JOHN ELIAS BALDACCI
GOVERNOR

STATE OF MAINE
BOARD OF ENVIRONMENTAL PROTECTION

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SUSAN M. LESSARD
CHAIR

CYNTHIA S. BERTOCCI
EXECUTIVE ANALYSIT

MEMORANDUM

TO: Board of Environmental Protection
FROM: Cindy Bertocci, Executive Analyst
DATE: December 16, 2010
RE: Calais LNG Project Company, LLC and Calais LNG Pipeline Co, LLC

Background

In March 2010 the Board of Environmental Protection assumed licensing jurisdiction over the applications by Calais LNG to develop a liquefied natural gas import terminal and send-out pipeline project in Washington County. The Board was previously scheduled to hold a public hearing on the merits of the proposed project in July 2010; however, the hearing was postponed at the request of the applicant.

Since that time, Board Chair Lessard has granted three time extensions requests to Calais LNG to enable it to address financing issues and respond to technical information requests from Department and state agency review staff. The most recent extension was granted on September 16, 2010, at which time Chair Lessard placed processing of the applications on hold until December 1, 2010. At the time, Chair Lessard stated that the Board would re-evaluate the status of the applications again following the December 1, 2010 deadline.

On November 17, 2010, the Board learned that, in addition to issues of financing and outstanding technical information requests, Calais LNG lacked sufficient title, right or interest in a significant portion of the property proposed for development. In light of the receipt of this information, the Board Chair stated that if Calais LNG did not intend to withdraw its applications it should show cause why the applications should remain pending.

On November 23, 2010, Calais LNG requested an additional time extension until January 15, 2011 to resolve title, right or interest and financing issues and to respond to technical information requests. On December 2, 2010, Harold Ian Emery informed the Chair that North East Energy Development, LLC had purchased all of the interests of GS Power Holdings, LLC in both Calais LNG Project Company, LLC and Calais LNG Pipeline Company, LLC. Mr. Emery requested an extension until January 15, 2011 to respond to title, right or interest and other issues, and until February 15, 2011 to respond to other information requests. The intervenors were given an opportunity to respond to these requests. Copies of the requests and responses thereto are enclosed.

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Question before the Board

The Board is being asked to decide whether a further time extension should be granted or the applications returned, without prejudice, as incomplete. Chair Lessard has provided her recommendation to return the applications without prejudice in the form of a draft Board Order for your consideration.

At the Board meeting on December 16, 2010, the parties will have the opportunity to address the Board.

Documents Enclosed

The following documents are provided for your review:

- Chair Lessard's recommendation in the form of a Draft Board Order
- November 17, 2010 letter from Steven Carothers and Gail Roberts
- November 19, 2010 letter from Chair Lessard to Calais LNG c/o David Van Slyke

- Calais LNG's Response to Chair Lessard
  - November 23, 2010 letter from David Van Slyke and
  - December 2, 2010 letters from David Van Slyke and Harold Ian Emery

- 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

- Comments from Parties in Opposition to Calais LNG's request
  - December 6, 2010 letter from Conservation Law Foundation with attachments
  - November 24, 2010 and December 6, 2010 letters from Save Passamaquoddy Bay-US and Nulankeyutomonen Nkihtahkomikumon (SPB-US / NN)
  - November 24, 2010 December 3, 2010 and December 6, 2010 from Roosevelt Campobello International Park Commission

- Prior Rulings by Chair Lessard
  - July 14, 2010
  - August 12, 2010
  - September 16, 2010