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December 2, 2014

Via Email

Ms. Larine A. Moore
Docket Room Manager
U.S. Department of Energy
FE-34
P.O. Box 44375
Washington, DC 20026-4375
fergas@hq.doe.gov

Re: Docket No. 14-96-LNG
Answer of Alaska LNG Project LLC to Limited Protests

Dear Ms. Moore:

Please accept for filing in Docket No. 14-96-LNG, pursuant to 10 C.F.R. § 590.304(f), the enclosed Answer of Alaska LNG Project LLC to Limited Protests.

If you have any questions regarding this filing, please do not hesitate to contact me at (202) 220-6915. Thank you for your assistance.

Respectfully submitted,

/s/ James F. Moriarty
James F. Moriarty
Counsel to Alaska LNG Project LLC

Enclosure

constructed in the Nikiski area of the Kenai Peninsula in south central Alaska (“Liquefaction Facility”) to (1) any country with which the United States currently has, or in the future may enter into, a free trade agreement (“FTA”) requiring national treatment for trade in natural gas and (2) any country with which the United States does not have a free trade agreement requiring national treatment for trade in natural gas with which trade is not prohibited by United States law or policy. Alaska LNG Project LLC requested that the authorization commence on the earlier of (i) the date of first export from the liquefaction facility or (ii) 12 years from the date the requested authorization is granted.

On September 17, 2014, DOE/FE published notice in the Federal Register of Alaska LNG Project LLC’s Application and established November 17, 2014 as the deadline for comments on and protests to the Application. The overwhelming majority of comments filed fully and unequivocally support Alaska LNG Project LLC’s Application.³ The various commenters described the significant, far-reaching, and enduring positive economic benefits that the Alaska LNG Project (“Project”) would provide for both Alaska and the United States as a whole.⁴ In addition, a majority of the commenters urged DOE/FE to act expeditiously to

³ Comments in support of the Application were filed by: (1) Alaska Congressional Delegation (Sen. Murkowski, Sen. Begich, Rep. Young); (2) Randall Akers (Sales Representative for Pentair Valves & Controls); (3) Michael D. Miller (Business Development Manager, Alaska Region for Granite Construction Company); (4) Associated Builders and Contractors, Inc.; (5) Resource Development Council; (6) Bruce Harland (Anchorage resident); (7) Alaska Support Industry Alliance; (8) America’s Natural Gas Alliance; (9) Alaska State Representative Mike Chenault; (10) Natural Gas Supply Association; (11) BP Exploration (Alaska) Inc.; (12) American Council for Capital Formation; (13) Alaska State Senator Peter A. Micciche; (14) Alaska State Representative Dan Saddler; (15) Associated General Contractors of Alaska; (16) Alaska State Chamber of Commerce; (17) Energy Policy Research Foundation, Inc.; (18) American Petroleum Institute; (19) Small Business and Entrepreneurship Council; (20) Center for Liquefied Natural Gas; (21) TransCanada Alaska Midstream, LP; (22) Institute for 21st Century Energy; (23) State of Alaska and Alaska Gasline Development Corporation; (24) ConocoPhillips Alaska, Inc.; (25) Michael Jespersion (Anchorage resident); (26) Alaska State Representative Eric A. Feige; (27) National Association of Manufacturers; (28) Laura McConnell (Corporate Administrator, Cook Schuhmann & Groseclose, Inc.); (29) Jo A. Kuchle (Shareholder, Cook Schuhmann & Groseclose, Inc.).

⁴ *See, e.g.*, Alaska Congressional Delegation Letter in Support, Docket No. 14-96-LNG (filed Oct. 14, 2014) (“No other single project is as important to Alaska’s economic future as this massive infrastructure project. . . . The Alaska LNG Project would provide significant economic benefits to Alaskans including state revenues, new job opportunities and access to decades of domestically-produced natural gas for homes and businesses in Alaska. . . .

approve the Application and issue a conditional authorization.⁵ Not surprisingly, many commenters also expressed their opinions that the existing Presidential Finding is valid and applicable to the Project.⁶

On November 21, 2014, DOE/FE issued Order No. 3554 granting Alaska LNG Project LLC long-term authorization to export LNG to any country that has or will enter into a FTA with the United States that requires national treatment for trade in natural gas.⁷

II. ANSWER TO LIMITED PROTESTS

As demonstrated below, the few issues raised are:

- (i) generic in nature with no applicability demonstrated to the specific Project presented in this proceeding;
- (ii) already being addressed as part of the pre-filing process before the Federal Energy Regulatory Commission (“FERC”)⁸ which is the recognized lead agency on National Environmental Policy Act (“NEPA”) issues; or
- (iii) matters of international relations between or among the United States, Russia, and Ukraine, which are outside the jurisdiction of DOE/FE, and unrelated to the Project.

As demonstrated in a study attached to the application, the Alaska LNG Project would have ‘unequivocally positive’ economic impacts on Alaska and the United States as a whole.”).

⁵ See, e.g., The American Petroleum Institute Letter in Support, Docket No. 14-96-LNG (filed Nov. 17, 2014) (“the economic case for authorizing additional exports from Alaska LNG’s Liquefaction Project could not be clearer. It will create jobs and generate billions of dollars of revenue in Alaska, while also resulting in substantial benefits to the public interest of the country as a whole. These are unambiguous conclusions built over three years by recognized economic analysts as well as state government authorities.”).

⁶ See, e.g., Alaska State Representative Dan Saddler Letter in Support, Docket No. 14-96-LNG (filed Nov. 17, 2014) (“I am pleased to know that there is an existing presidential finding that export of natural gas from Alaska does not pose a threat to domestic gas producers or purchasers. I believe this finding does apply to the Alaska LNG project, and that it satisfies the Alaska Natural Gas Transportation Act’s requirements.”).

⁷ *Alaska LNG Project LLC*, DOE/FE Order No. 3554 (Nov. 21, 2014).

⁸ On September 12, 2014, FERC’s Director of the Office of Energy Projects issued a Letter Order approving the Project’s request to use the FERC NEPA pre-filing process in FERC Docket No. PF14-21-000.

A. Sierra Club Fails To Meet The Legal Standard Under NGA Section 3(a)

Pursuant to NGA Section 3(a), DOE/FE “shall issue” an order authorizing natural gas exports unless it finds “that the proposed exportation . . . will not be consistent with the public interest.”⁹ As explained by DOE/FE in its most recent non-FTA order, NGA Section 3(a) “creates a rebuttable presumption that a proposed export of natural gas is in the public interest.”¹⁰ Accordingly, “DOE/FE must grant such an application unless opponents of the application overcome that presumption by making an affirmative showing of inconsistency with the public interest.”¹¹

Sierra Club makes vague and unsupported allegations of environmental harm that it claims would result if the Project is constructed.¹² Additionally, Sierra Club protests the Application “because the environmental impacts of the proposal render it contrary to the public interest.”¹³ However, Sierra Club fails to meet its burden under NGA Section 3(a) to make an affirmative showing that the authority sought in the Application is inconsistent with the public interest.

First, as explained below, environmental issues will be thoroughly reviewed during the NEPA review process before FERC. Second, Sierra Club provides absolutely no support for its claims. The Sierra Club Protest lacks any citation to studies or analysis that would support its

⁹ 15 U.S.C. § 717b(a) (2006).

¹⁰ *Freeport LNG Expansion, L.P., et al.*, DOE/FE Order No. 3357-B at 9 (Nov. 14, 2014).

¹¹ *Id.*; see also *Freeport LNG Expansion, L.P., et al.*, DOE/FE Order No. 3282-C at 9 (Nov. 14, 2014); *Cameron LNG, LLC*, DOE/FE Order No. 3391-A at 8 (Sep. 10, 2014); *LNG Development Company, LLC (d/b/a/ Oregon LNG)*, DOE/FE Order No. 3465 at 6 (July 31, 2014); *ConocoPhillips Alaska Natural Gas Corporation*, DOE/FE Order No. 3418 at 3 (Apr. 14, 2014); *Jordan Cove Energy Project, L.P.*, DOE/FE Order No. 3413 at 6 (Mar. 24, 2014); *Cameron LNG, LLC*, DOE/FE Order No. 3391 at 6 (Feb. 11, 2014); *FLNG Liquefaction, LLC, FLNG Liquefaction 2, LLC and FLNG Liquefaction 3, LLC*, DOE/FE Order No. 3357 at 8 (Nov. 15, 2013); *Dominion Cove Point LNG, LP*, DOE/FE Order No. 3331 at 7 (Sept. 11, 2013); *Lake Charles Exports, LLC*, DOE/FE Order No. 3324 at 6-7 (Aug. 7, 2013); *Freeport LNG Expansion, L.P., et al.*, DOE/FE Order No. 3282 at 6 (May 17, 2013).

¹² Sierra Club Protest at 3.

¹³ *Id.* at 4.

generalized allegation that “environmental harms” render the export authority sought in the Application contrary to the public interest.

Not only did Sierra Club fail to cite to authority in support of its claims, it also did not in any way dispute the findings in the comprehensive expert studies that Alaska LNG Project LLC submitted in support of its Application. In denying protests in a prior proceeding, DOE/FE stated:

although the opponents of the requested authorization have alleged potential negative impacts from a grant of the requested authorization, their arguments are not supported by factual studies or analyses and the opponents have not demonstrated that any potential negative impacts associated with a grant of the requested authorization are likely to outweigh the overall benefits from such an authorization.¹⁴

Similarly here, Sierra Club has failed to make “an affirmative showing of inconsistency with the public interest,” and, accordingly, DOE/FE should grant the Application as filed.

B. Sierra Club’s Environmental Concerns May Be Raised At FERC As Part Of The NEPA Review Process

The generalized environmental concerns raised by Sierra Club may be raised at FERC during the NEPA review of the Project and should not impact DOE/FE’s ability to conduct its public interest analysis pursuant to NGA Section 3(a) and proceed to issue a conditional authorization for the Project. In fact, Sierra Club admitted that its environmental concerns are to be raised before FERC, stating that it “expects to offer further comments on the details of these impacts as part of the NEPA review process.”¹⁵ Alaska LNG Project LLC expressly acknowledged that environmental issues would be addressed during the FERC NEPA process

¹⁴ *Sabine Pass Liquefaction, LLC*, DOE/FE Order No. 2961 at 30 (2011).

¹⁵ Sierra Club Protest at 3.

and requested that DOE/FE issue the authorization “conditioned on FERC’s completion of the NEPA review and approval of Project construction.”¹⁶

Once FERC, as the lead agency, has completed its NEPA review, DOE/FE will then “complete its NEPA review as a cooperating agency in FERC’s review of the [proposed export facilities].”¹⁷ Such a procedure is “intended to avoid duplication of effort by agencies with overlapping environmental review responsibilities, to achieve early coordination among agencies, and to concentrate public participation in a single forum.”¹⁸ Before issuing a final order, DOE/FE will conduct an independent review of FERC’s findings in the NEPA Environmental Impact Statement and then may proceed to adopt the findings in the Environmental Impact Statement.¹⁹ Therefore, Sierra Club’s environmental concerns will be assured a full review before a final order is issued by DOE/FE.

C. DOE/FE Should Issue A Conditional Authorization For The Project

On August 15, 2014, DOE/FE issued its final revised procedures for processing applications to export LNG from the lower 48 to non-FTA countries.²⁰ DOE/FE stated that it was suspending “its practice of issuing conditional decisions on applications to export LNG to non-FTA countries *from the lower-48 states.*”²¹ DOE/FE made it clear that the revised procedures “will apply *only* to exports from the lower-48 states.”²² With respect to the Application submitted by Alaska LNG Project LLC, DOE/FE stated that it “will consider

¹⁶ Application at 36.

¹⁷ See, e.g., *Dominion Cove Point LNG, LP*, DOE/FE Order No. 3331 at 150 (Sept. 11, 2013).

¹⁸ *Id.*

¹⁹ See, e.g., *Freeport LNG Expansion, L.P., et al.*, DOE/FE Order No. 3357-B at 5 (Nov. 14, 2014) (describing DOE/FE’s issuance of a conditional authorization and its subsequent review of FERC’s findings in the Environmental Impact Statement. DOE/FE then issued a final order contingent on the applicant complying with the environmental conditions contained in the FERC Section 3 authorization order).

²⁰ 79 Fed. Reg. 48,132 (Aug. 15, 2014).

²¹ *Id.* at 48,135 (emphasis added).

²² *Id.* at 48,135 n.6 (emphasis added).

whether to issue a conditional decision on [the Application], or any future application to export from Alaska, in the context of those proceedings.”²³

Despite the numerous comments in support of the Application urging DOE/FE to issue a conditional authorization for the Project, only Sierra Club and APGA suggest that DOE/FE should apply its new lower 48 procedures to Alaska and wait until the FERC NEPA review is complete before issuing an order in this proceeding.²⁴ Alaska LNG Project LLC respectfully requests that DOE/FE reject these requests and proceed to issue a conditional authorization for this unique Project. As fully explained in the Application, the Project is unlike any lower 48 project currently pending before DOE/FE and should be processed differently. DOE/FE has long recognized that applications to export LNG from Alaska are distinct from, and should be treated differently from, applications to export LNG from the lower 48.²⁵

APGA asserts that DOE/FE should wait until “the updated LNG export studies that DOE requested on May 29, 2014 [are] published” before considering the Application. First, in October 2014, the U.S. Energy Information Administration released an updated study that is available for review by all interested parties.²⁶ Second, this study focuses on the effects of LNG exports from the lower 48, once again reinforcing that Alaska and its supply of natural gas are geographically separate from the Lower 48 and must be considered separately. Alaska LNG Project LLC included two extensive Alaska-focused studies with its Application, neither of

²³ *Id.*

²⁴ Sierra Club Protest at 4; APGA Comments at 4. Though APGA expressly stated that it is “not protesting the subject filing,” APGA opposes Alaska LNG Project LLC’s request that DOE/FE issue a conditional authorization for the Project.

²⁵ See, e.g., *ConocoPhillips Alaska Natural Gas Corp.*, DOE/FE Order No. 3418 at 5 (Apr. 14, 2014); *ConocoPhillips Alaska Natural Gas Corp. and Marathon Oil Co.*, DOE/FE Order No. 2500 at 45 (June 3, 2008).

²⁶ See U.S. Energy Information Administration, *Effect of Increased Levels of Liquefied Natural Gas Exports on U.S. Energy Markets* (Oct. 2014), available at <http://www.eia.gov/analysis/requests/fe/pdf/lng.pdf>.

which did APGA comment on, much less rebut. APGA's concern that DOE/FE would have "inferior information when considering applications to export LNG from Alaska" is unfounded.²⁷

APGA asserts there "are no size or difficult location exemptions in DOE's policy for the lower-48 states (should such a project be proposed in the lower 48 states)[.]"²⁸ Alaska LNG Project LLC respectfully notes that no such "size or difficult location exemption" would be necessary for lower 48 projects because there is no comparable project in the lower 48. Any project proposed in the lower 48 would have access to the extensive existing natural gas transportation grid that connects natural gas sources of supply with potential LNG export terminal locations. In Alaska, by contrast, the sources of natural gas supplies on the North Slope are over 800 miles from any feasible terminal location and no infrastructure currently exists to transport the gas. This Project would develop natural gas supplies that otherwise would remain stranded. Even APGA recognizes the unique nature of this Project stating that is not protesting the Application "given the nature of the subject Application, including most essentially the fact that it involves the export of LNG from a State outside of the continental United States that does not have pipeline access to the lower 48 states[.]"²⁹ There is no denying that Alaska is unique and recognition of this uniqueness is precisely why DOE/FE did not automatically apply its new procedures to applications to export LNG from Alaska.

Implementation of DOE/FE's revised procedures for lower 48 export applications was driven by a number of factors specific to lower 48 export applications. At the time DOE/FE proposed the new procedures, DOE/FE faced a significant and steadily growing number of lower

²⁷ APGA Protest at 5.

²⁸ *Id.*

²⁹ *Id.* at 3.

48 export applications.³⁰ The new procedures were implemented as a way for DOE/FE to manage this application queue. Alaska LNG Project LLC's Application is the only application pending before DOE/FE for long-term authority to export LNG from Alaska. Processing the Application and issuing a conditional authorization should be separate from any lower 48 application.

Additionally, DOE/FE received applications from lower 48 projects at varying stages of maturity and implemented the new procedures as a method of giving priority to those projects that had advanced further toward project completion, using FERC's NEPA review process as a benchmark for demonstrating project credibility. Here, Project credibility has been demonstrated not only by the hundreds of millions spent on project development to date but also the approximately 500 million dollars in planned expenditures for the pre-front end engineering and design ("pre-FEED") as well as the unique role of the State of Alaska as a participant in the Project.³¹

While APGA asserts that issuance of a conditional authorization is not necessary for Alaska LNG Project LLC to proceed to incur additional costs to advance the Project,³² a final decision to enter the FEED stage would constitute a more than \$1 billion commitment for this massive infrastructure Project, far exceeding any FEED commitment necessary for a lower 48 project. Furthermore, unlike lower 48 projects that have the benefit of final DOE/FE approval of other projects to act as a favorable signpost for continued project financing, no modern precedent

³⁰ See DOE/FE Summary of LNG Export Applications of the Lower 48 States, *available at* <http://energy.gov/fe/downloads/summary-lng-export-applications-lower-48-states>.

³¹ See Joint Motion to Intervene and Comments of the State of Alaska and Alaska Gasline Development Corporation in Support of the Requested Export Authorization, Docket No. 14-96-LNG at 3 (filed Nov. 17, 2014) (describing the State's participation in the Project).

³² APGA Protest at 5-6.

exists for approval of a project of the size and scale of the proposed Project. A conditional authorization from DOE/FE is therefore all the more important for this unique Project.

In issuing the new procedures, DOE/FE acknowledged that, under its regulations at 10 C.F.R. Section 590.402, it “would retain discretion to issue conditional decisions in the future.”³³ Due to the unique nature of this Project, DOE/FE should exercise this discretion and grant the requested non-FTA authorization conditioned on the completion of the NEPA environmental review process.

D. The Issues Raised In The Mulford Protest Are Not Within The Jurisdiction Of DOE/FE

Mr. Robert S. Mulford, a resident of Fairbanks, Alaska, filed a protest to the Application.³⁴ However, the issues raised by Mr. Mulford in his protest, including the United States’ relations with Russia and Ukraine, are not within the jurisdiction of DOE/FE pursuant to NGA Section 3(a).³⁵ Accordingly, DOE/FE should not consider the issues raised in his Protest as part of its public interest review of the Application under NGA Section 3(a).

³³ 79 Fed. Reg. at 48,133.

³⁴ Mulford Protest at 1.

³⁵ See 15 U.S.C. § 717b (2006) (giving DOE/FE authority to consider applications to export LNG unless it finds that the proposed export will be inconsistent with the public interest).

III. CONCLUSION

WHEREFORE, for the reasons set forth above, Alaska LNG Project LLC respectfully requests that DOE/FE proceed expeditiously to issue a conditional authorization granting Alaska LNG Project LLC long-term authorization to export 20 million metric tons per year of Alaska LNG (929 Bcf of natural gas) for a term of 30 years to any country with which the United States does not have an FTA requiring the national treatment for trade in natural gas with which trade is not prohibited by United States law or policy. As demonstrated in the Application, the authorization requested is not inconsistent with the public interest and, accordingly, should be granted pursuant to Section 3 of the NGA.

Respectfully submitted,

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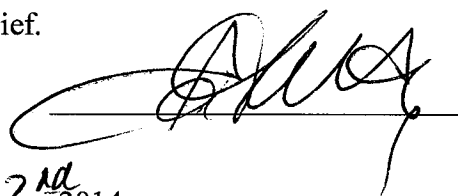
Dated: December 2, 2014

VERIFICATION

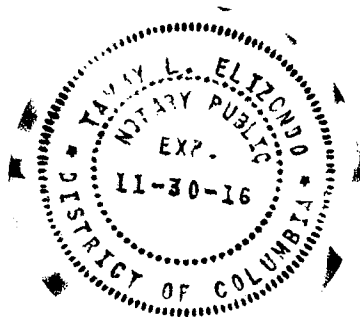
DISTRICT OF COLUMBIA

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BEFORE ME, the undersigned authority, on this day personally appeared James F. Moriarty, who, having been by me first duly sworn, on oath says that he is counsel to Alaska LNG Project LLC and is duly authorized to make this Verification on behalf of Alaska LNG Project LLC; that he has read the foregoing instrument and that the facts therein stated are true and correct to the best of his knowledge, information and belief.



SWORN TO AND SUBSCRIBED before me on December 2nd, 2014



Tammy Elizondo
Notary Public

TAMMY L. ELIZONDO
NOTARY PUBLIC DISTRICT OF COLUMBIA
My Commission Expires November 30, 2016

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by DOE/FE in this proceeding.

Dated at Washington, DC this 2nd day of December, 2014.

/s/ Jennifer Brough
Jennifer Brough