



## **KENAI PENINSULA BOROUGH**

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**MIKE NAVARRE  
BOROUGH MAYOR**

Oct. 4, 2016

Kimberly D. Rose, Secretary  
Federal Energy Regulatory Commission  
888 First St. NE, Room 1A  
Washington, DC 20426

Re: Alaska LNG Docket No. PF14-21  
Kenai Peninsula Borough comments on second draft resource reports

The Kenai Peninsula Borough is home to almost 58,000 residents and the proposed terminus of the Alaska LNG project pipeline at a liquefaction plant and marine terminal in Nikiski. The borough fully realizes that this project is still several years away from construction — only after a thorough environmental review and only if the economics prove viable to the project sponsor(s). The borough government and its residents also realize that not every question can or needs to be answered at this point in the regulatory, engineering and planning process. But there are four issues in particular that were raised in Alaska LNG's second round of draft resource reports to the Federal Energy Regulatory Commission that can be worked toward resolution — and should be worked toward resolution — at this stage rather than waiting until the project's final application to FERC, or later.

All four issues mix project work with Alaska politics and, as such, are more complex and potentially time consuming to resolve than strictly engineering and environmental issues.

The Kenai Peninsula Borough urges whichever entity(ies) that may pursue the Alaska LNG project to confront these four important issues now — at the same time as the state and its potential partners pursue their commercial, fiscal and marketing efforts. FERC should strongly encourage the project sponsor(s) to work these stated issues concurrently, rather than delaying the community issues until resolution of the fiscal, market and political issues.

Avoiding the four issues discussed below until a later time could delay completion of a workable project construction and operations plan, jeopardizing timely completion of the project's environmental impact statement.

## **Kenai Spur Highway relocation**

Probably one of the most anxiety-creating aspects of the Alaska LNG project for borough residents is the likely relocation of a portion of the Kenai Spur Highway to accommodate safe construction and operation of the liquefaction plant, LNG storage tanks and marine terminal in Nikiski. Approximately 5,000 people live in the overall Nikiski area, and for many the section of the highway that would be relocated is their main route to their homes, jobs, the community's commercial center, the area's recreation center and post office. And while they understand and accept the uncertainty that the highway would not be relocated unless the project proceeds to a final investment decision and construction, the uncertainty over which one of the multiple rerouting options would be selected has created a stressful situation in the community, in particular as it relates to property owners and their plans.

Homeowners can see clearly on the project maps where the LNG plant, marine terminal and construction camp would be located, if the project proceeds, and can make their home and life decisions accordingly. But there are far too many options for the highway relocation, and too wide of a marker pen was used for the maps presenting those multiple options. The overload of optional routes has frozen decisions for too many property owners. The borough urges the project sponsor(s) and asks that FERC encourage the sponsor(s) to do the work necessary to at least narrow down the highway relocation options to three clearly delineated choices — if not one preferred option — identifying specific rights-of-way so that property owners can know whether they would be impacted by the reroute.

Pages 5-116 and 5-117 of Draft Resource Report No. 5 state:

*"The planned Liquefaction Facility location would require that an approximately 1.33-mile segment of the existing Kenai Spur Highway be relocated to the east to avoid potential conflicts with the proposed Liquefaction Facility. It is anticipated that the relocation would be completed prior to the start of Project construction. ... ADOT&PF and the KPB are working on the highway relocation planning including routing discussions, public engagement, permitting and construction."*

Though Alaska LNG has, in the past, done a good job of briefing and updating the Kenai Borough government and area residents of the highway relocation planning effort, those discussions have essentially ceased in recent months, and the silence is building to frustration among area residents. The borough urges whichever entity(ies) emerges as project sponsor(s) to actively resume those discussions with detailed mapping, detailed selection criteria and a commitment to narrowing down the options next year.

Draft Resource Report No. 1 (below) also addresses the connection between the Kenai Spur Highway relocation and the project, and references that more information will be forthcoming in the project's full application to FERC.

Pages 1-84 and 1-94 of Draft Resource Report No. 1 state:

*"This proposed Liquefaction Facility location would be compromised without relocation of the Kenai Spur Highway, whether as proposed or to another alternative route. As such, relocation of the Kenai Spur Highway is of direct consequence to the location and configuration of the Project. The totality of these circumstances warrant FERC's inclusion of the Kenai Spur Highway relocation project in its environmental analysis as a connected action. ...*

*"Additional information on the Kenai Spur Highway relocation project will be provided in the FERC application."*

The borough's concern is that the project's full application to FERC might take longer than anticipated, especially considering the shift in project leadership from Alaska LNG LLC to the State of Alaska. As such, the borough is concerned that the Kenai Spur Highway relocation work could be moved to the proverbial back burner in lieu of more pressing fiscal and political work on the project development plan. The borough submits these comments to FERC in the interest of ensuring that the highway relocation selection process moves ahead in a timely manner, so as to limit the impact of uncertainty on property owners in the area.

### **Highway improvements**

The Alaska LNG project team has done an excellent job in its draft resource reports of explaining plans to avoid as much as possible adding traffic to Alaska's limited highway system, which already carries heavy loads of freight, residents and seasonal tourist traffic. The plans to move pipe segments, equipment and cargo as much as possible on the water — in particular, the use of barges between Seward, Anchorage and Nikiski — would go a long way to easing highway congestion.

But troubling in Draft Resource Report No. 5 are references to needed upgrades on Alaska's highway system, without details as to the exact work and who would pay for the work.

Pages 5-166 through 5-171 of Draft Resource Report No. 5 state:

*"As described in Section 5.4.2.5, ADOT&PF anticipates that some roads, highways, and bridges would need improvements to bear the heavier and more frequent truckloads during Project construction, and that portions of the Parks, Dalton, Seward, Sterling, and Glenn Highway may need to be refurbished after 2027 to repair Project-related construction effects. A potential highway use agreement may provide mitigation for construction-related impacts to roads, highways, and bridges. ...*

*"Construction-related traffic would contribute to the current congestion on the Glenn and Parks Highways. Section 5.3.6.1 notes that the section between Wasilla and Houston is designated by ADOT&PF as a safety corridor due to the high level of commuter traffic. In addition, tourist vehicle traffic has the potential to increase traffic congestion on all sections of the Glenn and Parks Highways during the summer months.*

*Additional pullout areas of a size to accommodate trucks, together with additional passing lanes, may be needed to accommodate construction-related traffic. ...*

*"In addition, as with the Elliott Highway, the Glenn and Parks Highways have weigh stations that are limited in capacity. Particularly during peak tourism periods, a backlog of trucks waiting to be processed could impede traffic flow and create traffic jams that would have a negative effect on neighboring communities and commuters. Expansion of weigh stations, or interim staging, may be required to avoid traffic congestion, as adequate areas for mandatory rest stops are limited on the Parks Highway. If additional pullouts, passing lanes, weigh station enhancements, and truck staging and waiting areas are needed by the Project and non-jurisdictional facilities, they would be identified when a more precise schedule of deliveries along these routes is defined. ...*

*"During the three years of active Liquefaction Facility construction, some general cargo for construction would likely be trucked along the Seward, Sterling, and Kenai Spur Highways from the Ports of Seward and Anchorage to Nikiski. Over the three-year period, it is estimated that up to 20,000 to 25,000 trucks would also be used to transport materials from Seward and Anchorage, respectively. ...*

*"Project-related traffic would contribute to the congestion that already exists along sections of the Seward, Sterling, and Kenai Spur Highways. ... Traffic related to Project construction could result in even slower travel times along the Kenai Spur Highway and a higher traffic safety risk."*

The Kenai Borough believes the anticipated highway improvements are of such importance — not only to the project's successful development, but also to the safety and economic health of community residents — that the issues of what improvements are needed, who would pay for the improvements, and when would the work be done should not be left to the end of project development. Considering that the work — the design, scheduling and funding — would likely involve the state, and could well involve the Alaska State Legislature, in addition to community input and federal agency involvement, the borough urges the project sponsor(s) to move ahead with identifying the work soon, rather than waiting and possibly jeopardizing the project schedule. Particularly if state funding is required, the state's currently constrained (severely constrained) finances could be an impediment to any expedited design and construction schedule.

### **Community impact aid**

In addition to possible funding needs for highway improvements, the Alaska LNG project would create a long list of community impacts — all in need of funding. Regardless whether the project sponsor(s) are the state, the North Slope oil and gas producers, outside investors, or any combination thereof, the Kenai Peninsula Borough, along with communities from the North Slope to Nikiski, will feel impacts from project construction and operation.

And although the state and project sponsors in 2015 negotiated a conceptual plan for payment in lieu of property taxes to provide impact aid during construction, nothing more has been done to finish that effort and adopt a disbursement plan for the aid. In addition, possible state management and/or ownership of the Alaska LNG project raises the question as to whether such an ownership structure would follow the impact aid funding (conceptual) negotiated in 2015 or establish an entirely different source of funding and disbursement plan. As you would expect, the Kenai Borough and its residents are wondering just how they will pay for community impacts from the project. And the impacts will be real, as noted below.

Page 1-157 (Section 5.4.2.5.1 Municipal Impacts) of Draft Resource Report No. 5 states:

*“To some extent, the magnitude of Project impacts on public infrastructure and services would depend on when and to what level the requirements of in-migrants are addressed. Planning and use of impact funds to relieve the stress on public infrastructure and services in Fairbanks caused by the influx of outsiders during construction of TAPS were generally characterized by existing residents of the City as ‘too little, too late’ (Information Insights 2004). The impacts to public infrastructure and services realized by Fairbanks and other municipalities during TAPs construction were experienced well before any remuneration of tax receipts from an increased tax base were collected, and there was a lack of support and financial assistance to municipalities prior to construction. The result was overburdened law enforcement, medical, and educational facilities.*

*“Impact payments to offset costs borne by State and local government during [Alaska LNG] construction have been proposed. These impact payments are tentative and subject to required changes under existing property tax laws. The Municipal Advisory Gas Project Review Board has discussed ways to allocate these potential impact payments among affected communities, including potential impact payments being placed in a non-lapsing capitalized fund that would be divided into two sub funds, one for the purpose of addressing impacts on statewide and unincorporated communities and the other to fund a grant program to distribute funds to affected municipalities (MAGPRB Annual Report 2015). The funds for municipalities would be administered by the Alaska Department of Commerce, Community and Economic Development as a municipal impact aid grant program. ... As described in MAGPRB Annual Report (2015), examples of impacts that projects eligible for municipal impact aid grants may address might include:*

- Increased public safety needs: police protection, search and rescue, fire protection, and emergency medical services;*
- Increased public health and social services needs: hospitals, clinics, emergency medical facilities, alcohol and drug abuse facilities, mental health facilities, homeless shelters, waste disposal systems, and water distribution systems;*
- Increased burdens on municipally owned utilities: electric generating plants and distribution systems, waste disposal, water supply systems, telephone systems, and any fuel distribution systems;*

- *Increased need for housing, educational and other public services and facilities: educational institutions, recreational facilities activities, daycare centers, affordable housing and related infrastructure, and local and regional roads and transportation systems.”*

The report also notes (Page 5-155) that *“potential impacts to housing may be mitigated by impact payments as described in Section 5.4.2.5.1. The impacts might be eligible if there are municipal impact aid grants and they include impacts such as increased need for housing, including affordable housing and related infrastructure and homeless shelters.”*

The report concludes: *“Information is not yet available on how a potential fund addressing the Project’s impact on statewide and on unincorporated communities would be implemented. If available, this information would be submitted with the FERC application.”*

The purpose in raising impact aid in this letter is to ensure that FERC is fully aware of the uncertainty of impact assistance to communities that would be affected by the project. The borough fully expects this matter will be resolved before construction starts, but as of now it remains a major question mark for communities.

## **Setnetters**

There is no doubt that Cook Inlet setnetters — commercial fishing operators that anchor their net to shore and harvest salmon moving close to shore — would be displaced from their state-leased beachfront property during construction in the area of the LNG plant and marine terminal in Nikiski. And it also is likely that many of those setnetters would not be allowed to return to their sites after construction ends and plant operations start up. Though the permanent safety zone (exclusion, or restriction zone) around the marine terminal is uncertain at this time, it’s reasonable to assume that at least several of the setnet sites would be permanently closed down.

The issues for the setnetters are more complex than simply the date of when construction starts and the size of the exclusion zone for plant operations.

State statute provides for 10-year leases for setnetters. The lease does not give them exclusive use of the site; only priority use. Certainly, over years of use (decades, in many cases), the setnetters have come to view the lease as a property right — it’s a livelihood for many. One of the problems is that there is nothing specific in state law as to how the state Department of Natural Resources can suspend or revoke or cancel a lease. Further complicating the matter is the fact that some setnet site leaseholders have assigned their leases to others. State law allows such assignments, which the state automatically accepts.

As to what happens if Alaska LNG construction blueprints locate a jetty or a barge landing or safety zone on top of an existing setnet state lease, necessitating a shutdown of

that site and pulling the lease, DNR just doesn't know at this time, though it has been discussed. There is nothing specific in the law that cleanly says anything like, "The state may revoke a setnet site lease if there is a higher and better use for the site, or a higher return in value to the general public." And there is nothing in state law that discusses compensation if the state revokes or cancels or suspends a lease. And regardless whether setnet site lease holders have a legal property right to the site and the income generated by working that site, the borough believes it is only fair that leaseholders receive reasonable compensation for the loss of their livelihood. Whether that compensation comes from the state — or other project sponsor(s), if not the state — does not alter the fact that the project (and the state) will need to confront this issue if the project goes ahead. Which means the setnet sites should be included in the list of issues that the state and project sponsor(s) might as well deal with now, rather than waiting until later in the process. This problem is not going to be easy, as the politics of Cook Inlet salmon fishing can be contentious.

As noted in Draft Resource Report No. 5, the financial loss to displaced setnetters and their crew members would be substantial. And, as also noted below, a separate issue that must be addressed is whether setnetters who are prevented from working their sites during project construction but who are allowed to return after construction is complete would lose their state leases due to non-activity during construction.

Ensuring the setnetters are treated fairly will take some legal, political, financial and possibly fishery management work, and therefore should be dealt with early in project development.

Pages 5-178 and 179 of Draft Resource Report No. 5 state:

*"During construction of the Marine Terminal, it is anticipated there would be temporary but significant adverse effects on some set gillnet permit holders participating in the Cook Inlet commercial salmon fishery due to loss of access to fishing areas for the period of construction. It is estimated that 12 permit holders with Alaska Department of Natural Resources shore fishery leases in the Salamatof (244-41) management area would be affected. ... It is possible that Marine Terminal construction would prevent affected permit holders from harvesting any salmon in their lease areas during the five-year period because they would be unable to access their lease areas and/or a suitable staging area for fishing gear during the commercial fishing season.*

*"In addition, there are four shore fishery leases within the construction ROW of the Mainline and the offshore pipeline on the west side of Cook Inlet. These leases are located in the Tyonek (247-20) management area. It is anticipated there would be temporary adverse effects on the set gillnet permit holders owning these leases due to nearshore trenching and anchoring, scheduling conflicts, safety setbacks, and exclusion areas during construction. The duration of the effects to the permit holders would be one year.*

*"Assuming past fish landings are representative of the future, the losses in set gillnet ex-vessel revenue that could result from reduced beach access were estimated based on 2006-2015 data obtained from the Alaska Commercial Fisheries Entry*

*Commission on inflation-adjusted ex-vessel prices, and fish landings and the number of active set gillnet fishery participants in the Salamatof (244-41) and Tyonek (247-20) management areas (Gho 2016). The estimated average annual gross earnings lost by each of the set gillnet permit holders displaced by Marine Terminal construction is \$50,900. The estimated total gross earnings lost by all affected permit holders over the five-year construction period is about \$3.05 million. ... The estimated average annual gross earnings lost by each of the set gillnet permit holders displaced by Mainline construction is \$8,600. The estimated total gross earnings lost by all affected permit holders over the one-year construction period is about \$1.23 million.*

*"Displaced set gillnet permit holders could elect to fish other locations in Cook Inlet that are not under existing leases. However, the harvest levels in unleased areas may be substantially lower than historic catches in their lease areas. The lower catches and consequent reduction in revenue would not only have a significant negative impact on affected permit holders, but also on crew members hired each year to harvest with each permit holder. Consultations would be held with affected set gillnet operators to mitigate potential economic losses during the construction period.*

*"Aside from loss of fishing revenue, commercial set gillnet permit holders displaced by Marine Terminal construction could also face uncertainty about their ownership of shore fishery leases at the end of the construction period. Under State law (Alaska Statute 38.05.082), a site can be leased for up to ten years; however, a lessee must personally fish their leased site at least every other year, for at least four legal fishing periods during the commercial fishing season. Failure to do so is grounds for lease termination (Alaska Department of Natural Resources 2010). However, the Alaska Department of Natural Resources has discretion to waive this requirement, and it is possible that affected set gillnet permit holders would be allowed to retain their leases and resume fishing their respective sites after Marine Terminal construction is completed. "*

Confronting these issues now — Kenai Spur Highway relocation, highway improvements, impact aid and Cook Inlet setnet leases — would go a long way toward resolving potential problems later in the project development plan.

Thank you for consideration of the issues raised in this letter.



Mike Navarre  
Mayor