

HB

163

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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MEMORANDUM

April 13, 2009

SUBJECT: ANGDA, CSHB 163(RES), Draft Version "R"
(Work Order No. 26-GH1057\R)

TO: Representative Craig Johnson
Co-Chair of the House Resources Committee
Attn: Debra Higgins

FROM: 
Donald M. Bullock Jr.
Legislative Counsel

Enclosed is a draft of CSHB 163(RES) that incorporates the conceptual amendments offered in your committee. This draft incorporates the conceptual amendment when appropriate within the context of the bill.

HB 163 addresses the route for a gas pipeline project developed by the Alaska Natural Gas Development Authority (ANGDA) as well as where the gas to be transported in the pipeline is produced. The amendment to AS 41.41.010(a) in sec. 1 of HB 163 appears to address the route for an ANGDA project; under current law, the purpose is to transport "from the North Slope" to market." In HB 163, the amendment to AS 41.41.010(a) would allow ANGDA to develop a project that could bring gas from the North Slope or other regions of the state, basically from anywhere in the state. By adding "outer continental shelf" in this context, the authority would seem to have acquired the authority to build a pipeline to the outer continental shelf. I do not believe that was the intent of the conceptual amendment; if this is incorrect, I can correct this in the final.

The amendment in sec. 1 of HB 163 to AS 41.41.010(a)(1) removes the reference to "North Slope" and authorizes ANGDA to acquire and condition natural gas without regard to the source of the gas. This provision would allow for the acquisition of gas from the outer continental shelf or anywhere else for transport in the project developed by ANGDA.

The conceptual amendments seem to address the source of gas to be put into the ANGDA pipeline project, as opposed to the route. The amendment to AS 41.41.010(d) in sec. 2 of this draft, addresses the source of gas that may be transported, and adding the outer continental shelf in this context recognizes that gas as gas that may be transported in the ANGDA project.

Representative Craig Johnson

April 13, 2009

Page 2

Similarly, the amendment to the definition for "project" in AS 41.41.990(3) by sec. 2 of HB 163 addresses route and not the source of gas for the project. There is no change between sec. 3 of HB 163 and sec. 3 of this draft.

If the enclosed draft CSHB 163(RES) is inconsistent with the intent of the conceptual amendment, please let me know so that the bill may be rewritten to conform to the committee's intent.

DMB:plm
09-273.plm

Enclosure

26-GH1057R
Bullock
4/13/09

CS FOR HOUSE BILL NO. 163(RES)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY THE HOUSE RESOURCES COMMITTEE

Offered:
Referred:

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 **"An Act clarifying the purpose of the Alaska Natural Gas Development Authority; and**
2 **relating to the definitions of certain terms that relate to a project that may be developed**
3 **by the Alaska Natural Gas Development Authority."**

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 *** Section 1. AS 41.41.010(a) is amended to read:**

6 (a) There is established the Alaska Natural Gas Development Authority, the
7 purpose of which is to provide one or more of the following services and functions in
8 order to bring natural gas from the North Slope or other regions of the state to
9 market, including

- 10 (1) the acquisition and conditioning of [NORTH SLOPE] natural gas;
- 11 (2) the design and construction of the pipeline system;
- 12 (3) the operation and maintenance of the pipeline system;
- 13 (4) the design, construction, and operation [,] of other facilities
- 14 necessary for delivering the gas to market, including markets in the state [AND TO

1 SOUTHCENTRAL ALASKA]; and

2 (5) the acquisition of natural gas market share sufficient to ensure the
3 long-term feasibility of the pipeline system project.

4 * Sec. 2. AS 41.41.010(d) is amended to read:

5 (d) The acquisition of natural gas from the North Slope **and other regions of**
6 **the state, including the Alaska outer continental shelf,** and its delivery to **markets**
7 **in the state for use by markets in the state or to** tidewater for shipment to market by
8 the authority **are** [IS AN] essential government **functions** [FUNCTION] of the state.

9 * Sec. 3. AS 41.41.990(3) is amended to read:

10 (3) "project" means the gas transmission pipeline, together with all
11 related property and facilities, to extend from [THE PRUDHOE BAY AREA ON] the
12 North Slope of Alaska **or other regions of the state to markets in the state, or**
13 [EITHER] to tidewater at a point on Prince William Sound [AND THE SPUR LINE
14 FROM GLENNALLEN TO THE SOUTHCENTRAL GAS DISTRIBUTION GRID]
15 or [TO TIDEWATER AT A POINT ON] Cook Inlet, and includes planning, design,
16 and construction of the pipeline and facilities as described in AS 41.41.010(a)(1) - (5).

17 * Sec. 4. AS 41.41.990 is amended by adding a new paragraph to read:

18 (4) "North Slope" means that part of the state that lies north of 68
19 degrees North latitude and includes the Brooks Range foothills.

ALASKA STATE LEGISLATURE
House Resources Committee

Craig Johnson, Co-Chair

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FAX

To: Legislative Legal Services **From:** Debra Higgins

Fax: 465-2029 **Phone:** 465-3715

Date: 4/11/09 **CC:**

Re: CS for HB 163 - work draft **Pages with Cover:** 1

HB 163 was amended in House Resources Committee today with the following conceptual amendments:

Page 1, line 7: after "within the state"
Insert: "including the Alaska outer continental shelf"

Page 2, line 5: after the first "within the state"
Insert: "including the Alaska outer continental shelf"

Page 2, line 11: after "within the state"
Insert: "including the Alaska outer continental shelf"

Page 2, line 11: after "to markets within the state"
Insert ", " (comma)

Please send a draft CS with the amendments included. If you have any questions, I'm at 465-3715 or 317-2409 and will be in the office on Sunday.

Thank you.

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HOUSE BILL NO. 163

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 3/2/09

Referred: House Special Committee on Energy, Resources, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act clarifying the purpose of the Alaska Natural Gas Development Authority; and
2 relating to definitions of certain terms in AS 41.41."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** AS 41.41.010(a) is amended to read:

5 (a) There is established the Alaska Natural Gas Development Authority, the
6 purpose of which is to provide one or more of the following services and functions in
7 order to bring natural gas from the North Slope or other regions within the state to ^{including}
8 market, including

- 9 (1) the acquisition and conditioning of [NORTH SLOPE] natural gas;
- 10 (2) the design and construction of the pipeline system;
- 11 (3) the operation and maintenance of the pipeline system;
- 12 (4) the design, construction, operation, of other facilities necessary for
- 13 delivering the gas to market, including markets within the state [AND TO
- 14 SOUTHCENTRAL ALASKA]; and

1 (5) the acquisition of natural gas market share sufficient to ensure the
2 long-term feasibility of the pipeline system project.

3 * **Sec. 2.** AS 41.41.010(d) is amended to read:

4 (d) The acquisition of natural gas from the North Slope and other regions
5 within the state ^{including} and its delivery to markets within the state for use by markets
6 within the state or to tidewater for shipment to market by the authority are [IS AN]
7 essential government functions [FUNCTION] of the state.

8 * **Sec. 3.** AS 41.41.990(3) is amended to read:

9 (3) "project" means the gas transmission pipeline, together with all
10 related property and facilities, to extend from [THE PRUDHOE BAY AREA ON] the
11 North Slope of Alaska or other regions within the state ^{including} to markets within the state (J)
12 or [EITHER] to tidewater at a point on Prince William Sound [AND THE SPUR
13 LINE FROM GLENNALLEN TO THE SOUTHCENTRAL GAS DISTRIBUTION
14 GRID] or to tidewater at a point on Cook Inlet, and includes planning, design, and
15 construction of the pipeline and facilities as described in AS 41.41.010(a)(1) - (5).

16 * **Sec. 4.** AS 41.41.990 is amended by adding a new paragraph to read:

17 (4) "North Slope" means that part of the state that lies north of 68
18 degrees North latitude and includes the Brooks Range foothills.

MEMORANDUM

State of Alaska
Department of Law

TO: Pat Galvin
Commissioner
Dept. of Natural Resources

DATE: April 7, 2009

FILE NO.: 661-09-0121

TEL. NO.: 269-5211

FROM: Lisa Weissler
Larry Ostrovsky
Assistant Attorneys General
Oil, Gas & Mining

SUBJECT: Review of Authority to Seek
Professional Services forms
submitted by ANGDA

You asked us to review several proposed contracts that ANGDA submitted to the Department of Revenue for approval. In particular, you asked whether those contracts are consistent with ANGDA's statutory framework.

Short answer

Our review of the "Authority to Seek Professional Services" forms supplied by your administrative director, as well as a cost recovery agreement between ANGDA and the BLM concludes that these agreements are within the scope of ANGDA's authority.

Background

ANGDA was created in 2002 by voter initiative and codified in Title 41.

Title 41 sets out a broad list of purposes for the Authority, but appears to contain some internal inconsistencies, or at least ambiguities.

AS 41.41.010 sets out the overarching purpose of ANGDA - to bring natural gas from the North Slope to market. Subsumed within that broader purpose are the specific services and functions provided by ANGDA, such as acquiring North Slope natural gas; designing and constructing a pipeline system; designing, constructing and operating other facilities necessary for delivering "the gas" - presumably this article refers to North Slope gas -- to market and to Southcentral Alaska; and acquiring a natural gas share sufficient to ensure the long-term feasibility of the pipeline system.

By comparison, AS 41.41.200 (7) gives the Authority the power to issue bonds or incur indebtedness to pay for the costs of a "project." "Project," in turn, is defined somewhat more narrowly than the purpose described above:

"[P]roject" means the gas transmission pipeline, together with all related property and facilities, to extend from the Prudhoe Bay area on the North Slope of Alaska either to tidewater at a point on Prince William Sound and the spur line from Glennallen to the Southcentral gas distribution grid or to tidewater at a point on Cook Inlet, and includes planning, design, and construction of the pipeline and facilities as described in AS 41.41.010 (a)(1) - (5). AS 41.41.990 (3).

AS 41.41.070(d) provides broad authority to ANGDA to "contract for and engage the services of bond counsel, consultants, experts, and financial advisors the authority considered necessary for the purpose of developing information, furnishing advice, or conducting studies, investigations, hearings, or other proceedings."

Finally, ANGDA is given the power "in furtherance of its corporate purpose" to "make and execute contracts and other instruments" without any limiting language as to the project. AS 41.41.200(4).

"It is a basic rule of statutory construction that courts must attempt to harmonize the specific provisions of an act with the legislature's expression of its intent." *Commercial Fisheries Entry Com'n v. Apokedak*, 680 P.2d 486, 490 (Alaska 1984). Because ANGDA's authority to make and execute contracts is broad and not specifically limited to the defined "project," in our view the Authority's power to make and execute such contracts applies to the broader purposes expressed in AS 41.41.010.

With that in mind, we have reviewed the "Authority to Seek Professional Services" forms provided by your director of Administrative Services to determine whether they are consistent with the broad purposes of ANGDA, as expressed in AS 41.41.010.

Analysis

- 1. Authority to Seek Professional Services for Pipeline Alignment and Construction Engineer. Agency reference number: Asps 09-0030 RFP 2009-0400-8336.**

This contract involves hiring a contractor to refine alignment of a high pressure gas spur line connecting Delta Junction to Beluga. The form states that this contract is sought "[i]n conjunction with ANGDA's "on-going work to bring natural gas to market."

Entering into a contract related to delivering natural gas to the Alaska market clearly fits within the broad authority of ANGDA if the gas is North Slope natural gas, as

specified in AS 41.41.010. If the gas is not North Slope gas, the connection is more problematic and the Department of Revenue may want to request additional information from ANGDA to determine whether work under this contract will ultimately relate to delivering North Slope natural gas.

**2. Authority to Seek Professional Services for Enterprise Coordinator.
Agency reference number: Asps 09-0031 RFP 2009-0400-8363.**

This contract involves hiring a contractor to develop a business and financial management framework to deliver natural gas to the Alaskan market. This includes management of a financial plan to include a combination of utility rates, bonding and legislative funding to finance the project.

We understand ANGDA's general plan is to tap into a main line to Canada with a spur line that would bring some of the North Slope gas to markets in Southcentral Alaska. The contract's purpose appears consistent with both the broad purposes of ANGDA, set out in AS 41.41.010, as well as the definition of project in AS 41.41.900(4).

**3. Authority to Seek Professional Services for Permitting Coordinator.
Agency reference number: Asps 09-0029 RFP 2009-0400-8335.**

This contract involves hiring a permitting coordinator to execute a pipeline permitting plan to "bring North Slope natural gas to market in Alaska." This purpose appears consistent with both the broad purposes of ANGDA, set out in AS 41.41.010, as well as the definition of project in AS 41.41.900(3).

**4. Standard Agreement Form for Professional Services. Agency
Encumbrance Number 491017**

This is an agreement with EJM Enterprises, awaiting signature of the DOR director of administrative services.

This contract for EJM Enterprises is to revise and update a business plan for ANGDA programs. This contract, under which EJM is to assist ANGDA in, among other things, work with a financial advisor in pursuit of project financing, is within the scope of ANGDA's authority to acquire gas, and design and build a pipeline.

5. Cost Recovery Agreement between ANGDA and the BLM.

Your administrative director also provided us with a copy of a cost recovery agreement between ANGDA and BLM for payment of costs for processing an ANGDA

right-of-way application for a natural gas pipeline between Palmer, Glennallen and Delta Junction and Fairbanks.

We understand that ANGDA's plan is to tap into a main line to Canada with a spur line that would bring some of the North Slope gas to markets in Southcentral Alaska, and, in this case, Fairbanks. This purpose appears consistent with both the broad purposes of ANGDA, set out in AS 41.41.010, as well as the definition of project in AS 41.41.900(4), though not necessarily consistent with the definition of "project" in AS 41.41.990(3). Accordingly, if ANGDA gets to a point where it may issue bonds "in order to pay for costs of the project" we recommend that the definition of project in AS 41.41.990(3) be amended to remove any ambiguity as to whether bonds can be issued for purposes of a line to interior Alaska.

We hope this answers your questions. If you have any questions, or if there are additional authorizations that you would like us to review, please let us know.

cc Harold Heinze

LZO:kp

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: HB 163
(H) Publish Date: 3/2/09

Identifier (file name): 0057-DNR-OGD-02-25-09 Dept. Affected: Natural Resources
Title Clarifying Purpose of Alaska Natural Gas Dev. Auth. RDU Resource Development
Component Oil and Gas Development
Sponsor Rules Committee
Requester Governor Component Number 439

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required	Information						
		FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
OPERATING EXPENDITURES								
Personal Services								
Travel								
Contractual								
Supplies								
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES								
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CHANGE IN REVENUES ()								
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts								
1003 GF Match								
1004 GF								
1005 GF/Program Receipts								
1037 GF/Mental Health								
Other Interagency Receipts								
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2009) cost: _____

POSITIONS

Full-time								
Part-time								
Temporary								

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact to DNR anticipated from this bill.

Prepared by: Kevin Banks, Director
Division: Oil and Gas
Approved by: Tom Irwin, Commissioner
Natural Resources

Phone 269-8802
Date/Time February 25, 2009
Date February 25, 2009

FISCAL NOTE

STATE OF ALASKA
2009 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: HB 163
 (H) Publish Date: 3/2/09

Identifier (file name): 0057-DOR-GAO-02-27-09 Dept. Affected: Revenue
 Title Alaska Natural Gas Development Authority RDU ANGDA 495
 Component Gas Authority Operations
 Sponsor Rules Committee
 Requester Governor Palin Component Number 2708

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required	Information						
		FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
OPERATING EXPENDITURES								
Personal Services								
Travel								
Contractual								
Supplies								
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
TOTAL OPERATING		0.0	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES								
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CHANGE IN REVENUES ()								
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts								
1003 GF Match								
1004 GF								
1005 GF/Program Receipts								
1037 GF/Mental Health								
Other Interagency Receipts								
TOTAL		0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2009) cost: _____

POSITIONS

Full-time								
Part-time								
Temporary								

ANALYSIS: (Attach a separate page if necessary)

There is no anticipated fiscal impact to the Department.

Prepared by: Ginger Blaisdell, Director
 Division: Administrative Services
 Approved by: Patrick Galvin, Commissioner
Revenue

Phone 907-465-2300
 Date/Time February 27, 2009
 Date February 27, 2009