



Robert L. Ehrlich, Jr., Governor

Michael S. Steele, Lt. Governor

C. Ronald Franks, Secretary

October 16, 2006

Magalie R. Salas, Secretary
Federal Energy Regulatory Commission
888 First St., N.E., Room 1A
Washington, DC 20426

RE: Docket No. PF06-22-000 – Initial Comments to the AES Sparrows Point LNG Project Draft Environmental Resource Reports

Dear Ms. Salas:

The Maryland Department of Natural Resources, acting through the Power Plant Research Program (PPRP), has begun its review of the Draft Environmental Resource Reports 1-13, submitted by AES Sparrows Point LNG, LLC to the Federal Energy Regulatory Commission, between 14 August 2006 and 15 September 2006. We acknowledge the Draft Environmental Resource Reports provide a great amount of detailed information concerning the planned AES Sparrows Point LNG Terminal and Mid-Atlantic Express Pipeline. However, PPRP believes there are areas that warrant clarification, additional information, or cause for concern. These comments are presented and discussed below.

As you are aware, PPRP has been assigned as the lead contact for the State of Maryland on this matter and as such the comments provided herein reflect the comments of all State agencies. Additionally, it should be noted that in the process of the State's reviews pursuant to the Clean Water Act, the Clean Air Act, and the Coastal Zone Management Act, additional issues and concerns may be identified. It is our intention to continue to provide comments on original and redrafted Resource Reports throughout this pre-application period to assist the FERC in the development of the Draft EIS.

Sincerely,

Richard I. McLean
Senior Project Manager

Magalie R. Salas
October 16, 2006
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cc: Keith Menchey, Department of Agriculture
Katherine Magruder, Department of Business and Economic Development
Pat Goucher, Department of Planning
Don Halligan, Department of Transportation
Ron Burns, Maryland Port Administration
Ray Dintamin, Department of Natural Resources
Bill Paul, Department of the Environment
Gary Setzer, Department of the Environment
Rich Eskin, Department of the Environment
Fred Davis, Maryland Energy Administration

INITIAL COMMENTS ON THE AES SPARROWS POINT LNG PROJECT DRAFT
ENVIRONMENTAL RESOURCE REPORTS

Resource Report 1 – Project Description

1. [pg. 21] – The report indicated that the water would come from either potable municipal supply or the Patapsco River. A withdraw from the river would be subject to an appropriations permit from the Maryland Department of the Environment (MDE).
2. [pg. 49] – No water is required for the proposed 300 MW power plant. Should the applicant pursue the Power Plant option, this unique design element will be addressed as part of the Certificate of Public Convenience and Necessity (CPCN) as required by the Maryland Public Service Commission.

Resource Report 2 – Water Use and Quality

3. While Report 2 adequately addresses the impacts to surface and ground water from the construction and operation of the LNG facility and associated gas transmission lines, it does not appear to address impacts associated with water withdrawal. Please address the impacts associated with the withdrawal of 27 mgd from the river.
4. Section 2.4.3 discusses contaminated sediments. Results of sediment sampling are listed in Tables 2.4-2a, b, and c. Detection limits for each method should be listed. For PCBs, EPA method 8081A was used; what is the detection limit of this method relative to the effects range-medium criterion? Why was a high-resolution PCB method not used for these sediments to establish what the contaminant level is for PCBs?
5. Section 2.4.8.2 LNG Terminal – Construction of the terminal will include removal of slip structures and finger piers. These types of structures, particularly after having been in place for many years, provide hard substrate habitat for a range of aquatic biota. Such habitat can be of value for many important species, such as blue crabs, and also provide a source of forage for a variety of fish species. The evaluation of the proposed project should address the habitat value of the structures to be removed and potential mitigation for this loss of habitat should be considered.
6. [pg. 39] – The report indicates that the Processed Dredge Material (PDM) will be put in temporary storage until it is sold for beneficial use. The potential market for the material is not described and the length of time that the material may be kept in the temporary storage area is not specified. Location of the temporary storage area is also not described.
7. [pg. 40] – Offshore disposal of PDM is mentioned as an alternative, with the observation that its use would be subject to EPA and COE approval. Without knowledge of the acceptability of this with both agencies, it is not clear that this is a viable alternative. AES actually presents arguments suggesting it is not viable.

Resource Report 3 – Fish, Wildlife, and Vegetation

8. No mention is made of the potential for dredging to 44 feet with regard to increasing the area of low dissolved oxygen (DO) within Chesapeake Bay. The deepened channel and turning basin will connect the project area with the main channel of the Patapsco River estuary, allowing bottom water of lower DO and increased salinity to move into the project area. Lower DO and increased salinity may impede the re-establishment of existing populations of benthic organisms within the project area.
9. Table 3.3.2-1 and Appendix 3A – Data from one sampling period is not representative of the aquatic community that may occur at the project site. The report notes that a second sampling event is scheduled for October, which would further contribute to characterization of the aquatic community. However, there are numerous data sources available that could be used to characterize the aquatic community in the project vicinity, for example Maryland DNR’s Long Term Benthic Monitoring Program for benthos. This type of information should have been incorporated into Resource Report 3.
10. Appendix 3A – Dates on which sampling was conducted should be provided in the appendix. No sampling was conducted of the epibenthic organisms that may be present on the finger piers and other structures that are to be removed during project construction. These habitats should be sampled to assess the extent to which biological productivity in the area may be affected by removal of these structures (See comment 5). Relative to the benthic element of the study, biomass (wet weight of major invertebrate groups) is a common and important metric to document. Such data were not included in this report. Not all benthic species in project area are “tolerant to pollution”. The clam *Macoma balthica* is widespread in the project area and is considered sensitive to pollution.
11. Relative to benthic habitat characterization, the grain size analysis uses unconventional sieve groupings. For example, 0.063 mm is the boundary between the silt and the sand fraction of sediment. If this mesh size is not used, proportions of mud (silt plus clay) and sand cannot be calculated, and this important characteristic of the habitat will not be well defined.
12. Table 3.3.2-2 – The text referring to this table should point out, as is explained in Appendix 3B, that many of the life stages and the species included in this table would not occur at the project site. The text should provide a more complete summary of the discussion presented in Appendix 3B.

Resource Report 8 – Land Use, Recreational, and Aesthetics

13. For the proposed Liquefied Natural Gas line, as it would run through Baltimore, Harford and Cecil Counties, specific areas of concern have been determined. We are concerned about the potential physical and traffic impacts this proposed facility may have on State roadways. We note that State roadway that the Primary Route will closely parallel (within R/W) is MD 440, Dublin Road and that will closely bisect (within R/W) are the following:

US 1, Belair Road
MD 152, Fallston Road
MD 23, East West Hwy
MD 24, Rocks Road
MD 543, Ady Road
MD 623, Castleton Road

Under the Maryland Department of Transportation, some of these highways have proposed future improvements under the planning document, Highway Needs Inventory (HNI), and would require multi-lane reconstruction. This is true for both the US 1 and MD 152 bisections.

14. We believe the proposed line will also impact several railroad crossings in Baltimore County, major waterway crossings (Gunpowder Falls, Winters Run, Deer Creek), and Parkland Crossings (Gunpowder Falls Park, Batavia Park). Other potential impacted crossings include Scarboro Landfill, Scarboro Conservation area, as well as numerous communities and county roadways. These impacts need to be evaluated.

Resource Report 9 – Air and Noise Quality

15. Section 9.3.2.2 states that the proposed Power Plant would "operate in lieu of or in conjunction with the auxiliary boilers". It also states that the construction of the LNG Terminal will be a minor source project not subject to PSD or NA-NSR. However, AES should be advised up front that MDE will not consider the construction of the power plant as separate and independent from the LNG Terminal (i.e., the proposed Power Plant and LNG Terminal components would be treated as part of a phased construction project). If the combined emissions of both phases trigger NSR, then the initial phase (i.e., the LNG Terminal) will also be subject to BACT/LAER requirements. This MDE position is contrary to the conclusions stated in section 9.3.3.1.A.

16. Section II.B.4 of EPA's 1990 Draft New Source Review Workshop Manual indicates that emissions from vessels at berth that result from the unloading process are considered primary emissions for permit applicability determination purposes. As a result, total stationary source emissions (with and without Power Plant) shown in Table 9.3-5 of the Resource Report should include emissions from LNG Ship unloading operations for permit applicability purposes and the major source status of the project should be re-evaluated. It appears that their inclusion would make the project major for NO_x, SO₂, CO (with the Power Plant) and VOCs (with the Power Plant).

17. Under 40 CFR 93, any action by a federal agency, such as the approval of an LNG terminal by the Federal Energy Regulatory Agency (FERC), must be evaluated to determine if it conforms with the State Implementation Plan (SIP) for the project location. If the emissions of non-attainment pollutants for that air quality control region are below certain thresholds, it is deemed to conform. If those emissions are greater than the thresholds, a formal conformity determination is required by FERC that may include a requirement to obtain emission offsets. The state has a role in the requirements of this rule in the realm of consultation, emission

mitigation, and the emission inventory. If a general conformity determination is required it will be important for the applicant and FERC to be in contact with the MDE concerning this rule.

18. Section 9.3.3.1.A states that a compliance demonstration for NAAQS and PSD increment consumption will be submitted to FERC, presumably for approval. The applicant should be advised that the State has jurisdiction on matters involving NSR approvals or air quality compliance.
19. Section 9.3.3.10 of the Resource Reports indicates that emissions of NO_x, VOC, and SO₂ exceed conformity applicability thresholds during construction and will require a conformity determination. Since the applicability is based on annual emissions, more information on the breakdown of emissions during the construction period (i.e., annual emissions) should be provided. The regulation also requires that conformity be evaluated for all direct and indirect emissions from the project over the entire life of the project, including the operational years. Therefore, emissions from marine sources (e.g., ship maneuvering and “in-transit” activities, tugs, and security boats) should be included in annual operational emissions for conformity applicability. It appears that this would trigger a conformity determination for operational years, also.
20. Section 9.3.3.10 makes references to a General Conformity analysis to be submitted to FERC. General conformity is a federal rule that protects a state's SIP from increases in ozone and PM 2.5 non-attainment area emissions.
21. There was no mention of emissions from maintenance dredging during the operational phase of the project. If there are requirements for maintenance dredging, it should be included in the operational emission estimates.
22. In-transit marine vessel emissions were identified; however, they appear to be only for transit through the State of Maryland. We offer that, since the emissions from the ships in transit through the State of Virginia waters are also considered “direct emission”, they too should be included in the conformity applicability review.
23. The applicant should address the applicability of and compliance with New Source Performance Standard for Stationary Compression Ignition Internal Combustion Engines (40 CFR 60, Subpart IIII), to which the fire water pumps and emergency generators may be subject.
24. The applicant should address whether the facility would be subject to the Clean Air Interstate Rule (CAIR).
25. Non-road marine engines like the tugs, and security boats (large LNG ships are exempt) will be required to burn low-sulfur diesel (LSD, 500 ppm or 0.05% sulfur) in 2007 and ultra low-sulfur diesel (ULSD, 15 ppm or 0.0015% sulfur) in 2012 under 40 CFR 80.510. Also, non-road diesel engines (i.e., from all terminal and pipeline construction equipment) will be required to burn

LSD in 2007 and ULSD in 2012. Therefore SO₂ and PM emissions from these sources should be revised accordingly.

26. More information on the dredge material recycling facility should be provided, including emission estimates and permitting applicability for all sources, including, but not limited to, the mixers and additive silos.
27. The Resource Report indicates that air dispersion modeling will be performed for PSD pollutants for which the facility is major. PPRP is aware of the applicant's efforts to complete this and is working with them by providing local climatological information.
28. Table 8.4.3-1 in Section 8 indicates that the Pipeline Route consists of 155 residences with distances ranging from 5 to 50 feet of the construction workspace. The applicant should provide calculations for the worst-case noise levels (e.g. noisiest equipment within 5 feet of a residential area) from these noise sensitive areas (NSAs) and provide a Residential Mitigation Plan for the NSAs that exceed Federal and State Noise standards.
29. The applicant needs to quantify noise levels (manufacturer specifications with references) generated from all major sheltered and unsheltered noise producing equipment like heaters, pumps, compressors and emergency generators during operations of the LNG terminal and the proposed Power Plant.
30. Section 9.4.4.4 indicates that noise levels generated from dredging activities would be similar to the noise levels generated during construction activities. Since the dredging activities will most likely be closer to the nearest NSA, the applicant should provide the closest distance from the dredging activities to the nearest NSA and calculate the maximum noise level (e.g. from a pile driver) from this distance.
31. The applicant needs to define if there will be annual maintenance dredging during operations. If yes, the applicant should quantify the noise levels from the maintenance dredging or state whether they would be comparable to the noise levels generated from construction dredging mentioned in question 28.

Resource Report 10 – Alternatives

32. The consideration of alternative off-shore and onshore sites appears to be relatively subjective; no scoring or decision analysis is presented, and methodologies that may have been employed to reach conclusions drawn (e.g., for Delaware River on shore, it is stated that no site could meet the criteria of being one mile from residential communities and allowing passage of LNG ships at a distance of at least 1 mile; that conclusion is unsubstantiated).
33. Regarding dredged material disposal, there is no indication of the presumed market for the processed material. That is discussed in Resource Report 2 (See comment 6), but there is no cross reference in any of the alternatives discussion to this report or other documents.