

SENATE FINANCE COMMITTEE
THIRD SPECIAL SESSION
October 30, 2015
3:09 p.m.

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CALL TO ORDER

Co-Chair MacKinnon called the Senate Finance Committee meeting to order at 3:09 p.m.

MEMBERS PRESENT

Senator Anna MacKinnon, Co-Chair
Senator Pete Kelly, Co-Chair
Senator Peter Micciche, Vice-Chair
Senator Click Bishop
Senator Mike Dunleavy
Senator Lyman Hoffman
Senator Donny Olson

MEMBERS ABSENT

None

ALSO PRESENT

Craig Richards, Attorney General, Department of Law; Marty Rutherford, Deputy Commissioner, Department of Natural Resources; Martin Shultz, Assistant General, Department of Law; Senator Charlie Huggins; Representative Geran Tarr; Senator Kevin Meyer; Representative Matt Claman.

SUMMARY

SB 3001 APPROP: LNG PROJECT and FUND/AGDC/SUPP.

SB 3001 was HEARD and HELD in committee for further consideration.

#sb3001

SENATE BILL NO. 3001

"An Act making supplemental appropriations; making appropriations to capitalize funds; making appropriations to the general fund from the budget

reserve fund (art. IX, sec. 17, Constitution of the State of Alaska) in accordance with sec. 12(c), ch. 1, SSSLA 2015; and providing for an effective date."

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Co-Chair MacKinnon introduced the legislators in the room.

CRAIG RICHARDS, ATTORNEY GENERAL, DEPARTMENT OF LAW, introduced himself.

MARTY RUTHERFORD, DEPUTY COMMISSIONER, DEPARTMENT OF NATURAL RESOURCES, introduced herself.

MARTIN SHULTZ, ASSISTANT GENERAL, DEPARTMENT OF LAW, discussed the presentation, "Senate Bill 138 and AKLNG Project Overview, October 2015" (copy on file). He looked at slide 2, "Senate Bill 138":

- Passed April 2014
- Provides Authority for the AKLNG Project
 - AGDC: Infrastructure
 - DNR and DOR: Gas
 - Legislature: Contract Approval
- Provides New Provisions for Tax as Gas (TAG)
- Amends Oil and Gas Production Tax Statutes
- Created Municipal Advisory Gas Project Review Board
- Requires Reports to Legislature

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Mr. Shultz highlighted slide 3, "Provides Authority for AKLNG Project, AGDC":

SECTIONS 7 21

- Amended AGDC's Statutory Purpose, Powers and Duties, Funds to allow AGDC to hold an ownership interest in an Alaska liquefied natural gas project

- AS 31.25.005 - AGDC may develop and have primary responsibility for developing an Alaska liquefied natural gas project
- AS 31.25.080(a) - AGDC may acquire ownership interest in pipeline, gas treatment, liquefaction
- AS 31.25.110 - Alaska liquefied natural gas project fund

Mr. Shultz discussed slide 4, "Provides Authority for AKLNG Project, DNR":

SECTIONS 24 25, 28

- Give DNR commissioner authority to negotiate commercial agreements, market RIK/TAG, and modify leases
 - AS 38.05.020(b)(11) - In consultation with DOR, participate in negotiation of agreements that include balancing, marketing, disposition of natural gas, and offtake
 - AS 38.05.020(b)(14)- In consultation with DOR, take custody of tax delivered to the state as gas (TAG) and manage project services and disposition and sale of TAG
 - AS 38.05.180(hh) (ii) - DNR commissioner may make certain modifications to AKLNG Project leases for initial project term

Mr. Shultz commented that the slide gave a high level look at DNR's authority in the project. He noted that it was in compliance with every provision of SB 138. He pointed out a key provision of SB 138 was to authorize the commissioner. Further, SB 138 authorized DNR to take custody of the "tax as gas" (TAG).

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Senator Dunleavy asked for more information about targets in the sectional analysis. Mr. Schultz clarified that the state agencies that were given roles under SB 138 were in compliance with the responsibilities that were assigned under those roles. He stated that negotiations with counterparties left some things out of the state's control.

Senator Dunleavy wondered if there would be a discussion of benchmarks or anything that the administration may request modification. Mr. Schultz replied that there would be benchmark discussion by Ms. Rutherford later in the presentation.

Senator Dunleavy remarked that he would like to know the issues regarding the reasoning behind the administration's efforts. He requested the administration's concerns with the bill. Mr. Schultz replied that there were no current statutory amendments to former legislation SB 138. He felt that SB 138 provided the authority that the different agencies and AGDC needed to pursue the project.

Co-Chair MacKinnon wondered if General Richards had any related comments. General Richards affirmed the comments of Mr. Schultz.

Co-Chair MacKinnon looked at slide 3, and wondered if it was an accurate statement that "AGDC may develop and have primary responsibility for developing an Alaska liquefied natural gas project", or did the statute say "AGDC shall", etc.

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Co-Chair MacKinnon wondered if the slide accurately reflected state statute. Mr. Schultz replied that the bill said "shall."

Co-Chair MacKinnon wondered if the word "shall" related to the LNG component to the project. Mr. Schultz replied that AGDC was authorized to have an equity interest in all components of the project. He stated that AGDC was the state's infrastructure owner, and Department of Natural Resources (DNR) owned the gas.

Senator Dunleavy wondered if the wording in the slide should be changed to "may." Mr. Schultz replied that it says "shall" in the statute.

Senator Dunleavy felt that the "may" should be "shall." Mr. Schultz agreed.

Mr. Schultz clarified that in AS 31.25.080 the word was "may", and AS 31.25.005 used the word "shall."

Co-Chair MacKinnon announced that her question related to AS 31.25.005. She wanted to be sure that AGDC "shall" have primary responsibilities for developing a liquefied natural gas project on behalf of the state.

Mr. Schultz addressed slide 5, "Provides Authority for AKLNG Project, DOR":

SECTIONS 24 25, 40 41

- Expand the authority of commissioner of DOR
 - AS 38.05.020(b)(11) - In consultation with DOR, participate in negotiation of agreements that include balancing, marketing, disposition of natural gas, and offtake
 - AS 38.05.020(b)(14)- In consultation with DOR, take custody of tax delivered to the state as gas (TAG) and manage project services and disposition and sale of TAG
 - AS 43.05.010(17) - DOR commissioner directs the disposition of revenues received from TAG

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Co-Chair MacKinnon looked at slide 4, and wondered who was working on commercial agreements. Mr. Schultz replied that the state had a team to work together. There were separate primary responsibilities, but there was a coordinated team to negotiate the issues. He explained that the infrastructure agreements were the primary responsibility of AGDC, but in regard to some other agreements that were primarily DNR's responsibilities.

Co-Chair MacKinnon wanted to tie the \$10 million request with the comments in the Senate Resources Committee regarding the primary function and spending on ASAP. She remarked that a significant portion of AGDC's budget was

spent on the ASAP line. She wondered if ASAP a separate entity was. Mr. Schultz stated that the under SB 138, the attorney general became counsel for AGDC with regard to the AKLNG project in developing agreements for the project. The attorney general's office did not represent AGDC with regard to the ASAP project. He shared that under former legislation, HB 4, AGDC had authority to hire its own lawyers for the ASAP line.

Co-Chair MacKinnon wondered if there was any authority for AGDC to purchase gas. Mr. Schultz replied that AGDC could develop a marketing entity to purchase gas.

Co-Chair MacKinnon asked if AGDC could purchase gas. Mr. Schultz replied that the legislature's authority to create a marketing subsidiary necessarily implicates the ability of that marketing entity to acquire gas.

Co-Chair MacKinnon wondered if the referenced subsidiary was the aggregator. Mr. Schultz replied that the aggregator was a concept that related to the AKLNG project, but AGDC could take gas acquired from a gas seller, aggregate it, and sell it to entities that did not have the critical mass to acquire their own gas.

Co-Chair MacKinnon understood that HB 4 allowed a related function. She shared that she would conduct further research and submit an inquiry. Mr. Schultz replied that it may relate to domestic gas.

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Mr. Schultz continued to discuss slide 5:

SECTIONS 24 25, 40 41

- Expand the authority of commissioner of DOR
- AS 38.05.020(b)(11) - In consultation with DOR, participate in negotiation of agreements that include balancing, marketing, disposition of natural gas, and offtake
- AS 38.05.020(b)(14)- In consultation with DOR, take custody of tax delivered to the state as gas (TAG) and manage project services and disposition and sale of TAG

- AS 43.05.010(17) - DOR commissioner directs the disposition of revenues received from TAG

Co-Chair MacKinnon wondered if Alaska owns some gas. General Richards replied that technically the state of Alaska owned the gas in the ground until titled change.

Co-Chair MacKinnon surmised that there was an inclusion of the royalty in kind provision. She asked for a simpler explanation. General Richards replied that Alaska owned the gas until it was produced.

Co-Chair MacKinnon surmised that the lease holder would own the gas at that time. General Richards replied in the affirmative.

Mr. Schultz slide 6, "Provides Authority for AKLNG Project, Legislature":

SECTION 24

- Gives Legislature final approval of contracts over 2 years
 - AS 38.05.020(b)(11)- Any agreement or contract negotiated under this paragraph to which the State is a party is not effective unless the legislature authorizes the governor to execute it

SECTION 77

- Legislature also receives quarterly AKLNG Project briefings

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Co-Chair Kelly queried some contracts. Mr. Schultz stated that there were some slides that would include some participants. He stated that the producers desired some fiscal and governance agreements.

Co-Chair Kelly wondered if the agreements were located on slide 16. Mr. Schultz replied in the affirmative.

Co-Chair Kelly wondered if the agreements needed to be executed by December. Mr. Schultz replied that there would be a discussion of timing.

Co-Chair MacKinnon wondered if AGDC was required to present the contracts to the legislature. Mr. Schultz stated that the provision on slide 6 did not relate to AGDC, but only applied DOR.

Co-Chair MacKinnon wondered if AGDC was required to present to the legislature on contracts for over two years. Mr. Schultz agreed to provide that information, but stated that there was not a two-year provision for an AGDC contract.

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Co-Chair MacKinnon understood that the attorney general was the counsel for AGDC, and the ASAP had their own counsel. Mr. Schultz stated that he must have misspoke. He explained that there was a separate attorney general, other than himself, that represented AGDC within the Department of Law.

Co-Chair MacKinnon wondered if AGDC was required to present to the legislature when they entered into contracts longer than two years. She noticed that there were some people in the audience who were shaking their heads "no." General Richards assumed that AGDC was not required to present to the legislature, but agreed to provide further information.

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Co-Chair MacKinnon remarked that the committee was surprised by the information regarding the formation of two new subsidiaries. She wondered if there were any other subsidiaries in the various state agencies specifically related to gas sales agreements. General Richards replied that he was not aware of any additional subsidiaries.

Co-Chair MacKinnon wondered where the gas negotiations would occur. Mr. Schultz replied that SB 138 specifically called out marketing agreements. He stated that marketing could involve joint venture markets.

Co-Chair MacKinnon wondered if the gas sales agreements would need to be presented to the legislature. General Richards replied that he believed that any gas sales and

marketing agreement over two years must be presented to the legislature.

Co-Chair MacKinnon explained that the committee had engaged in conversations regarding the legislature's understanding of gas sales agreements.

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Senator Bishop looked at the asset holding company, and wondered why there should be a holding company for TC's assets. Mr. Schultz agreed to provide that information.

Senator Bishop restated his question. He wondered why AGDC created a holding company to hold TC's assets. Co-Chair MacKinnon further requested something already authorized by AGDC.

Mr. Schultz discussed slide 7, "Tax Provisions, TAG and Taxes":

SECTIONS 42 69

- Relate to tax as gas (TAG) in the production tax, and conforming amendments in corporate income tax and oil and gas and pipeline property tax
 - None of these sections address AKLNG Project authority in the midstream or liquefaction
 - Administration is either in compliance with, or no action is required for, each of these sections

Mr. Schultz highlighted slide 8, "Municipal Advisory Gas Project Review Board, MAGPR Board":

SECTION 74

- Requests that governor establish an advisory planning group to advise governor on municipal involvement in a North Slope natural gas project
 - MAGPR Board assembled by AO 269 on March 25, 2014
 - Chaired by Commissioner of Revenue

- Prepare MAGPR Annual Report
- Meets regularly using transparent collaborative public process to
 - Discuss AKLNG Project property tax issues
 - Recommend possible options to address and mitigate impacts of new infrastructure associated with AKLNG Project
- Currently discussing property tax structure, amounts and allocation
 - Tentative proposal \$880M Impact Fee, \$15.7B Flow Rate Property Tax
- Next MAGPR Board meeting will take place after special session

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Co-Chair MacKinnon noted that the tentative fee proposal for the municipalities along the route was a fixed fee. She wondered if there may be less value to the municipalities after the buyout. Mr. Schultz agreed to provide that information.

Mr. Schultz addressed slide 9, "Requires Reports to Legislature, Required Reports":

SECTIONS 73, 76

- In State Gas Report and Financing Report
- Section 73 - DNR in consultation with AGDC to provide report and recommendations on in state gas and costs, benefits, and risks associated with a pipeline larger than 42 inches, due on or before date FTSA submitted to legislature for approval
 - STATUS: drafting; final on or before date FTSA submitted
- Section 76 - DOR to provide report on financing options, including options for municipalities,

residents, or regional corporations to invest in the Project, due when first contract submitted to the legislature.

- STATUS: interim report provided; final with first contract

Senator Dunleavy wondered if the state was looking at a corporation-type vehicle where the people could buy into the project. Mr. Schultz deferred to DOR.

Co-Chair MacKinnon remarked that she had recently received an email from a constituent wondering if they could contribute or invest part of their permanent fund to the project.

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Co-Chair MacKinnon looked at slide 9, and noted that the state was required to provide the report about the size of the pipe. Mr. Schultz replied that there was a draft report that included the cost benefit and risks of the pipe comparison.

Co-Chair MacKinnon queried the department that would deliver the report. Mr. Schultz replied that AGDC and DNR would work together to develop the report.

Mr. Schultz discussed slide 10, "Heads of Agreement":

- PARTIES: State, AGDC, Producers, TC
- KEY PROVISIONS:
 - ARTICLE 4: Pre FEED technical work to take between 18 and 24 months, with FEED decision expected within 36 months
 - ARTICLE 5: State equity participation and a State Gas Share
 - ARTICLE 6 and Appendix A: Pro expansion principles
 - ARTICLE 6.5: At least five in state off take points for domestic gas needs

- ARTICLE 8: subject to the State being satisfied with project enabling contracts, including satisfactory arrangements for disposition of the State Gas Share, the State/DNR will elect RIK

Co-Chair MacKinnon wondered if December 31, 2015 would be the expiration date for the current Heads of Agreement (HOA), and whether a new HOA would ask for new terms. Mr. Schultz replied that the HOA would expire on that date. He did not see any reason to extend the HOA.

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Co-Chair MacKinnon wondered if there should be an amendment to state statutes to eliminate any mention of TC. Mr. Schultz replied in the negative.

Ms. Rutherford looked at slide 11, "AKLNG Project Status, Provided to Legislature in 2014." She noted that it was very near the time of conclusion for Pre-FEED. She remarked that the slide addressed fee and construction schedule.

Ms. Rutherford discussed slide 12, "AKLNG Project Status":

- Revised: Technical work delivery dates have changed, "Legislative Action" on commercial agreements not yet needed, but "SOA Without TC" numbers consistent with 2014 numbers

Ms. Rutherford stated that slide 13 showed that the FEED would start in 2017. She remarked that the end dates for the projects were different. She stated that the original schematic showed a 2023 completion. She stressed that the virtual project estimates were nearly identical. She remarked that there had been some delays on the commercial agreements.

Co-Chair MacKinnon wondered if Pre-FEED would only go through May 2016. Ms. Rutherford replied in the affirmative. She explained that the original schematic showed that Pre-FEED would end.

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Co-Chair MacKinnon queried who identified the gaps. Ms. Rutherford replied that the AKLNG Project identified the gaps. She did not know who identified the regulatory gaps.

Co-Chair MacKinnon shared that the state of Alaska asked the project team to examine the difference in the pipe size, so that contributed to a delay. Ms. Rutherford replied that Pre-FEED would not be delayed, rather it would go the full time of the initial schedule for Pre-FEED>

Co-Chair MacKinnon wondered if the difference in numbers between slides 11 and 12 was because of the 25 percent ownership to the state of Alaska, or a refined number for the overall project. Ms. Rutherford replied that the cost was virtually identical, but there was a transfer of cash call responsibilities from TC to the state.

Ms. Rutherford highlighted slide 13, "AKLNG Commercial Status." She shared that she would be discussing the status of the commercial negotiations and how the state sees the timeliness of a FEED decision.

Co-Chair Kelly wondered if the state was the least inclined party. He wanted to be convinced that the state was not the "least inclined party." Ms. Rutherford replied that there was confidentiality involved in that response.

Co-Chair Kelly stressed that he did not understand why the state did not have a confidentiality agreement with the partners.

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Co-Chair MacKinnon wondered if Ms. Rutherford had signed a confidentiality agreement for the project. Ms. Rutherford replied that she had signed a confidentiality agreement. She stated that there were commercial negotiations where companies were most concerned, so they did not want to be held in terms of a particular agreement. She stressed that there was no structural problem. She stressed that Alaska wanted expansion and third party access, so it could possibility affect commercial agreements.

Co-Chair Kelly wondered if the refusal to sign confidentiality agreements slowed down the process of commercial agreements. Ms. Rutherford replied that she was not aware of that situation in AKLNG.

Co-Chair Kelly expressed concern about the confidentiality agreements.

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Senator Bishop wondered if there may need to be a point where more people sign a confidentiality agreement. Ms. Rutherford replied that she answered to the commissioner of DNR. She stated that her AKLNG authority was an executive.

Co-Chair Kelly wondered if the commissioner of DNR chose not to sign the agreement, or if someone told him not to sign it. Ms. Rutherford stated that the administration chose not to have the commissioners sign the confidentiality agreements, because they felt that executives did not need to sign agreements.

Co-Chair Kelly stressed that the state was in a position where they could not fully avail themselves of information to move the process forward. Ms. Rutherford restated that the administration had decided to not sign confidentiality agreements. She stated that the producer companies had been open with information without those concerns.

Co-Chair MacKinnon wondered if regulations were currently out for review. Ms. Rutherford replied that AGDC had some evaluations out for review, but she only had a rough idea of their actions.

Co-Chair MacKinnon wondered if AGDC had any regulations out for review, and whether they had closed. General Richards replied in the affirmative, but did not know whether they were closed.

Co-Chair MacKinnon announced that the regulation review closed on October 21 or 23. She wondered if General Richards wrote those regulations. General Richards responded that he could not answer that question as a matter of attorney client privilege.

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Co-Chair MacKinnon wondered if an attorney for the state wrote the regulations for the review for the project. General Richards replied that attorneys at DOL worked on the project. He could not confirm who wrote the regulations.

Co-Chair MacKinnon shared that the three partners commented on the regulations. General Richards replied that he was not aware of those comments.

Co-Chair MacKinnon requested a review of the public comment on those regulations. She stated that there was an issue of public record, and the partners had expressed interest in who was signing confidentiality agreements. She thanked Ms. Rutherford for providing an organizational chart, which outlined the available expertise. She remarked that there were five decision makers on the project for the state. She surmised that those individuals had not signed confidentiality agreements, and wondered how the state was able to participate in negotiations without participating in the projects. General Richards explained that there was an arrangement with the partners to access needed information.

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Co-Chair MacKinnon wondered if the client was AGDC. General Richards replied in the affirmative.

Co-Chair MacKinnon queried the attorney for the ASAP project. General Richards replied that there were several attorneys in various capacities, but he had not interacted with those attorneys.

Co-Chair MacKinnon wondered if AGDC would allow information about who wrote the regulations. General Richards responded that Mr. Fauske may not have the power to waive that right. He felt that question might require a legal.

Co-Chair Kelly queried the person who would provide the legal opinion. General Richards replied that the privilege did not belong to the individual, rather it belonged to the corporation. He suspected it required a board action.

Co-Chair MacKinnon looked at slide 13:

Active negotiations among the AKLNG Parties are currently underway on the following commercial agreements. As these negotiations includes proprietary and confidential terms and conditions, additional details on these contracts and agreements will be provided as negotiations are completed.

Gas supply-balancing Agreement
Governance Agreement
Expansion and Access Agreement
Fiscal Agreement
Withdrawal Agreement
Gas Sales by Withdrawing Parties Agreement

Co-Chair MacKinnon noted that there were some agreements that were not in SB 138. Ms. Rutherford agreed that there were specific issues that were not in SB 138. She explained that there were elements in the upstream that required closure before there could be a royalty in kind decision, for example the byproduct disposal. She stressed that there would be some issues imbedded in some other agreements. She remarked that the governance agreements would be led by AGDC, but DNR had input in the negotiations to protect the state's sovereign interests.

Mr. Schultz stated that the withdrawal agreement would probably be applied to the governance agreement.

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Co-Chair MacKinnon recalled that the governor had stated in a press conference that SB 138 was "fundamentally flawed." She queried the reasoning behind that statement. General Richards responded that he did not know the reason for that statement.

Co-Chair MacKinnon wondered why there should be further investment, if the governor believed the AKLNG project was fundamentally flawed. General Richards replied that the administration was attempting to make the process functioning, to the extent that the governor had reservations.

Co-Chair MacKinnon wondered why the governor believed that SB 138 was fundamentally flawed.

Co-Chair Kelly looked at slide 13, and wondered which agreement was contingent on December 4, 2015. General Richards replied that it was the parties' intentions to have the gas balancing, withdrawal, and gas sales agreements completed by December 4.

Co-Chair Kelly surmised that the balancing, withdrawal, and sales agreement were fairly close to completion. General Richards agreed.

Co-Chair Kelly remarked that he was worried about the deadline, because of the magnitude of the contracts. He queried the capability of the completion of the agreements. He stated that some felt that the December 4 deadline was an "artificial deadline." General Richards asked for a question restatement.

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Co-Chair Kelly restated his question. He specifically wondered how "hard a deadline" was the December 4 deadline. General Richards responded that in order to make the timeline deadlines necessary to have the constitutional amendment on the ballot, the December 4 deadline was realistic.

Co-Chair Kelly surmised that the withdrawal agreement included the ability of the state to commit to potentially hundreds of billions of cubic feet of gas. General Richards stated that the agreement was not yet negotiated, so it was unclear what the agreement would contain.

Co-Chair Kelly stressed that he was attempting to understand the magnitude of the agreements.

Senator Hoffman wondered if some or all of the agreement deadlines were considered "hard deadlines" or "targets." General Richards explained that the hard deadline was the date by which the constitutional amendment be approved by the legislature to get on the November 2016 ballot.

Senator Hoffman asked if the deadline was December 4. General Richards replied in the negative. He stated that the deadline would be June 2016. He stated that the December 4 deadline was a statement from the parties as to when they expected and hoped complete the negotiations for the agreements.

Senator Hoffman wondered if the parties considered deadlines "hard deadlines" or "targets." General Richards replied that he was treating the deadline like a "hard deadline", but noted that some deadlines slip in the process.

Co-Chair MacKinnon shared that she had reviewed a 121 document, and felt that there was no way the parties could agree unless there was great compromise. General Richards replied that the process was confidential.

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Co-Chair MacKinnon announced that General Richards statement was "unacceptable." She wondered if there could be an executive session to determine the negotiated terms on behalf of the state for well head value. She wondered how the committee would know that there was a "good deal." General Richards stressed that the process was confidential.

Co-Chair MacKinnon asked if SB 138 was flawed. General Richards replied that it was inappropriate to provide his opinion on fundamental policy matters. He stressed that he would continue to advocate for his client's positions, including working toward the best deal for the state and providing the contracts on time.

Co-Chair Kelly wondered if the contracts would be presented to the legislature for review before December 4. General Richards replied that the target date was December 4, but there were target dates for other contracts that back up from the deadline that were confidential. He stated that, if all the deadlines were met, there would be a package of contracts presented to the legislature in the regular session or special session. At that time, the legislature would have the opportunity to approve all the agreements. There would then be a vote to put a constitutional amendment on the ballot.

Senator Dunleavy asked if the project budget vote was scheduled for December 4, 2015. General Richards deferred to Ms. Rutherford. Ms. Rutherford explained that the December 4 vote was for the work plan budget for the completion of pre-FEED.

Senator Dunleavy surmised that the December 4 was not a hard deadline. He asserted that a "no" vote would halt the project regardless of the date of the meeting. Ms. Rutherford replied in the affirmative.

Senator Dunleavy wondered if there would be slides in the presentation related to issues with the bill. Ms. Rutherford responded in the affirmative.

Ms. Rutherford stated that the administration did not feel there needed to be current structural changes required to SB 138. She stated that there were some negotiation that were difficult, but the bill structure could accommodate the necessary actions.

Senator Dunleavy wondered if the governor thought that SB 138 was "fundamentally flawed." Ms. Rutherford replied that she could not speak for the governor. She stressed that necessary commitments must be in order to allow for the project to move forward.

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Senator Dunleavy queried the definition of "administration." Ms. Rutherford replied that the governor was the CEO, so the administration did not believe there were any necessary changes to SB 138. She deferred further explanation to the governor.

Senator Dunleavy surmised that he governor and administration did not believe there were any flaws with SB 138.

General Richards explained that SB 138 outlined the legal framework, which created the process for negotiations and the potential for building of a project for the commercialization of gas. He explained that the vast majority of the terms were contractual agreements between the partners. He stressed that those contractual agreements were currently signed and binding. The process for SB 138 outlined a framework, but many of the process agreements

were contained within the contractual arrangements. He stressed that he was not aware of any probable proposals, but most of the current behavior was currently outlined by the most recent contracts.

Senator Dunleavy stressed that he was hoping that the legislature and the administration were aligned on SB 138. General Richards replied that he was not aware of any issues with SB 138. He remarked that any possible issue with SB 138 would not be related directly with the legislative framework, rather the issues would be related to the contractual relationship between the parties.

Senator Dunleavy asked that the administration inform the legislature of any issues with SB 138, before any possible deviation. General Richards replied that he would follow his clients' guidance. He felt that the administration would approach the legislature, before any possible deviation from SB 138.

Senator Dunleavy felt that the legislature and the administration should be aligned in their perspective of SB 138. General Richards agreed, and hoped to avoid that issue.

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Co-Chair MacKinnon stated that there would be a conversation the following day about gas sale agreements in order to better understand them. She expressed concern after communicating with individuals who had experience in gas sales. She felt that General Richards had provided very little information regarding the governor's desire to secure gas contracts out of sync with any other mega project in the world. She wondered if the state was smarter than other locations in the world. General Richards did not have a response, and stated that the Governor would be pleased to discuss his strategy.

Co-Chair MacKinnon expressed regret that General Richards had not been present during past presentations of mega-projects in which, and how the value is leaked depending on who is "pushing" the projects. She wondered what would occur, should AGDC query flaws in SB 138. General Richards responded that he was not sure he understood the question. He encouraged questions for AGDC be directed to AGDC.

Co-Chair MacKinnon remarked that she did not know the right question to offer. She asked Ms. Rutherford to communicate to the administration that there was concern about entering into commercial agreements that the legislature did not have knowledge related to the value or leakage of value to the people of Alaska.

Ms. Rutherford responded in the affirmative, and continued to address slide 13. She spoke about a key agreement between the producers, which addressed how the various units would supply gas into the project.

Co-Chair MacKinnon stated that the committee understood the necessity of the agreements, and the many components.

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Ms. Rutherford discussed slide 14, "State AKLNG Timeline, Key Steps to FEED":

1. Withdrawal Agreement, Gas Balancing, Gas Sales Agreement by December
2. Lease Modifications
3. RIK relevant Commercial Agreements
4. RIK/RIV Decision
5. Finalize Other Agreements
6. Executable Agreements to Legislature for Approval
7. Constitutional Amendment to Legislature for Inclusion on Ballot
8. Governor Executes Approved Agreements
9. November 8, 2016 Public Vote on Amendment
10. FEED

Co-Chair MacKinnon remarked that there was some incoming information from the governor, so the committee could familiarize themselves with the documents.

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Co-Chair MacKinnon remarked that there was a letter from Governor Walker that suggested that there may be future

changes within the confines of SB 138, should the legislature approve the buyout of TransCanada. She stressed that the letter did not detail the anticipated changes. She shared that the governor had asserted the AGDC had the authority to acquire and hold TransCanada interests in the AKLNG project. She shared that the governor supported DOR and DNR authority and obligations to negotiate the associated commercial agreements and dispose of gas from an AKLNG export project as identified in state statute. She stated that the governor had announced that he was in charge of the executive branch responsibilities associated with the AKLNG project. She wondered who would cast the vote on December 4 on behalf of the state, should the state acquire TransCanada's interest. General Richards deferred to Mr. Schultz.

Co-Chair MacKinnon wondered who would cast the vote on December 4, 2015 on behalf of the state. Mr. Schultz replied that AGDC would acquire TransCanada, so AGDC would be in a position to cast a vote.

Co-Chair MacKinnon requested information about the formation of the subsidiary, the board of directors for the subsidiary, and the voting delegate of the subsidiary. Mr. Schultz agreed to provide that information.

Co-Chair MacKinnon remarked that DNR may elect to have TransCanada or its assets conveyed to DNR or its designee affiliates. She stressed that AGDC was an affiliate of DNR for the purposes of the precedent agreement. She stated that DOL had drafted the legal instrument that would convey the TransCanada partnership interest to AGDC, should the legislature approve the appropriation contemplated in SB 3001.

[5:14:47 PM](#)

Senator Dunleavy wondered if it was the intent of the state to vote "no" if the withdrawal agreements were not met by December 4, 2015, and if so, he queried the repercussions of a "no" vote. Ms. Rutherford replied that the state would choose to vote "yes." should the appropriation be approved and the termination of the TransCanada precedent agreement. She felt that, without an appropriation, it would be impossible to vote "yes." She stated that appropriation was the most important element of the question.

Co-Chair MacKinnon stressed that the legislature wanted to know the name of the person that would cast that vote. She understood that it was a complex issue. Ms. Rutherford replied that she did have any operational insight for the AGDC subsidiary. She stated that AGDC's representative to the management team was Joe Dubler. She expected that Joe Dubler would be the person to cast that vote.

Co-Chair MacKinnon announced that she would like Mr. Dan Fauske to travel to Juneau to meet with the Senate Finance Committee.

Senator Bishop asked if General Richards was familiar with the bylaws of the board of directors for AGDC. General Richards replied that he was not familiar with the bylaws of the board of directors for AGDC. He stated that Jerry Juday was the AGDC DOL representative.

Senator Bishop wondered whether the board had authorized AGDC to move forward with the transaction. General Richards suspected that the board had not yet had the chance to vote on the transaction.

Co-Chair MacKinnon wondered if the chairman of the AGDC board was John Burns. Ms. Rutherford replied in the affirmative.

Senator Bishop was seeking to understand whether the board had reached a determination of a decision.

[5:20:51 PM](#)

Ms. Rutherford highlighted slide 15, "State AKLNG Timeline":

December 2015: Withdrawal, gas balancing, gas sales agreements

First Quarter 2016: Lease modifications, RIK-related contracts completed, RIK-RIV decision process begins

Second Quarter 2016: RIK-RIV finding, contracts and amendment to legislature, legislature approves

Third and Fourth Quarters 2016: Pre-FEED deliverables reviewed; November 8, 2016 vote.

[5:24:34 PM](#)

Co-Chair Kelly looked at the first window, and wondered if it should read December 4, 2015. He stressed that the gas balancing and gas sales agreements must be complete before December. Ms. Rutherford replied in the affirmative, but explained that the last date to approve work plan and budget was December 4. She stressed that the goal was December 4.

Co-Chair Kelly remarked that the balancing agreement was out of the scope DNR control, he wondered if the balancing agreement must be complete by December 4. Ms. Rutherford replied that the balancing agreement was critical piece, so an incomplete agreement could cause delays.

Co-Chair Kelly though that without a yes vote on December 4, the project was halted. He wondered the word, "delay" really meant, "stop." Ms. Rutherford felt that the appropriation for the work plan and budget would result in a "yes" vote December 4 by AGDC. She felt that a better word than "delay" may be "slippage", as related to the possible incompleteness of the agreements.

[5:28:30 PM](#)

AT EASE

[5:30:22 PM](#)

RECONVENED

[5:30:43 PM](#)

Co-Chair MacKinnon announced that DOL had a request of \$10.1 million, and queried the reason for the current request versus waiting until the upcoming regular session to request the funds.

General Richards explained that the state had hired an additional law firm, Milbank, Tweed, Hadley, and McCloy to handle some of the commercial agreements. He remarked that there were approximately leading six global LNG law firms, including Milbank. He stated that DOL realized that the commercial agreements were not moving as quickly as desired, so Milbank was hired to draft the documents. He stressed that Milbank was expensive, so the \$7.7 million appropriation reflected the Milbank expense. He furthered

that an additional \$2.4 million was for Greenberg Taurig, which was the state's long-time counsel for gasline issues.

Senator Dunleavy wondered if the bill specified those terms. Co-Chair MacKinnon replied in the negative, and stated that there was a structural error in the bill.

Co-Chair MacKinnon queried the process to secure the contract for Milbank. General Richards deferred to Mr. Shultz.

Mr. Shultz explained that, under SB 138, contracts related to obtaining services for AKLNG were exempt from the state procurement code. He explained that there were approximately six law firms with the desired LNG expertise. He stated that half of the law firms had conflicts of interest, so therefore could not be the counsel in the contract negotiations. He shared that there were three law firms who submitted responses to the inquiries. The three firms were evaluated, and DOL chose Milbank. He stressed that Milbank had an exceptional level of expertise in LNG matters.

[5:35:18 PM](#)

Co-Chair MacKinnon asked why there was a supplemental request in October, when there was a regular session occurring the following January. Mr. Schultz responded that DOL had spent approximately \$3 million for outside legal counsel during the current fiscal year. He explained that DOL had \$4.6 million in total available funds, including funds from DNR for \$3.7 million. He furthered that there was an expected \$1 million from AGDC. He stressed that there was approximately \$1.6 million remaining for the current fiscal year. He explained that greater funding was required to keep pace with the current contract agreements. He felt that, without an additional appropriation, the remaining funds would be completely depleted by December 2016.

[5:37:33 PM](#)

Senator Dunleavy wondered why the legislature could not meet during the regular session to discuss additional funding for DOL. He noted that there was an increased request from \$2.3 million to \$10 million from DOL. Mr. Schultz responded that DOL would return to the legislature

for additional funding, should the legislature approve funding for less than \$10 million.

Senator Dunleavy asked whether that would be an issue. Mr. Schultz replied that the committee's actions would dictate the next step for DOL.

Senator Dunleavy remarked that the rate of burn was less than \$10 million by session. Mr. Schultz replied that, typically, supplemental requests were often considered later in the regular session.

Co-Chair MacKinnon wondered if the request was for gas sales agreements. Mr. Schultz replied that the request was for all AKLNG agreements.

Co-Chair MacKinnon queried the person who normally negotiates the agreements. She understood that the majority of the negotiations were conducted under the project management itself. General Richards replied that the "heavy lifting" by the lawyers was required during pre-FEED.

[5:42:09 PM](#)

AT EASE

[5:43:34 PM](#)

RECONVENED

[5:43:54 PM](#)

Ms. Rutherford discussed slide 16, "State AKLNG Timeline, October to December 2015":

Ongoing key commercial agreement negotiations include in part:

- Gas Supply and Balancing
- Governance
- Expansion and Access
- Marketing Agreements
- Fiscal

TransCanada termination executed (if appropriation received)

Withdrawal Agreement, Gas Sales Under Withdrawal Agreement, and Gas Balancing Agreement agreed by Producers

[5:45:25 PM](#)

Co-Chair Kelly wondered if the partners had agreed to the timeline. Ms. Rutherford replied that the partners had not agreed to the timeline. She stated that the timeline was the sense of what is necessary to have a constitutional amendment ready for the ballot. She stressed that the project dates would adjust, should the agreements not be made by the following June.

Co-Chair MacKinnon wondered if there was stability in pressing timelines during negotiations. Ms. Rutherford replied that the state's interests must be protected at all costs. She shared that there were many missed timelines to the project. She felt that it was important to attempt to meet the set deadlines, but only if it served the state's best interest.

Co-Chair MacKinnon shared that there was a troubling news article that quoted Rigdon Boykin saying, "I do outrageous things to see what happens." She wondered who was advising the governor to push the deadlines on the decisions. She remarked that there was an alignment issue with those that were not interested in the project. She wondered why the particular deadline was important in creating trust with the partners. Ms. Rutherford replied that she did not see the statement from Rigdon Boykin, but understood that there were various negotiating tactics. She felt that all negotiators were working on agreements that were mutual enhancements to all parties. She remarked that the overall intent was toward success.

Co-Chair MacKinnon understood that people are often misquoted.

Ms. Rutherford addressed slide 17, "State AKLNG Timeline, January to March 2016":

Ongoing key commercial agreement negotiations

RIK relevant agreements reflecting satisfactory terms finalized and submitted to DNR

DNR's RIK/RIV decision process initiated (target 60 days)

All AKLNG agreements needed for FEED in executable form

Co-Chair MacKinnon discussed the following day's agenda.

5:53:49 PM

AT EASE

5:56:31 PM

RECONVENED

5:56:38 PM

Co-Chair MacKinnon stated that there was an email from Miles Baker addressing a question from Senator Bishop.

Senator Bishop read the response from Miles Baker (copy on file) regarding the reason for AGDC recently establishing a subsidiary.

Co-Chair MacKinnon appreciated Mr. Baker's response to the question. She looked at the third paragraph, "It may be advantageous for the corporation to hold those assets in a separate LLC. The board is seeking maximum optionality to structure corporate assets in the most advantageous legal matter." She stressed that the committee wanted to understand all aspects of the project. She felt that there was an attempt to protect any risk in the transfer of assets to the corporation.

6:00:30 PM

Ms. Rutherford discussed slide 18, "State AKLNG Timeline, April to June 2016":

Finalize DNR RIK/RIV determination and finding (subject to submission of RIK relevant contracts to DNR 60 days earlier)

Agreements submitted to Legislature

Legislature approves agreements

Legislature approves constitutional amendment

Ms. Rutherford highlighted slide 19, "State AKLNG Timeline, July to December 2016":

All Pre FEED deliverables reviewed by Parties and FEED recommendation with appropriate documents is prepared

November 8, 2016: General election including constitutional amendment

Ms. Rutherford looked at slide 20, "Conclusion":

Administration is complying with Senate Bill 138

State hopes to provide Legislature with agreements and constitutional amendment in 2016

Senator Hoffman surmised that the constitutional amendment must be a part of the general election. Ms. Rutherford agreed.

[6:03:18 PM](#)

Co-Chair MacKinnon queried the specifics that Ms. Rutherford wanted Alaskans and legislators to consider. Ms. Rutherford replied that the response was the same for each: that each party must agree. She remarked that the administration would not propose something that was not in the state's interest.

Senator Bishop announced that the schedule was not going to drive the project.

Senator Dunleavy thanked the presenter. He stated that the legislature was the "state." He felt that there were legitimate concerns about who was in charge of the project. He remarked that the project was all of Alaska's project. He stressed that there needed to be alignment within the state to move the project forward.

Co-Chair MacKinnon reiterated the thanks for the committee presenters. She expressed concern regarding the December 4 deadline in meeting the gas sales agreements. She felt that there needed to be a compromise.

Ms. Rutherford believed that the project was a partnership between the executives, party owners, and people of Alaska.

Co-Chair MacKinnon stated that there would be a committee substitute the following day. She restated the following day's agenda.

SB 3001 was HEARD and HELD in committee for further consideration.

#

ADJOURNMENT

6:08:57 PM

The meeting was adjourned at 6:08 p.m.