

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

CITY OF VALDEZ,

Appellant,

v.

REGULATORY COMMISSION OF ALASKA,

Appellee.

Case No. 3AN-20-_____CI

RCA Docket P-19-017

NOTICE OF APPEAL

[Appellate Rule 602]

The City of Valdez, through its counsel, Brena, Bell & Walker, P.C., hereby appeals to the Superior Court for the State of Alaska, Third Judicial District, the following agency Order of the Regulatory Commission of Alaska:

Order P-19-017(6), dated March 12, 2020, entitled: Order Granting Motions for Waiver; Denying Motion to Strike and Motion for Expedited Consideration; Declaring Financial Statements Confidential Under AS 42.06.445(C); Finding Request for Confidential Treatment of Financial Statements Under 3 AAC 48.045 Moot; and Addressing Timeline for Decision (“Order 6”).

This Notice of Appeal is accompanied by:

1. Exhibit A, a copy of Order 6,
2. Exhibit B, a copy of Commissioner McAlpine’s Dissenting Statement to Order 6,
3. Statement of Points on Appeal,
4. Case Description Form,
5. Cash Deposit on Appeal with \$750,
6. Filing fee in the amount of \$250, and
7. Certificate of Service.

BRENA, BELL &
WALKER, P.C.
810 N Street, Suite 100
Anchorage, AK 99501
Phone: (907)258-2000
Fax: (907)258-2001


Please direct all pleadings and correspondence relating to this matter to the attorneys for

Appellant as follows:

Robin O. Brena, Esq.
Anthony S. Guerriero, Esq.
Laura S. Gould, Esq.
Brena, Bell & Walker, P.C.
810 N Street, Suite 100
Anchorage, Alaska 99501
Telephone: (907) 258-2000
Facsimile: (907) 258-2001
E-Mail: rbrena@brenalaw.com
aguerriero@brenalaw.com
lgould@brenalaw.com

DATED this 13th day of April, 2020.

BRENA, BELL & WALKER, P.C.
Attorneys for Appellant City of Valdez

By 
Robin O. Brena, AK Bar 8410089
Anthony S. Guerriero, AK Bar 8509123
Laura S. Gould, AK Bar 0310042

BRENA, BELL &
WALKER, P.C.
810 N Street, Suite 100
Anchorage, AK 99501
Phone: (907)258-2000
Fax: (907)258-2001

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STATEMENT OF POINTS ON APPEAL

[Appellate Rule 602(c)(1)(A)]

The City of Valdez (“Appellant”), through its counsel, Brena, Bell & Walker, P.C., pursuant to Rule of Appellate Procedure 602(c)(1)(A), hereby files its Points on Appeal with respect to its appeal to the Superior Court from Regulatory Commission of Alaska (“RCA”) Order P-19-017(6), dated March 12, 2020 (“Order 6”).

1. The RCA erred in its interpretation of AS 42.06.445(c).
2. The RCA erred in holding that AS 42.06.445(c) is grounds for its Order 6 ruling that certain financial statements filed with the RCA¹ shall be confidential and not subject to public disclosure.

BRENA, BELL &
WALKER, P.C.
810 N Street, Suite 100
Anchorage, AK 99501
Phone: (907)258-2000
Fax: (907)258-2001

¹ Financial Statements of Harvest Alaska, LLC, Hilcorp Alaska, LLC, Harvest Midstream I, L.P., Hilcorp Energy I, L.P., Hilcorp Energy Company, and BP Corporation North America Inc. (collectively “Financial Statements”).

3. The RCA erred in advising Harvest Alaska, LLC (“Harvest Alaska”) and BP Pipelines (Alaska) Inc. (“BPPA”) that filed Financial Statements might be entitled to confidential treatment under AS 42.06.445(c), even though a request for confidential treatment under that statute had not been asserted and Harvest Alaska and BPPA had failed to submit the Financial Statements to the RCA with the required confidentiality legend stating: “Confidential Pursuant to AS 42.06.445(c).”

4. The RCA erred in failing to hold that Harvest Alaska and BPPA had waived the claim of confidentiality under AS 42.06.445(c).

5. The RCA erred in holding that all of the Financial Statements filed by Harvest Alaska and BPPA in Dockets P-19-015, P-19-016, P-19-017, and P-19-019 relate to the finances or operations of a pipeline subject to federal jurisdiction.

6. The RCA erred in holding that AS 42.06.445(c) is applicable to all Financial Statements filed by Harvest Alaska and BPPA with the RCA in Dockets P-19-015, P-19-016, P-19-017, and P-19-019, based in part upon the RCA’s conclusion that the Financial Statements are *not* required to be filed with the Federal Energy Regulatory Commission.

7. The RCA erred in broadly rather than narrowly interpreting AS 42.06.445(c), as an exception to the general rule allowing public access to documents filed with the RCA, in violation of fundamental rights under the Alaska and United States Constitutions, thereby impeding transparency and the right to question, investigate, and monitor the discharge of the RCA’s duties.

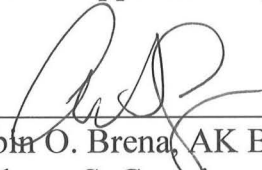
BRENA, BELL &
WALKER, P.C.
810 N Street, Suite 100
Anchorage, AK 99501
Phone: (907)258-2000
Fax: (907)258-2001

A point on appeal stated generally is not intended to be limited to only those related or similar points of appeal stated specifically. Instead, a point of appeal stated generally is intended to include all points of appeal that could be included within the general statement.

DATED this 13th day of April, 2020.

BRENA, BELL & WALKER, P.C.
Attorneys for Appellant City of Valdez

By


Robin O. Brena, AK Bar 8410089
Anthony S. Guerriero, AK Bar 8509123
Laura S. Gould, AK Bar 0310042
810 N Street, Suite 100
Anchorage, Alaska 99501
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aguerriero@brenalaw.com
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BRENA, BELL &
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CASE DESCRIPTION – SUPERIOR COURTCase Number: 3AN-20-CI

From RCA Docket P-19-017

Type of Action		For Court Use Only	
Check the box that best describes the case. Mark one box only. For district court cases, use form CIV-125D.		Case Type	Action Code
Domestic Relations			
<input type="checkbox"/>	Divorce With Children (or Pregnant)	Div or Cust w/Children	CISDVC
<input type="checkbox"/>	Divorce Without Children	Divorce Without Children	CISDIV
<input type="checkbox"/>	Uncontested Divorce With Children (or Pregnant)	Div or Cust w/Children	CISUDVC
<input type="checkbox"/>	Uncontested Divorce Without Children	Divorce Without Children	CISUDIV
<input type="checkbox"/>	Custody (Unmarried Parents)	Div or Cust w/Children	CISCUS
<input type="checkbox"/>	Uncontested Custody (Unmarried Parents)	Div or Cust w/Children	CISUCUS
<input type="checkbox"/>	Visitation by Person Other than Parent	Domestic Relations Other	CIVIS
<input type="checkbox"/>	Property Division – Unmarried Partners	Domestic Relations Other	CISPROP
<input type="checkbox"/>	Legal Separation With Children (or Pregnant)	Legal Separation	CICLS
<input type="checkbox"/>	Legal Separation Without Children	Legal Separation	CISLS
<input type="checkbox"/>	Annulment	Domestic Relations Other	CIANNUL
<input type="checkbox"/>	Uncontested Legal Separation with Children (or Pregnant)	Legal Separation	CIUCLS
<input type="checkbox"/>	Uncontested Legal Separation Without Children	Legal Separation	CIUSLS
<input type="checkbox"/>	Paternity - Establishment	Domestic Relations Other	CISPAT
<input type="checkbox"/>	Paternity - Disestablishment	Domestic Relations Other	CIDPAT
<input type="checkbox"/>	Genetic Testing - Failure to Comply with Order for Testing	Domestic Relations Other	CIOSCP
<input type="checkbox"/>	Administrative Child Support Order – Modification or Enforcement	Domestic Relations Other	CIPCS
<input type="checkbox"/>	PFD or Native Dividend Case	Domestic Relations Other	CIPND
<input type="checkbox"/>	Foreign Support Order - Registration, Modification or Enforcement under AS 25.25	Domestic Relations Other	CIUIFSA
<input type="checkbox"/>	Foreign Custody Order – Registration, Modification or Enforcement under AS 25.30	Domestic Relations Other	DR483
<input type="checkbox"/>	Both Foreign Custody & Support Order – Registration, Modification or Enforcement under AS 25.30 and AS 25.25	Domestic Relations Other	CIFCS
<input type="checkbox"/>	Foreign Domestic Relations Order (Not Custody or Support) – Registration, Modification or Enforcement	Domestic Relations Other	CIDRFJ
Landlord/Tenant			
<input type="checkbox"/>	Eviction (May Include Rent or Damages)	Eviction-Superior Court	CISFED
<input type="checkbox"/>	Other Landlord/Tenant (No Eviction)	Civil Superior Court	CISLT
Debt/Contract			
<input type="checkbox"/>	Debt Collection	Civil Superior Court	CISDEB
<input type="checkbox"/>	Claim by Buyer Against Seller of Goods/Services	Civil Superior Court	CISCLAIM
<input type="checkbox"/>	Employment – Discrimination	Civil Superior Court	CISEMPD
<input type="checkbox"/>	Employment – Other Than Discrimination	Civil Superior Court	CISEMP
<input type="checkbox"/>	Other Contract	Civil Superior Court	CISOCT
Real Property Actions			
<input type="checkbox"/>	Condemnation	Civil Superior Court	CISCNDM
<input type="checkbox"/>	Foreclosure	Civil Superior Court	CISFOR
<input type="checkbox"/>	Quiet Title	Civil Superior Court	CISQIT
<input type="checkbox"/>	Real Property Tax Foreclosure	Superior Court Misc Petition	CISTAX
<input type="checkbox"/>	Other Real Estate Matter	Civil Superior Court	CISREM
Foreign Judgment			
<input type="checkbox"/>	Registration of Foreign Judgment – SEE DOMESTIC RELATIONS FOR FOREIGN SUPPORT/CUSTODY ORDERS	Foreign Judgment Superior Ct	CISFOJ

CASE DESCRIPTION – SUPERIOR COURT

Case Number: 3AN-20-

CI

Type of Action		For Court Use Only	
Check the box that best describes the case. Mark one box only. For district court cases, use form CIV-125D.		Case Type	Action Code
Tort			
<input type="checkbox"/>	Wrongful Death	Civil Superior Court	CISPID
<input type="checkbox"/>	Automobile Tort (But Not Wrongful Death)	Civil Superior Court	CISIDA
<input type="checkbox"/>	Claim Against Owner of Real Property for Personal Injury	Civil Superior Court	CISPIO
<input type="checkbox"/>	Product Liability	Civil Superior Court	CISPL
<input type="checkbox"/>	Intentional Tort (e.g., assault, battery, vandalism)	Civil Superior Court	CISIT
<input type="checkbox"/>	Slander/Libel/Defamation	Civil Superior Court	CISSLD
<input type="checkbox"/>	Other Tort	Civil Superior Court	CISIDO
<input type="checkbox"/>	Approval of Minor Settlement – Civil Petition <i>May also be filed as probate case.</i>	Superior Court Misc Petition	CISPET
Malpractice			
<input type="checkbox"/>	Legal Malpractice	Civil Superior Court	CISLMP
<input type="checkbox"/>	Medical Malpractice	Civil Superior Court	CISMMP
<input type="checkbox"/>	Other Malpractice	Civil Superior Court	CISOMP
Other Civil			
<input type="checkbox"/>	Election Contest or Recount Appeal	Civil Superior Court	CISELE
<input type="checkbox"/>	Change of Name - Adult	Change of Name	CICON
<input type="checkbox"/>	Change of Name - Minor	Change of Name	CICONM
<input type="checkbox"/>	Confession of Judgment	Civil Superior Court	CISCONF
<input type="checkbox"/>	Structured Settlement – AS 09.60.200	Superior Court Misc Petition	CISSS
<input type="checkbox"/>	Administrative Agency Proceeding – Request for Court Assistance	Superior Court Misc Petition	CISWRNT
<input type="checkbox"/>	Arbitration - Action Under Uniform Arbitration Act	Civil Superior Court	CISAP
<input type="checkbox"/>	Fraud	Civil Superior Court	CISFRAUD
<input type="checkbox"/>	Unfair Trade Practice and Consumer Protection	Civil Superior Court Clerk: Issue form CIV-128	CISUTP
<input type="checkbox"/>	Writ of Habeas Corpus	Civil Superior Court	CIWHC
<input type="checkbox"/>	Fish & Game - Abatement & Forfeiture of Equipment	Superior Court Misc Petition	CISAF
<input type="checkbox"/>	Appointment of Trustee Counsel	Superior Court Misc Petition	CISTC
<input type="checkbox"/>	Action Under Alaska Securities Act	Civil Superior Court	CISASA
<input type="checkbox"/>	Other Superior Court Complaint	Civil Superior Court	CISOCI
<input type="checkbox"/>	Other Superior Court Petition	Superior Court Misc Petition	CISPET
Post-Conviction Relief to Superior Court			
<input type="checkbox"/>	Post-Conviction Relief	Post-Conviction Relief-Sup Ct	CISPCR
Appeal to Superior Court - From Administrative Agency			
<input type="checkbox"/>	Election Contest or Recount Appeal – SEE OTHER CIVIL		
<input type="checkbox"/>	DMV Appeal	Appeal from Admin Agency	CIADDMV
<input type="checkbox"/>	Employment Security Appeal	Appeal from Admin Agency	CIADRESA
<input checked="" type="checkbox"/>	Administrative Agency Appeal - Other	Appeal from Admin Agency	CIADR
<input type="checkbox"/>	CSSD License Review Action	Petition for Review or Relief	CICSED
<input type="checkbox"/>	Petition for Review from Administrative Agency	Petition for Review or Relief	CIPRA
<input type="checkbox"/>	Petition for Relief from Administrative Agency – AS 44.62.305	Petition for Review or Relief	CIPRLF
Appeal to Superior Court - From District Court			
<input type="checkbox"/>	Civil Appeal	Appeal from District Court	CIACI2
<input type="checkbox"/>	Criminal Appeal	Appeal from District Court	CIACRM
<input type="checkbox"/>	Minor Offense Appeal	Appeal from District Court	CIAMO
<input type="checkbox"/>	Small Claims Appeal	Appeal from District Court	CIASC
<input type="checkbox"/>	Petition for Review from Civil, Criminal, or Minor Offense Case	Petition for Review or Relief	CIPRD2
<input type="checkbox"/>	Petition for Review from Small Claims	Petition for Review or Relief	CIPRSC

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NOTICE OF NO COST BOND REQUIRED

The City of Valdez, through its counsel, Brena, Bell & Walker, P.C., hereby notifies the Court that no cost bond is required pursuant to AS 09.68.040(a), which states:

(a) In an action or proceeding in a court in which the state or a municipality is a party or in which the state or a municipality is interested, a bond or undertaking is not required of the state, a municipality, or an officer of the state or municipality.

DATED this 13th day of April, 2020.

BRENA, BELL & WALKER, P.C.
Attorneys for Appellant City of Valdez

By _____


Robin O. Brena, AK Bar 8410089
Anthony S. Guerriero, AK Bar 8509123
Laura S. Gould, AK Bar 0310042
810 N Street, Suite 100
Anchorage, Alaska 99501
Phone: (907) 258-2000/Fax (907) 258-2001
Email: rbrena@brenalaw.com
aguerriero@brenalaw.com
lgould@brenalaw.com

BRENA, BELL &
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810 N Street, Suite 100
Anchorage, AK 99501
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INTEREST RESEARCH GROUP, INC.,

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REGULATORY COMMISSION OF ALASKA,

Appellee.

Case No. 3AN-20-_____ CI

RCA Docket P-19-017

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on April 13, 2020, a copy of the

1. Notice of Appeal with Exhibits A and B
2. Statement of Points on Appeal
3. Case Description Form
4. Notice of No Cost Bond Required
5. This Certificate of Service

were served on the following parties by the method indicated:

BRENA, BELL &
WALKER, P.C.
810 N Street, Suite 100
Anchorage, AK 99501
Phone: (907)258-2000
Fax: (907)258-2001

Regulatory Commission of Alaska

Certified Mail and Email

Robert M. Pickett, Chair
Regulatory Commission of Alaska
750 W. 8th Avenue, Suite 300
Anchorage, AK 99501
Email: Bob.Pickett@alaska.gov

**Counsel for BP Pipelines (Alaska) Inc.
and Harvest Alaska, LLC**

Certified Mail and Email

Michael S. McLaughlin, Esq.
Adam D. Harki, Esq.
Guess & Rudd, P.C.
1029 W. Third Ave. Ste 400
Anchorage, AK 99501
Email: mmclaughlin@guessrudd.com
aharki@guessrudd.com

State of Alaska

Via Certified Mail

Kevin Clarkson, Attorney General
State of Alaska
P.O. Box 110300
Juneau, AK 99811-0300

Certified Mail and Email

Kevin Clarkson, Attorney General
State of Alaska
1031 West 4th Avenue, Suite 200
Anchorage, AK 99501-1994
Email: Kevin.Clarkson@alaska.gov

DATED this 13th day of April, 2020.

BRENA, BELL & WALKER, P.C.
Attorneys for Appellant City of Valdez and
Alaska Public Interest Research Group, Inc.

By 
Elaine Houchen, Paralegal

BRENA, BELL &
WALKER, P.C.
810 N Street, Suite 100
Anchorage, AK 99501
Phone: (907)258-2000
Fax: (907)258-2001