Comments from Parties in Support of Calais LNG's request

- November 24, 2010 email from David Fletcher for City of Calais
- December 3, 2010 letter from Maine State Chamber of Commerce

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Dawson, Terry

From: David Fletcher [fletcher_law@myfairpoint.net]

Sent: Wednesday, November 24, 2010 2:06 PM

To: Dawson, Terry; Anthony Buxton; Becky Bartovics; Bensinger, Peggy; Bertocci, Cynthia S; Blais Becky; Cone, Marc A; Dana Connors; David Van Slyke; John R. Hanson; John T. Kelly; Matthew Manahan; Ron Shems; Ronald Beckwith; Ronald Shems; Sean Mahoney; Stephen Hinchman; Timothy Pease; Wood, Gregg

Cc: A Dwelley; Alan Dwelley; Anna Viel; Becca Boucher; Capt. Gerald Morrison; Cassida, James; Chris Jackson; Diane Barnes; Ed Bearor; Harold Bailey; Ian Emery; Jane West; Jeffrey Talbert; John Napolitano; K Bartlet; Ken Cline; Lynn Brochu; Melissa Graves; Mills, Amy; Nancy McBrady; Nara Leavitt; Ostrowski, Kevin; R Stoddard; Rebecca Boucher; Richardson, Marybeth; Sheridan Steele; Todd Griset; Tom Federle

Subject: Re: Calais LNG

The City of Calais has no objection to the proposed continuance.

David Fletcher
City Solicitor

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MAINE
STATE
CHAMBER
of
COMMERCE

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The voice of Maine business

December 3, 2010

Susan M. Lessard, Chair
Maine Board of Environmental Protection
17 State House Station
Augusta, Maine 04333-0017

Re: Calais LNG

Dear Chair Lessard:

I write in response to your invitation to comment on Calais LNG's letter of November 23, 2010, which requested that the Board of Environmental Protection extend the continuance in this matter until January 15, 2010. The Maine State Chamber of Commerce is in favor of granting the applicant's request, but also suggests that another approach may be more productive in the long run.

The Maine State Chamber of Commerce is strongly in favor of granting the applicant's request for the following reasons. First, Calais LNG has completed the vast majority of the work required to put it into place for consideration by the Board. The studies have been done, nearly all of the data requests have been responded to, and the proceeding has matured through the pre-hearing process such that most of the effort required to re-start the process will not need to be re-done. We recognize that this is not a perfect situation, and that some effort may be necessary for the applicant, the parties, and the Department to get the information updated and the pre-filed testimony amended for a Board hearing to take place. However, that level of effort will pale in comparison to the level of effort required by everyone if Calais LNG is forced to withdraw its applications – the process would begin all over again for all parties. In that circumstance, it will be many months before the applications would be heard.

Second, this project should succeed or fail only on its merits, and should not be dismissed based upon an overly-strict reading of the DEP's regulations. Yes, it appears that Calais LNG does not have title, right or interest in certain project property at this moment. However, as we are all well aware, "the application has been put on hold" by the Board for several months. *See* August 12, 2010 Letter from Susan Lessard to David Van Slyke; September 16, 2010 Letter from Susan Lessard to David Van Slyke ("the Board will place the processing of the applications on hold until December 1, 2010"). Therefore, the requirement in DEP Rules Chapter 2 that the "applicant must maintain sufficient title, right or interest throughout the entire application *processing* period" (emphasis added) technically should not apply in this situation, because the application is not presently being processed – rather, it is on hold.

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Third, granting Calais LNG's request will not cause any party hardship. There have been no activities required of the intervenors, the Department or the Board during the period while the applications have been on hold. On the other hand, all parties and the Department will be caused hardship if the applications must be re-filed and the already completed processing efforts duplicated.

Last, as we have previously noted to you and the rest of the Board, this project is, for a host of reasons, incredibly important to the State of Maine. For all of these reasons, the Chamber respectfully requests that this extension request be granted to Calais LNG.

At the risk of being presumptuous, however, there is another approach that the Chamber would suggest as a way to address the current situation. As you are aware, Calais LNG is also simultaneously pursuing a license from FERC. Given that this facility cannot be built unless it also receives FERC Certification, perhaps the more prudent approach would be to leave the DEP/BEP process on hold until either issuance of the FERC Certificate for the project or the applicant re-starts these proceedings. In either event, at that time, the Board could re-set a firm pre-hearing and hearing process. The applicant would then present evidence of right, title or interest upon resumption of the proceeding, as contemplated by the regulations.

This approach would minimize the likelihood of inconsistencies between the FERC license and DEP permits. It is also, effectively, what Downeast LNG is doing by not re-filing its DEP applications while it waits for FERC to conclude its proceedings. This approach would preserve the resources already expended in this proceeding by all parties. Further, this approach would not inconvenience the parties, DEP or the Board and would set an outside limit pursuant to which Calais LNG would have to pursue its State permits or withdraw the applications for State permits if denied at FERC.

Thank you for your efforts on this important matter, and we look forward to working with you to bring this matter to hearing.

Sincerely,

Dana F. Connors

cc: BEP Service List