



12 April 2022

Dear AGDC Staff:

This is a request on behalf of Friends of the Earth pursuant to the Alaska Public Records Act, ALASKA STAT. §§ 40.25.100-.350, for records related to the Alaska Gasline Development Corporation's ("AGDC") recent lobbying efforts. This request also demonstrates that Friends of the Earth is entitled to a fee waiver.

I. REQUESTED RECORDS

Pursuant to the Alaska Public Records Act, ALASKA STAT. § 40.25.110, please provide copies of the following records:

- From the period beginning on January 1, 2021 through the date the search is conducted, all communications between AGDC officials, staff, and employees, including, but not limited to, Frank Richards, Tim Fitzpatrick, Lisa Haas, Brad Chastain, and Nick Szymoniak, and:
 - Officials, staff, and employees of Brownstein Hyatt Farber Schreck, LLP, including, but not limited to, registered lobbyists Ari Zimmerman, Samantha Carl-Yoder, Luke Johnson, and Jon Hbrosky, as well as communications to and/or from the domain ending in @bhfs.com; and
 - Officials, staff, and employees of Northern Compass Consulting, LLC including, but not limited to, registered lobbyist Mark Begich, as well as communications to and/or from the domain ending in @northerncompassgroup.com.

For the purposes of this request, "records" should be construed to mean "public records" as that term is defined in the Alaska Public Records Act, and includes:

"books, papers, files, accounts, writings, including drafts and memorializations of conversations, and other items, regardless of format or physical characteristics, that are developed or received by a public agency, or by a private contractor for a public agency, and that are preserved for their informational value or as evidence of the organization or operation of the public agency."

ALASKA STAT. § 40.25.220. "Communications" includes, but is not limited to, records of electronic correspondence, letters, memoranda, calendar entries, meeting notes, reports, summaries of telephonic conferences, and all attachments to same. Friends of the Earth asks that these records be provided in

electronic and searchable format. We request that responsive records be released as soon as they are available.

Regulations implementing the Alaska Public Records Act provide that “[i]f a record contains both disclosable and nondisclosable information, the nondisclosable information must be segregated and withheld and the disclosable information must be disclosed.” ALASKA ADMIN. CODE tit. 2 § 96.330(a). If portions of a document are exempt from release, the remainder must nevertheless be segregated and disclosed, so please provide us with all non-exempt portions of any exempt records. *Id.* If any records are nondisclosable, either in part or in whole, please advise Friends of the Earth of the withholding and provide the “specific legal authority and specific facts supporting nondisclosure.” ALASKA ADMIN. CODE tit. 2 § 96.325.

II. REQUEST FOR A FEE WAIVER

Regarding fee waivers, the Alaska Public Records Act provides that public agencies “may reduce or waive a fee when [they] determine[] that the reduction or waiver is in the public interest.” ALASKA STAT. § 40.25.110(c). The statute further provides that “[f]ee reductions and waivers shall be uniformly applied among persons who are similarly situated.” *Id.* Regulations implementing the Act demand that a fee waiver or reduction “shall be granted” once the requester demonstrates that:

- (1) the records are likely to contribute significantly to the public's understanding of the operations or activities of the state government;
- (2) the records are not sought primarily for a purpose that is commercial or financial;
- (3) the records are not sought by or on behalf of a person involved in litigation, including any judicial or administrative proceeding, arbitration, or mediation, with a public agency in which the records are relevant;
- (4) the combined amount of all fee waivers and reductions granted to the requester and to any other requesters acting in concert with the requester in making requests for the same or related records does not exceed \$500 during any period of 12 consecutive months; and
- (5) the requested fee waiver or reduction does not cause the requester to exceed [\$500].”

ALASKA ADMIN. CODE tit. 2 § 96.370(a).

Friends of the Earth easily satisfies the final three criteria for a fee waiver. The organization is not involved in any litigation with AGDC. ALASKA ADMIN. CODE tit. 2 § 96.370(a)(3). Nor has the organization been granted a fee waiver or reduction under the Alaska Public Records Act, either by itself or together with any other organization, within the last 12 months. ALASKA ADMIN. CODE tit. 2 § 96.370(a)(4), (5).

As discussed below, Friends of the Earth also satisfies the initial two criteria for a fee waiver, i.e., that the request is likely to contribute significantly to the public’s understanding of the activities and operations of an Alaska public corporation charged with using public funds to facilitate the growth of the state’s natural gas industry, and that the organization does not have a commercial interest in the records sought. ALASKA ADMIN. CODE tit. 2 § 96.370(a)(1), (2). Accordingly, Friends of the Earth qualifies for a fee waiver for this request because the disclosure of the requested information is in the public interest.

A. The Request Is Likely To Contribute Significantly To The Public’s Understanding Of The Activities Or Operations Of The Alaska State Government.

As an initial matter, it is beyond legitimate dispute that this request directly concerns the activities or operations of the state government. ALASKA ADMIN. CODE tit. 2 § 96.370(a)(1). First established in 2010, the AGDC is an “independent, public corporation of the State of Alaska,” and is therefore subject to the Alaska Public Records Act, *see* ALASKA STAT. § 40.25.220(2) (defining “public agency” for the purposes of the Act to include “public corporation[s] . . . of the state”). The request involves records relating to the actions, communications, and activities of AGDC officials and employees in their capacity as officers of a public corporation, and thus clearly relates to the activities or operations of an “instrumentality of the state” government. *Id.* Indeed, the AGDC’s decisions and efforts to “maximiz[e] the value of the state’s [natural] gas” are taken at the direction of the state legislature, and thus are direct actions taken by the state or its representatives. As such, this request directly concerns the activities or operations of the state government

This request is likely to contribute significantly to the public’s understanding of the activities and operations of the Alaska state government in several distinct ways. *See* ALASKA ADMIN. CODE tit. 2 § 96.370(a)(1). The requested information has not been publicly disclosed. Therefore, the requested information is both new and will help to confirm or clarify information regarding the state government’s efforts to encourage or facilitate the expansion of domestic natural gas production and investments in fossil fuel infrastructure. In so doing, the requested records will contribute to the public’s understanding of the state government’s involvement in, and decision-making processes related to, the investment of public funds in new and expanded fossil fuel infrastructure in the face of the unprecedented climate crisis. Specifically, the records requested will be meaningfully informative as to the types of communications between AGDC officials and registered lobbyists; the types of policy decisions that are being considered and discussed; and whether/how those decisions are being implemented and/or acted upon.

Scientists’ warnings regarding the impacts of climate change have become increasingly dire, and the need to immediately reduce greenhouse gas emissions to zero has never been clearer. The question of whether to address the short-term energy crisis by increasing fossil fuel production despite the long-term risks is fraught and is of increasing importance in light of global events. Hence, there has been considerable public interest in the various efforts by state and federal agencies to support (or curtail) domestic fossil fuel production. To that end, through these records, Friends of the Earth expects to significantly increase the public’s understanding of the development and implementation of Alaska’s response to the energy crisis, whether and to what extent the fossil fuel sector will receive public funds to invest in infrastructure, and whether and to what extent the AGDC’s policy goals are influencing or being influenced by outside entities. A broad sector of the public is concerned about the use of public funds at the state level to legitimize and support ongoing and expanded fossil fuel extraction despite the array of harms that this industry poses on the ecosystem, public health, and even the financial system. Accordingly, information concerning the AGDC’s actions and activities to promote the continued production—or even expansion—of natural gas resources is essential to the public’s understanding of the state government’s responses to the energy and climate crises. The contents of the request are therefore meaningfully informative, and will contribute significantly to the public’s understanding because they relate to information about the actions of a state public corporation on matters that directly affect the everyday lives of Americans and have a nexus to environmental, energy, geopolitical, and economic impacts.

Moreover, Friends of the Earth has the intent and ability to disseminate this information broadly as it has a large member base of individuals with a strong interest in matters that concern environmental and energy policy. As Friends of the Earth is a non-profit committed “to chang[ing] the perception of the public, media, and policymakers—and effect[ing] policy change—with hard-hitting, well-reasoned policy analysis and advocacy campaigns that describe what needs to be done,” *see* Friends of the Earth, *What We Do*, <https://foe.org/about-us/>, including through the investigation and publication of how the fossil fuel industry continues to benefit from the fossil fuel export boom that threatens our climate and puts our

oceans at risk, *see* Friends of the Earth, *Fossil Fuels*, <https://foe.org/projects/fossil-fuels/?issue=5>, actions taken by a state public corporation to encourage and facilitate the expansion of the fossil fuel industry are directly correlated both with the expertise of Friends of the Earth and with the interests of its supporters and partners. Indeed, Friends of the Earth has over 1.7 million members and activists across the United States who place a priority on ensuring that all levels of government take proper considerations for the impacts of their actions on the environment and public health. This starts with knowing what federal, state, and local government entities are doing, who they are in communications with, and what is being asked of policymakers.

To that end, Friends of the Earth utilizes various means of communication to update its members and activists, as well as the media and general public, on government activities that may impact human health and the environment. These methods include, but certainly are not limited to, providing essential information in easy-to-read reports, a quarterly news magazine, fact sheets, press statements, public hearings and events, phone calls, letters to the editor, blogs, email alerts, and webpage updates. Specifically for this request, Friends of the Earth plans to alert the public, policymakers, and activists as to recent AGDC meetings and activities undertaken as part of state-led programs that legitimize and support fossil fuel extraction. As a result of its partnerships with other non-profit organizations and journalists, and its respected role in public education, Friends of the Earth is well-positioned to disseminate the requested information to its partners and the media, who will in turn disseminate the information across their networks of members and supporters, amplifying the organization's reach.

In summary, the public is always well-served when it knows how the government conducts its activities, particularly matters touching on important questions about how government instrumentalities are implementing their statutory duties. The records produced from this request will produce the most reliable information available to the public on these important matters ongoing within the public corporation, and, indeed, in most cases this is the only way that the public has to gain insight. Hence, there can be no dispute that disclosure of the requested records to the public will significantly contribute to educating the public about AGDC operations, activities, and decisionmaking. We will utilize the released records and our organizational expertise to help our members, lawmakers, activists, the general public, and the media to increase their understanding of these important issues.

B. Friends Of The Earth Does Not Have A Commercial Interest That Would be Furthered By The Requested Disclosure

Friends of the Earth is a not-for-profit charitable organization with no commercial interest in or use for the information requested. ALASKA ADMIN. CODE tit. 2 § 96.370(a)(2). Friends of the Earth's primary interest in disclosure is simply to benefit the public interest by informing the public and other members of the media as to government activities. The organization's main purpose in requesting the documents is to increase public knowledge and participation in the government process so fundamental to the effective working of a democracy. The requested information will be broadly disseminated to the public, and will be used to educate and inform the public regarding the state public corporation's decision-making processes and actions with respect to the development of fossil fuels. Thus, Friends of the Earth's request is not rooted in a purpose that furthers its commercial, trade or profit interests. Accordingly, Friends of the Earth does not have a commercial interest in the disclosure of the requested information.

For the reasons outlined above, Friends of the Earth is entitled to a fee waiver for this request. As a non-profit, public interest organization, Friends of the Earth has extremely limited financial resources with which to cover the copying and search expenses of this request. If the request for a fee waiver is denied and any expenses associated with this request are in excess of \$25.00, please obtain Friends of the Earth's approval before any such charges are incurred.

We look forward to receiving the agency's final, expedited response within 10 working days. Thank you for your prompt attention to this matter. Please email me at lross@foe.org with any questions about this request.

Sincerely,

Lukas Ross
Program Manager
Friends of the Earth US