

November 5, 2015

The Honorable Bill Walker
Governor
State of Alaska
P.O. Box 110001
Juneau, Alaska 99811-0001

Re: CSSB 3001 (FIN): making supplemental appropriations, making appropriations to capitalize funds, and providing for an effective date
Our file: JU2015200909

Dear Governor Bill Walker:

At the request of your legislative director, we have reviewed CSSB 3001(FIN), making supplemental appropriations, making appropriations to capitalize funds, and providing for an effective date. The bill provides various appropriations with respect to the subject matter of the third special session.

Legislative intent. Section 1(a) of the bill makes no appropriation, but sets out legislative intent that appropriations made to executive branch agencies be accounted for separately from the unrestricted general fund.

Section 1(b) of the bill expresses the legislature's intent that the appropriation made to acquire the interest held by TransCanada Alaska Midstream Limited Partnership in the Alaska liquefied natural gas project occur in an expedited manner, specifically, by December 1, 2015. It appears the legislative intent regarding the timing of the acquisition could be accommodated.

Appropriations to the departments of law, natural resources, and revenue. Section 2 of the bill would appropriate the sum of \$10,100,000 from the general fund to the Department of Law, civil division, oil, gas, and mining, for contractual services with law firms to assist the Department of Natural Resources in drafting and reviewing contracts related to the Alaska liquefied natural gas project and to provide legal and regulatory support for state participation in the Alaska liquefied natural gas project. The

money appropriated under this section is for work completed in fiscal year 2016. Although the Department of Natural Resources is specifically identified in section 2 of the bill, the language of the appropriation and the legislative history reveal that the appropriation for contractual services with law firms can include legal work performed on behalf of other state agencies such as Alaska Gasline Development Corporation and the Department of Revenue for the work in support of the state's participation in the Alaska liquefied natural gas project.

Section 3 of the bill would appropriate the sum of \$1,849,500 from the general fund to the Department of Natural Resources for administration and support services, North Slope gas commercialization, for a marketing lead position, a marketing analyst position, work related to Federal Energy Regulatory Commission resource reporting reviews and drafting, facilities review for commercial aspects, commercial analysis and support, and audits associated with the termination of the agreement with TransCanada Alaska Midstream Limited Partnership. The money appropriated under this section is for work completed during the fiscal year 2016.

Section 4 of the bill would appropriate the sum of \$1,045,500 from the general fund to the Department of Revenue, for administration and support, natural gas commercialization, personal services for work on financial analysis, project financing, governance, and the revenue aspects of marketing and taxes; for travel; for contractual review of project financing; and for other costs related to performing work for the Alaska liquefied natural gas project. The money appropriated under this section is for work completed during the fiscal year 2016.

Fund capitalization. Section 5(a) of the bill would appropriate the amount necessary, estimated to be \$68,455,000, from the general fund to the Alaska liquefied natural gas project fund (AS 31.25.110) in order to acquire the interest currently held by TransCanada Alaska Midstream Limited Partnership in the Alaska liquefied natural gas project. The estimated nature of this appropriation is, we believe, acceptable and consistent with the requirements for a valid appropriation.

Section 5(b) of the bill would appropriate \$75,600,000 from the general fund to the Alaska liquefied natural gas project fund (AS 31.25.110) to fund the state's share of preliminary front-end engineering and design work for the Alaska liquefied natural gas project.

Sections 5(c) and 5(d) of the bill would appropriate the statutory designated program receipts received as reimbursement for costs of field work paid from the Alaska liquefied natural gas project fund (AS 31.25.110) and from the in-state natural gas pipeline fund (AS 31.25.100) during the fiscal year ending June 30, 2016. The

appropriation for these purposes to the Alaska liquefied natural gas project fund (AS 31.25.110) is estimated to be \$2,900,000. The appropriation to the in-state natural gas pipeline fund (AS 31.25.100) is estimated to be \$1,300,000.

Section 6 of the bill is a non-lapse provision providing that the appropriations in sec. 5 of the bill for capitalization of funds do not lapse.

Retroactivity. Section 7 of the bill provides that if the bill takes effect *after* November 15, 2015, secs. 2 - 5 of the bill would apply retroactively to November 15, 2015.

Contingency. Section 8 of the bill is a contingency provision making the appropriations in secs. 2 - 4 and 5(b) of the bill contingent on adoption of a work program and budget for the Alaska liquefied natural gas project for calendar year 2016 by Alaska Gasline Development Corporation, ExxonMobil Alaska LNG LLC, ConocoPhillips Alaska LNG Company, and BP Alaska LNG LLC. The work program and budget for the project are to be adopted by December 31, 2015.

Effective date. Section 9 of the bill provides for an immediate effective date.

Conclusion. Although we have not identified any constitutional or legal issues in the bill, please be advised that it is not always possible to identify or comment on all legal issues that can arise in an appropriation bill. Accordingly, we are available to assist the agencies in interpreting and applying the provisions of this bill.

Sincerely

Craig W. Richards
Attorney General

CWR/SRP/pav