

## **Public Interest Determination and Waiver**

### **As Provided Under AS 39.52.180**

Ben Stevens, former Chief of Staff for the Office of the Governor, exited State service effective February 26, 2021, and is now employed by ConocoPhillips. Mr. Stevens has submitted a request to the Governor and Attorney General for a Public Interest Determination and Waiver to be issued so that he can work on public outreach, and otherwise advise Conoco-Phillips, in regard to its Willow Project. As a state employee in the Office of the Governor, Mr. Stevens was aware of discussions related to possible intervention by the State of Alaska in litigation against the Willow Project.

Alaska Statute 39.52.180(a) prohibits a former public officer from representing, advising, or assisting a person for compensation regarding a “matter” that was under consideration by the administrative unit served by that public officer, if they “personally and substantially” participated in the matter through the exercise of “official action” in that matter. The prohibition lasts for two years after leaving state service. Under the statute, if all those factors are met, the two-year restriction on post-state employment would apply.

A “matter” is defined in the statute AS 39.52.180(a). as:

“[a] case, proceeding, application, contract, determination, proposal or consideration of a legislative bill, a resolution, a constitutional amendment, or other legislative measure, or proposal, consideration, or adoption of an administrative regulation.”

It is the Attorney General who is the “legal advisor of the governor” and who “represents the state in all civil actions in which the state is a party.” AS 44.23.020(a)(3). Whether to participate in the Willow Project litigation was a matter that was under consideration by the Department of Law, the Attorney General, and the Governor. The legal decisions to file such pleadings are made by the Attorney General, not the Chief of Staff.

Nevertheless, assuming for the sake of argument, that Mr. Stevens was aware of and participated personally and substantially in discussions of the legal option for the State of Alaska to participate in the Willow Project, Alaska law allows for a

waiver of the two-year restriction on employment. Specifically, AS 39.52.180(c) allows a waiver where that waiver is “not adverse of the public interest.”

The Governor has consulted with the Department of Law ethics advisor and finds that if an ethics prohibition did apply regarding the Willow Project, (which is questionable), Mr. Stevens’ current work on the Willow Project would not be against the public interest. Such work as public outreach and education regarding the benefits of resource development, jobs, mitigation of environmental impacts, communications with communities, tribes, and residents, and tax revenue for the North Slope Borough is aligned and consistent with the public interest of the State of Alaska. The State of Alaska also benefits from the development of the Willow Project.

I waive application of any restrictions for the purpose of this employment as it concerns Mr. Stevens’ work on the Willow Project. As a former state employee, Mr. Stevens has the right to consult with the Department of Law ethics attorney and request formal opinions of advice regarding application of the Alaska Executive Branch Ethics Act. AS 39.52.250.

Dated this 5 day of April, 2021.

  
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Mike Dunleavy  
Governor, State of Alaska

Dated this 8 day of April, 2021.

  
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Treg Taylor  
Attorney General