent fund, is in charge of \$55 billion of assets. This is a policy call and some fact finding. A reference is made, probably legally sound, that there could be some consequences of preclusion to information sharing if the 500 million cubic feet per day is pushed too far. But technically there is nothing illegal about that; it can be seen that it's anticipated because there is a description of what will happen if that threshold is crossed too far for upsizing the pipeline and there could be the precluding of some information sharing from AK LNG to ASAP. But beyond that, he said, he sees a new governor and new members of the AGDC Board and he doesn't know anywhere in the law that it says there must be a confidentiality agreement and further training in the operations of AGDC before a motion can be called and a vote held.

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REPRESENTATIVE HAWKER recalled that [in the committee's March 23 confirmation hearing], Mr. Halford answered questions about his involvement with the Alaska Gasline Port Authority (AGPA) and one of Mr. Halford's responses was that he was an overpaid consultant. He further recalled that additional questioning at that hearing established that Mr. Halford was a paid lobbyist for AGPA. He said he felt that Mr. Halford was diminishing the nature of his role with AGPA and was saying that his role was very small. He asked whether this is a fair characterization.

MR. HALFORD responded he was not a full-time employee, he was a consultant, and he was required to register as a lobbyist, which

he did. He said more of his activity was internal than external in terms of lobbying, it was offering advice on human nature and discouraging the doing of things that create problems for the people whose support is being asked for.

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REPRESENTATIVE HAWKER distributed a copy of an advertisement put out by AGPA for the All-Alaska gas pipeline that AGPA was proposing. The advertisement, he observed, includes a picture of Mayor Sarah Palin, Governor Jay Hammond, Governor Walter Hickel, and Senator Rick Halford. He remarked that this seems to be a rather public role.

MR. HALFORD replied that he didn't say it wasn't a public role and that he thinks it was in the state's interest. It didn't pan out, like many other things. He noted that in the 1990s he was on a gasline financing committee with a previous governor and said he believes that many people have tried to get gas to market for many years.

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CO-CHAIR TALERICO opened public testimony.

HAROLD HEINZE testified as follows:

I personally knew the three members of the AGDC Board that were released. I know them as experienced contributors. Certainly the two members with strong industry background are among the top dozen most experienced pipeline project management people available in Alaska. That talent is available for many different contractors for hire. I also know and commend the three AGDC Board nominees recently put forward as good decision makers. AGDC's role as a public corporation of the state is not to decide if Alaska should risk tens of billions of dollars of public money on the LNG project, but to assure that the best technical, project management, business, and market information is available to the legislature for consideration in their decision. I believe the AGDC Board as reconstituted is capable of directing the AGDC executive staff and consultants to do that. These three are well qualified to provide fiduciary review.

MR. HEINZE further commented that the data confidentiality issues are so convoluted right now that there is no way anybody knows what all the restrictions are. As an example he cited the ENSTAR Natural Gas Company data source restrictions and whether they are still in effect. Regarding Representative Hawker's statement that any legislative consideration of Alaska LNG would be deferred until after the next mid-term election, he said that that is not his understanding of the intent of Senate Bill 138.

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CO-CHAIR TALERICO closed public testimony after ascertaining that no one else from the public wished to testify.

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REPRESENTATIVE TARR pointed out that three members of the AGDC Board are attorneys and would therefore have some experience in contract law. She said this builds some level of confidence in their ability to sort through these matters.

REPRESENTATIVE SEATON believed that Mr. Heinz said two years would be after the next election. He said he thinks Representative Hawker misspoke when he said that the contract would come back to the legislature in two years for approval.

REPRESENTATIVE HAWKER responded that he did not imply to say that it would be two years from now.

REPRESENTATIVE SEATON said he wanted to clarify on record that that wasn't the intent of Representative Hawker's statement.

[2:50:02 PM](#)

REPRESENTATIVE HAWKER noted that the forwarding of these names to a joint legislative session for confirmation is not in any way a commitment of any individual on the committee to vote either for or against an appointee's confirmation. He moved that the committee forward the names of Mr. Rick Halford, Mr. Hugh Short, and Mr. Joe Paskvan to a joint legislative session for the purpose of their potential confirmation as members of the Board of Directors of the Alaska Gasline Development Corporation. There being no objection, the names of Mr. Halford, Mr. Short, and Mr. Paskvan were forwarded to a joint legislative session.

The committee took an at-ease from 2:50 p.m. to 2:52 p.m.

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**ADJOURNMENT**

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 2:53 p.m.