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November 21, 2008

CERTIFICATE OF THE SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS
ON THE
NOTICE OF PROJECT CHANGE

PROJECT NAME : Weaver's Cove Energy Liquefied Natural Gas Project
PROJECT MUNICIPALITIES : Fall River, Somerset, Swansea, and
Freetown
PROJECT WATERSHED : Taunton River
EOEA NUMBER : 13061
PROJECT PROPONENT : Weaver's Cove Energy, LLC
DATE NOTICED IN MONITOR : October 22, 2008

Pursuant to the Massachusetts Environmental Policy Act (G. L. c. 30, ss. 61-62I) and Section 11.10 of the MEPA regulations (301 CMR 11.00), I have reviewed the Notice of Project Change (NPC) and hereby determine that it **requires** the preparation of an Environmental Impact Report (EIR). Although it does not appear that the project design of the upland import terminal portion of the project has been revised, I find that the potential significance of the environmental impacts associated with the project change and its reliance on a novel application of Liquefied Natural Gas (LNG) transfer technology warrant a full MEPA review process of the changed aspects of the project. Therefore, I will require the proponent to prepare and submit a Second Draft Environmental Impact Report (Second DEIR) and a Second Final Environmental Impact Report (Second FEIR), thereby ensuring a thorough review of the project as it is now proposed.

MEPA History

The project was the subject of an Environmental Notification Form (ENF) in 2003. The Secretary's Certificate on the ENF required the preparation of a mandatory EIR and a Special Review Procedure (SRP) was established to guide the review of the project through both the MEPA and National Environmental Policy Act (NEPA) review processes. The project was the subject of a Draft EIR (DEIR) in 2004, which was found to be inadequate, and as a result, the

Certificate on the DEIR required the preparation of a Supplemental Draft EIR (SDEIR). The SDEIR was also found to be inadequate and, as a result, the preparation of a Second SDEIR (SSDEIR) was required. In the interim, the project completed review under NEPA. The Certificate on the SSDEIR was found to be adequate in a Certificate issued on December 16, 2005. The Final EIR (FEIR) was found to be inadequate in a Certificate issued on April 14, 2006 and, as a result, the submission of a Supplemental FEIR (SFEIR) was required. The SFEIR was found to be adequate in a Certificate issued on July 28, 2006.

Description of Previously Reviewed Project

As originally proposed, the project entailed the construction of a Liquefied Natural Gas (LNG) Terminal in the City of Fall River, and natural gas pipeline facilities in Fall River, and the towns of Somerset, Swansea and Freetown. The proposed LNG Terminal would include a 200,000-cubic meter storage tank with a high wall concrete secondary containment system. The terminal would have a baseload natural gas send-out capacity of 400 million cubic feet per day, plus capacity to provide an additional 400 million cubic feet per day for peak demand. Gas will be delivered to the Algonquin Gas Transmission system via two pipeline connections with a total length of approximately seven miles primarily along existing rights-of-way. The project also includes a truck loading facility to supply existing LNG peak-shaving facilities in New England. The project site has direct access to Route 79, a four-lane limited access highway with connections to Route 24 and Interstate 195.

The project also proposed using various open trench techniques to construct two 24-inch diameter natural gas pipelines totaling 6.1 miles. One of the proposed pipelines, the 3.6-mile Northern Pipeline, would connect to the Algonquin interstate pipeline system in Freetown. The second pipeline, the 2.5-mile Western Pipeline, would cross the Taunton River and connect to the Algonquin pipeline system in Swansea. The project would also include the construction of two meter and regulation stations at the end of the pipelines in Freetown and Swansea. Both pipelines would have a design maximum pressure of 1,440 per square inch gauge.

As proposed in the FEIR and SFEIR, the project involved dredging within an existing federal navigation channel, installing structures, and discharging fill material in wetlands and waterways for the construction of the LNG import terminal, and natural gas pipeline facilities. Specifically, the proponent had proposed to dredge approximately 2.6 million cubic yards of material from within a footprint of approximately 191 acres; replace a pier with jetty structure; install sheet pilings to stabilize and straighten approximately 2,650 feet of shoreline; and permanently fill approximately 0.56 acres of intertidal habitat where shoreline straightening was proposed along the northern edge of the site. In the SFEIR, the proponent abandoned plans to discharge fill material below the Mean Low Water Mark, and as a result, the project was not anticipated to affect sub-tidal habitat.

In order to facilitate the passage of deep-draft ships that would deliver LNG to the facility via Narragansett Bay and the existing Mount Hope Bay/Fall River Harbor Federal Navigation Channel, the proponent proposed to dredge the channel to 37 feet below mean lower low water (MLLW) and deepen and expand the existing Turning Basin to 41 feet. The dredging program involved the removal of up to 2.6 million cubic yards of sediment, including a one-foot

overdredge allowance, from approximately 191 acres in the Taunton River and Mount Hope Bay. The proponent proposed to dispose of the dredged sediment offshore at either the Rhode Island Sound Dredged Material Disposal Site or the Massachusetts Bay Dredged Material Disposal Site as the preferred alternative for dredged sediment management. Both the U.S. Environmental Protection Agency (EPA) and the U.S. Army Corps of Engineers (USACE) determined that the material was suitable for open water disposal at either location. The FEIR and SFEIR proposed the use of smaller ships to transport LNG to the project site in response to Section 1948 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act (SAFETEA) of 2005, which prohibited the demolition of the existing Brightman Street Bridge.

In summary, the project, as it was certified under MEPA in 2006, was dependent upon LNG tankers transiting up the Taunton River and docking at the upland LNG Terminal to off-load their cargo. The import terminal would then store and gasify the LNG for transmission through pipelines and supply LNG for distribution by tanker truck.

Description of Proposed Project Change

The NPC proposes a substitute means to deliver LNG to the terminal. The NPC proposes the construction and operation of an LNG tanker berth and transfer station (Berthing Station) located in Mount Hope Bay and a buried submarine LNG transfer pipeline approximately 4.25 miles in length under Mount Hope Bay and the Taunton River connecting the Berthing Station to the terminal. As part of the updated FERC licensing and NEPA processes, the proponent has filed Resource Reports and conducted meetings with state and federal environmental agencies. The Resource Reports and meetings have provided further details on the project's proposed design and installation, dredging profile, the aquatic environment along the proposed pipeline route, and suggested mitigation. Some of that information is contained in the NPC, but the scope contained herein also refers to information obtained through those sources.

As presently conceived, the Berthing Station is a pile-driven supported structure located in Mount Hope Bay within the jurisdictional waters of the Commonwealth and the Town of Somerset, Massachusetts. Its approximate location is two miles south of the Braga Bridge, one mile from the shoreline and 1,100 yards west of the existing federal navigation channel. The structure will have a length of approximately 1,100 feet between the mooring dolphins and a central platform of 125 feet by 250 feet. In order to accommodate the LNG tankers at the Berthing Station, the proponent proposes to dredge the following to a depth of 41 feet:

- portions of the federal navigational channel in Mount Hope Bay;
- a dedicated private channel between the federal navigational channel and the Berthing Station; and
- a turning basin where the federal and dedicated channels intersect.

Once berthed, pumps onboard the tankers will transfer the LNG through unloading arms on the Berthing Station platform into the pipeline system. The unloading operation will also include a vapor generation system and the intake of ballast water.

The Proponent proposes to transfer the cryogenic LNG to the terminal via a Pipe-in-Pipe (PiP) system comprised of two 24-inch to 28-inch cryogenic steel pipelines, insulating material, a nitrogen gas leak detection system and internal stabilization materials all encased in a 36-inch

to 42-inch steel carrier pipe that will be coated with three to four inches of material to keep the pipe submerged. An engineered cathodic protection system to prevent corrosion and a supplemental heating system to prevent sediment freezing may also be employed.

The pipeline system is proposed to run from the platform in Mount Hope Bay underwater up the Taunton River to the landside terminal, a distance of approximately 4.25 miles. The actual length of the pipeline cannot be determined at this time because its final route has not been determined. The proponent proposes to bury the pipeline system to a depth of 10 feet to provide for five feet of cover, except where deeper depths will be required to transition the pipeline under the federal navigation channel, where a depth of greater than 40 feet is necessary. Alternative trench depths or cover amounts may also be required to accommodate existing submerged infrastructure facilities or other obstructions. An area of the shoreline in Fall River will also be trenched and sheetpile will be installed to accommodate the transition of the submarine pipeline to the landside terminal. Commenters have noted that the large scale transfer of LNG using this pipeline technology over a greater than four-mile distance in a submerged aquatic environment has no prior commercial application nor has it been evaluated in a comparable demonstration project anywhere in the world.

The most significant potential impact to the benthic and aquatic environment posed by the project presented in the NPC is the dredging associated with the Berthing Station construction and operation and the trenching for the submarine pipeline system. The NPC indicates a net reduction of 45 acres of dredging as compared to the previous proposal as a result of eliminating the need for dredging a substantial portion of the federal navigational channel in the Taunton River to accommodate LNG tankers. By eliminating most of the previously proposed dredging in the Taunton River, sediment generation would be reduced from an estimated two million cubic yards (cy) to less than 300,000 cy. While a net reduction in dredging impacts to the River is beneficial to habitat and species of concern discussed in prior MEPA filings, a countervailing consideration is that pipeline dredging will not occur within the navigational channel, an area that would have been subject to maintenance or improvement dredging at some future date.

However, the reduction in proposed dredging of the Taunton River would be more than offset by a substantial increase in the proposed dredging impacts to Mount Hope Bay, as much of the dredging for the Berthing Station, the private navigation channel and the turning basin will be outside of the federal navigational channel. Only 92,000 cy of dredging would occur within the federal navigation channel. The result is a net increase in nearly one million cy of dredge sediment over the prior proposal, a total of 3.29 million cy of new proposed dredging. Additionally, none of the proposed dredging associated with the Berthing Station would occur within a Designated Port Area (DPA). A critical aspect of the environmental review is a comprehensive evaluation of the temporary and permanent impacts to the benthic and aquatic habitat associated with the dredging components of the project and a detailed evaluation of the potential to avoid or minimize those impacts, and where neither is feasible, to require adequate mitigation.

The proponent has been in the process of collecting a variety of habitat and species information, and has shared portions of that with the environmental agencies through the

meetings noted above. It is apparent from those presentations that there will be substantial and unavoidable impacts to habitat, including for example permanent loss of 73 acres of winter flounder habitat, at the proponent's preferred location for the Berthing Station, even with the measures it currently proposes to minimize construction-related impacts. While the NPC discusses potential mitigation proposals, it does not disclose the project's currently known adverse impacts.

MEPA Jurisdiction and Permitting Requirements

MEPA jurisdiction over this project has been established in previously issued Certificates. At the state level, the overall project will require Chapter 91 Waterways Licenses and Permit, a 401 Water Quality Certification, a Water Supply Cross Connection Permit, a Non-Major Comprehensive Plan Approval, an Asbestos Abatement Permit, approval pursuant to the Massachusetts Contingency Plan, and Superseding Orders of Conditions from the Department of Environmental Protection (MassDEP); and State Highway Access and Construction Permits from the Massachusetts Highway Department (MassHighway). The project will also require Federal Consistency Review by the Massachusetts Office of Coastal Zone Management Office (CZM), Tank Permit and Storage Approvals from the State Fire Marshal, and review and consultation by several other agencies with resource management responsibilities, including the Energy Facilities Siting Board (EFSB), the Massachusetts Historical Commission (MHC), and Board of Underwater Archeological Resources. The project may also require a Site Assignment from MassDEP under the Solid Waste regulations.

The previously proposed project completed review under the National Environmental Policy Act (NEPA) and received an Order Granting Authority under the Natural Gas Act and Issuing Certificate from the Federal Energy Regulatory Commission (FERC) on July 15, 2005, which was re-affirmed on January 23, 2006. As currently proposed, the project will require additional review by FERC; permits under Section 10 of the Rivers and Harbors Act of 1899, Section 103 of the Marine Protection, Research and Sanctuaries Act, and Section 404 of the Clean Water Act from the U.S. Army Corps of Engineers (USACOE); a Letter of Recommendation and Permission to Establish Aids to Navigation from the U.S. Coast Guard; consultation pursuant the Magnuson-Stevens Fishery Conservation and Management Act, the Marine Mammal Protection Act and Section 7 of the Endangered Species Act with the National Marine Fisheries Service (NMFS); and consultation pursuant to Section 7 of the Endangered Species Act and Fish and Wildlife Coordination and Fish and Wildlife Coordination Act with the U.S. Fish and Wildlife Service.

Because the project is proposed to be located within waters of the Commonwealth and requires Chapter 91 Licenses, subject matter jurisdiction for this project is functionally equivalent to full scope jurisdiction under the MEPA regulations. MEPA jurisdiction is therefore broad in scope and extends all aspects of the project with the potential to cause Damage to the Environment as defined in the MEPA regulations. Although the project was originally filed prior to the effective date of the Executive Office of Energy and Environmental Affairs' Greenhouse Gas (GHG) Emissions Policy and Protocol, I am exercising my discretion under that policy to subject the entire project to review under the policy in light of the significant changes to the project presented in the NPC.

SCOPE

General

The proponent should prepare a Second DEIR in accordance with the general guidance for outline and content found in Section 11.07 of the MEPA regulations, as modified by this Scope. The Second DEIR should include a description of all aspects of the project, a schedule for construction and any other development activities, and appropriate maps and plans at a reasonable scale. The Second DEIR should include a copy of this Certificate and of each comment letter received.

The Second DEIR should include a list of required state and federal permits and approvals for the overall project and provide an update on the status of each permit and/or approval. It should also provide a brief description and analysis of applicable statutory and regulatory standards and requirements, and a description of how the project will meet those standards.

In order to provide context for the project as a whole, the Second DEIR should include a full description of the unchanged portions of the project comprised of the LNG Terminal and landside natural gas pipeline facilities. The Second DEIR should include the information concerning the environmental impacts of the LNG Terminal and landside natural gas pipeline facilities previously presented and reviewed by MEPA. The presentation of this information is necessary to provide a comprehensive depiction of the environmental impacts of the entire project. However, no new or additional analyses of the environmental impacts of any components of the overall project that remain unchanged will be required, unless otherwise specified in this Scope (this exception includes, but is not necessarily limited to, analyses with respect to greenhouse gas emissions and public safety and security).

The Second DEIR should fully describe any changes to the design or layout of the LNG Terminal and landside natural gas pipeline facilities that are necessitated by the project change, and any corresponding changes to the previously-reviewed environmental impacts of the LNG Terminal and landside natural gas pipeline facilities. The Second DEIR should also include a comprehensive description of the cumulative impacts of the previously-reviewed LNG Terminal and the landside natural gas pipeline facilities in combination with those resulting from the proposed Berthing Station and submarine LNG transfer pipeline.

Alternatives Analysis

Procedurally, the proponent has not withdrawn its request to the Federal Energy Regulatory Commission (FERC) to proceed with licensing the project based upon its original proposal to deliver LNG to the import terminal via tanker up the Taunton River. The proponent has proposed the Berthing Station as an alternative. FERC has accepted this alternative under the condition that it will not approve both alternatives, and at some point during the review process, the proponent will be required to eliminate one of the alternatives.

Because no changes have been proposed for the LNG Terminal and landside natural gas pipeline facilities that would increase their environmental impacts, the alternatives analysis should focus on those elements of the project proposed to be located in Mount Hope Bay and the Taunton River, including the proposed location of the Berthing Station and the preferred route, design and construction of the submarine pipeline. Generally, the alternatives analysis should demonstrate that field data collected during prior MEPA review and FERC environmental and navigational impact assessments that were relied upon for the NPC are still valid for the purpose of making determinations on the environmental impacts of all components of the project. The alternatives analysis should include:

- a No Build alternative and an assessment of the need for the proposed facility;
- an offshore LNG facility alternative that is located outside of Massachusetts waters and subject to the Deep Water Port Act; and
- the alternative presented in the NPC.

Proposed Berthing Station

It appears that the primary factor underlying the proposed location of the Berthing Station, and consequently the submarine pipeline route, is the proponent's preference to locate the Berthing Station at least one mile from land, rather than considerations of minimizing the environmental and navigation impacts of the project. As a result, the alternatives analysis must address the validity of the proponent's "safety factor" assumptions and the extent to which that factor alone should preclude any alternative locations for the Berthing Station, particularly those located outside of a DPA. In turn, the alternatives analysis should consider whether the extent of benthic surveying currently underway is sufficiently extensive to allow for a comprehensive comparison of impacts that would not be constrained by the proponent's predisposition towards the preferred location for the Berthing Station presented in the NPC.

The alternatives analysis presented for the original project proposal rejected the offshore berth and cryogenic pipeline option as the preferred alternative. The alternatives analysis should include:

- a comparison of this new proposal to the original proposal;
- an analysis of alternative off-shore berth locations, orientations, and configurations based upon benthic survey results, that may avoid or minimize environmental impacts, as well as alternate berth and approach channel configurations;
- a consideration of the potential use of smaller LNG tankers at an offshore berth; and
- a discussion of alternatives that minimize water intake for ship ballast and cooling.

Submarine Pipeline Technology

A central feature of the proposed offshore berthing project is the 4.25-mile long LNG submarine transport system consisting of a pipe-in-pipe (PiP) cryogenic pipeline. This system consists of a sub-sediment cryogenic pipeline that will transfer LNG in a liquid form from the proposed Berthing Station in Mount Hope Bay to the storage tank at the proposed LNG Terminal to be located in Fall River. The alternatives analysis should provide:

- an analysis of alternative pipeline routes and installation techniques;
- an analysis of alternative pipe laying methods such as the use of horizontal directional drilling (HDD) or plowing; and
- a description of dredge disposal options and their alternatives.

The technology proposed for this LNG transport has not been used in any previous project involving the proposed length of this pipeline. The Second DEIR should provide a detailed evaluation of this technology including any limitations it may have, its long-term viability and life expectancy, a comprehensive risk analysis including a discussion of impacts to public safety and environmental resources associated with a potential partial or catastrophic failure of the pipeline, and an emergency response plan for dealing with potential repair or replacement events. Therefore, the alternatives analysis should also address:

- the prior applications of this technology, both in the United States and internationally, to transport LNG in liquid form, particularly for a length of four miles or more and how this project's application may differ from such other applications;
- problems that may have arisen with other applications of this technology and how they would be addressed for this project;
- how the installation methodology provides for sufficient structural support to protect the system against the range of stressors that pipelines may be subject to;
- any impacts to the surrounding habitat from cold transmitted through the exterior pipe;
- operational monitoring methods and maintenance and repair protocols; and contingency planning in the event of a leaks or other breaches.

The Second DEIR should include a comprehensive risk assessment that addresses the potential impacts to the public safety and environmental receptors, including fisheries resources and habitats, in the event of a leak, breach, or other partial or complete failure of the cryogenic pipeline system, using a minimum of a one-mile radius as the evaluation area. It should also address the pipeline's vulnerability to accidental damage caused by vessels, vessel anchors, or near-shore construction activities such as piles, moorings, etc., and precautions that will be undertaken to prevent intentional damage to the pipeline.

The Second DEIR should address the appropriateness of installing the pipeline under the federal navigational channel, and consider the potential for future channel deepening or widening, including appropriate side slope requirements.

The submarine pipeline will include design features to minimize impacts on sediment temperature from the transfer of the LNG. The Second DEIR should discuss these in detail as well as other contingencies that may be enacted in the event of failure or inadequate temperature control.

Wetlands

The Berthing Station and submarine pipeline will impact wetland resource areas regulated under the Massachusetts Wetland Protection Act, M.G.L. c. 131, s. 40 and the implementing regulations at 310 CMR 10.00. These jurisdictional areas include Land Under the Ocean (310 CMR 10.25 and 10.35) Land Containing Shellfish (310 CMR 10.34) and Salt Marshes (310 CMR 10.32). Proposed dredging would be undertaken in Nearshore Land under the Ocean, and constitutes improvement dredging for navigational purposes. Best available measurements must be employed to minimize the resulting adverse environmental impacts discussed below. The project activity cannot have an adverse affect on land determined to be significant to marine fisheries, including impeding or obstructing migrating fish, except as approved by the Division of Marine Fisheries (DMF). Therefore, as noted above, the Second

DEIR should provide an analysis of alternatives for the pipeline route and other areas proposed to dredged that are located outside the federal navigational channel. A similar impact analysis should be conducted for the activities associated with the pile driving for the Berthing Station platform. The Second DEIR should discuss the potential for a partnership with existing land-based berthing facilities in the area as a way to avoid and minimize environmental impacts.

Nearshore Areas of Land Under the Ocean help reduce storm damage and flooding by diminishing and buffering the high energy effects of storms. Therefore, the Second DEIR should address the project's potential impacts to Nearshore Areas of Land Under the Ocean. It should discuss what impacts the proposed dredging will have on wave energy and flooding of adjacent shorelines. It should demonstrate how the proposed improvement dredging will be designed and carried out using the best available measures so as to minimize adverse effects on the following:

- bottom topography which could result in increased flooding or erosion due to an increase in the height or velocity of waves impacting the shore;
- sediment transport processes which could increase flood or erosion hazards by affecting the natural replenishment of beaches;
- water circulation which could result in an adverse change in flushing rate, temperature, or turbidity levels; and
- marine productivity which could result from the suspension or transport of pollutants, the smothering of bottom organisms, the accumulation of pollutants by organisms, or the destruction of marine fisheries.

Land Under the Ocean provides feeding areas, spawning and nursery grounds and shelter for many coastal organisms related to marine fisheries. The proposed Berth and pipeline system will impact 73 acres of spawning habitat utilized by winter flounder (*Pseudopleuronectes americanus*), a species managed by the DMF and the National Oceanic and Atmospheric Administration (NOAA) pursuant to the Magnuson-Stevens Act. The Second DEIR should address the project's anticipated impacts on the following factors that are critical to the protection of marine fisheries:

- water circulation;
- distribution of sediment grain size;
- water quality (including, in particular, dissolved oxygen and turbidity);
- finfish habitat; and
- important food for wildlife.

The Second DEIR should address the project's impacts to Land Containing Shellfish. The NPC estimates that 127 acres of shellfish habitat would be impacted by dredging and trenching. The basis for this estimate should be explained and should include a discussion of alternatives and management practices that must be employed to avoid, minimize and mitigate the impacts of the project on this resource. The Second DEIR should clearly document what effects the proposed dredging will have on the following:

- alterations of water circulation;
- alterations in relief elevation;
- alteration of sediment grain size; and
- changes in water quality, including, but not limited to, levels of salinity, dissolved oxygen, nutrients, temperature or turbidity, or the addition of pollutants.

The Second DEIR should also discuss the proposed shoreline trenching and sheetpiling in the Salt Marsh area adjacent to the LNG Terminal site and demonstrate that adverse impacts will be avoided, minimized and/or mitigated.

Marine Fisheries

The project has the potential to cause direct, indirect and cumulative impacts to the fisheries resources, including anadromous and catadromous fish, and their habitats in Mount Hope Bay and the Taunton River estuaries. Land Under the Ocean and land under rivers that underlie anadromous and catadromous fish habitats are significant to protection of marine fisheries. The report should describe the anticipated impacts from the project on fish migration, changes in the volume or rate of flow of water within fish runs, and the capacity of spawning or nursery habitats to sustain the various life stages of the fish. In relation to the above areas of concern, the report should focus on the construction methodology to be employed, and seasonality for the installation of the Berthing Station piles and dolphins. The report should also address how the excavated trench for the LNG pipeline will be maintained for the duration of the pipeline fabrication and installation, and what impacts those maintenance activities will have on the fisheries and shellfish resources.

The Second DEIR should include a detailed description of the habitat assessments and surveys that were, or will be, conducted for benthic infauna (including quahog and soft-shelled clam); attached macroalgae; winter flounder (with an emphasis on spawning and juvenile benthic habitat); horseshoe crab; and river herring. As part of the habitat assessments, water quality should be included, in particular dissolved oxygen, with stations to include the Brayton Point channel. These studies should be designed with interagency consultation, in particular the Massachusetts Division of Marine Fisheries (MDMF), the National Marine Fisheries Service (NMFS), and the Rhode Island Division of Fish and Wildlife (RIDFW), and include at least the entire study area (including the proposed Berthing Station, submarine pipeline and LNG Terminal) with a one mile buffer. The buffer is recommended to enable examination of additional siting alternatives. These assessments should be based on the results of all surveys and analyses recommended by MDMF and other agencies. The models utilized and verified should also be identified and discussed in detail. Critical variables and their values should be identified, with the values clearly supported by a combination of groundtruthing and the use of existing data.

The Second DEIR should also include an evaluation of the potential direct, indirect and cumulative impacts of the project to the range of nearby fisheries resources with an emphasis on winter flounder spawning and juvenile habitat resulting from proposed dredging and trenching. This evaluation should assess the range of environmental consequences that may result from the construction and ongoing operation of the Berth Station to these fisheries resources, including impacts to finfish, shellfish, submerged aquatic vegetation, benthic organisms, and water quality (especially dissolved oxygen and turbidity), and impacts from activities such as water withdrawals, vessel traffic and prop wash, and seafloor impacts of mooring structures. The impacts of the completed project on dissolved oxygen concentrations, particularly in the proposed private channel and turning basin, must be addressed as these areas potentially create anoxic sumps affecting species attracted to the deeper water. Finally, this cumulative impact

analysis should account for the past and continuing impacts to the ecosystem from the Brayton Point Power Station and nearby wastewater treatment facilities.

According to MDMF, the stressed nature of this ecosystem makes it especially vulnerable to the proliferation of invasive species. The spread of invasive species would not derive solely from the expulsion of ballast water. The Second DEIR should discuss the ports of origin of any dredge vessels and LNG tankers, the key ecological variables in those ports (such as temperature and salinity), how long the vessels could potentially be berthed in Mount Hope Bay (the worst case scenario as well as under normal operating conditions), and efforts that the proponent could undertake to prevent the spread of invasive species. The Second DEIR should assess the potential for propeller wash and scour associated with LNG vessel transit and their impacts to water quality and other environmental effects, and explain how the project will avoid and/or minimize this potentially chronic effect.

The permanent withdrawal of ballast water and cooling water for the LNG tankers will have permanent long-term impacts on small fish, larval and juvenile stages of fish, as well as other organisms found in the water column through impingement and entrainment. The Second DEIR should comprehensively discuss how impacts to marine organisms caused by the use of seawater during the transit, hotelling, and ballasting operations of the LNG tankers in Mount Hope Bay can be avoided and minimized. Several facilities located either within the bay or on the Taunton River have been required to install devices in an attempt to reduce or eliminate this type of impact. The Second DEIR should propose potential long-term mitigation measures, as well as pre-construction, construction, and post-construction monitoring plans for the entire study area, including the Berthing Station, submarine pipeline, and LNG Terminal, with a one-mile buffer.

The Second DEIR should include a characterization of the Spar Island ecosystem, with attention to bird species, horseshoe crabs, seals, shellfish resources, and spawning habitat for winter flounder. The proponent should commit to monitoring this eco-system after construction of the project to document any impacts to this important habitat area.

The Second DEIR should propose specific mitigation measures and explain how these measures will ensure compliance with applicable federal, state and local regulatory standards, address fisheries resource and habitat management plans, and provide an overall, net benefit to the Mount Hope Bay ecosystem. I strongly encourage the proponent to continue consultations with the fisheries resource agencies to develop fisheries resource mitigation plans, including shellfish and finfish mitigation and habitat improvement projects, and other proposed mitigation plans addressing commercial and recreational fisheries users.

Water Quality

Dredging for the Overall Project

Dredging and discharge of fill material into wetlands or waters of the Commonwealth is regulated under the Clean Water Act, M.G.L. c. 21, §§ 26-53, and its regulations at 314 CMR 9.00. State and federal regulatory authorities require that such activities meet the Surface Water Quality Standards at 314 CMR 4.00. MassDEP will certify to the Army Corps of Engineers whether or not the proposed project will meet applicable water quality standards and minimize

environmental impacts (314 CMR 9.00). The NPC identifies the general location of proposed dredging, and quantifies the amount of dredging or discharge associated with the various components of the project. Generally, the Second DEIR should expand upon this summary and describe all aspects of the dredging program: duration, time-of-year, potential impacts, avoidance and minimization measures, mitigation measures, and proposed disposal options. It should also describe measures proposed to address the regulations' performance standards including alternatives analysis, non-degradation, maintaining designated uses of the water body, and best management practices. It should also assess the steps within each alternative that will avoid, minimize and mitigate adverse impacts on the aquatic ecosystems.

The proponent has conducted a sediment study in an area it delineates as the Offshore Berth Study Area (OBSA). In its comments, MassDEP notes that the Second DEIR should address whether the boundaries of that study are sufficient to conduct the alternatives analysis describe the physical characteristics of the sediment and, if required pursuant to the Water Quality Certification regulations, the chemical characteristics to determine the reuse or disposal options associated with the dredged material.

The Second DEIR should include a thorough sediment analysis assessing trace metal and organic contaminants, including mercury, Polychlorinated Biphenyls (PCBs), and Polycyclic Aromatic Hydrocarbons (PAHs) in the areas proposed to be dredged. The analysis should include a discussion of the potential for resuspension of contaminated sediments associated with dredging and pipe installation.

The Second DEIR should identify, at a minimum, a preferred dredging method and Best Management Practices (BMPs), and whether a mixing zone will be used to comply with the surface water quality standard when conducting dredging activity. If a mixing zone is proposed, the Second DEIR should include a detailed and comprehensive discussion of the technical justifications in developing the size of the mixing zone, not exceeding acute toxicity within the mixing zone, and adhering to the requirements of 314 CMR 4.03(2) and MassDEP's mixing zone policy titled Massachusetts Surface Water Quality Standards, Implementation Policy for Mixing Zones (January 8, 1993).

Although the NPC indicates that the amount of time to complete the dredging for the Berthing Station and the PiP trench could be accomplished within the dredging windows previously recommended by the resource agencies, the report should evaluate the selected dredging methods and construction sequencing in light of the resource agencies comments on the appropriate time-of-year (TOY) restrictions for the respective activities. The draft Resource Report discusses two anticipated calendar periods during which dredging could be permitted consistent with meeting the regulatory performance standards to avoid or minimize adverse impact to spawning and migrating fish populations. The pipeline trenching north of the Braga Bridge is proposed to occur between November 1 through January 14, a time period in which the state and federal resource agencies have previously indicated is outside the spawning or migration periods fish in the Taunton River. The Second DEIR should examine whether that construction schedule is feasible when additional information is available concerning the preferred pipeline route and the actual volumes of sediment to be managed. The draft Resource Report further suggests that dredging in the area between the Braga Bridge and the Berthing

Station could be accomplished early in the period between August 1 and January 14. Previous comments by state and federal marine resource agencies noted constraints during portions of that period for dredging in the Taunton River. Therefore, the Second DEIR should include a comprehensive analysis of the potential impacts to species and habitat in Mount Hope Bay to provide information for the regulatory agencies to establish the appropriate times of year when dredging and pile-driving may be permitted.

The Second DEIR should include a description of the hydrodynamics of the project area with an assessment of any changes that will result from dredging the approach channel and turning basin. It should discuss and compare the hydrodynamic modeling predictions of dissolved oxygen with the survey results. Although predicting dissolved oxygen concentrations in Mount Hope Bay has not been done successfully to date, a critical resource concern is the potential of the proposed dredged channel to become anoxic. Consequently, this issue should be thoroughly analyzed with respect to severity, frequency, and longevity of oxygen depletion.

Dredging for the Berthing Station

Based on the proposed configuration of the private channel and the turning basin presented in the NPC, it is anticipated that dredging for the Berthing Station would be done perpendicular to the current rather than parallel. The Second DEIR should evaluate the potential suspended solids and turbidity plume generated during dredging and pile driving activities. In its comments, MassDEP states that it believes that it will be necessary to develop sediment plume models to address the scope of potential impacts and determine BMPs. The Second DEIR should include detailed information about the data inputs and assumptions of the models. Additionally, these models must be calibrated with actual site conditions, such as the physical properties of the sediment, and verified in the field.

The Second DEIR should also evaluate the hydrodynamic implications of the Berthing Station because its footprint would be approximately 40 acres and piles would be driven to a depth of 41 feet below Mean Lower Low Water (MLLW), and the degree to which future maintenance dredging will be required. The Second DEIR should discuss the potential of both the temporary impacts of the dredging and permanent impacts of the construction of the 40-acre basin at a depth of -42 MLLW on dissolved oxygen at the preferred location. The analysis should consider operation of the Brayton Point Power Plant, and modeling should be conducted to evaluate the cumulative impacts resulting from the thermal plume from Brayton Point and the effects on water quality caused by deeper, potentially colder, more nutrient-laden waters residing in the project footprint after dredging occurs.

Dredging for the Submarine Pipeline

The preliminarily proposed top trench width for the PiP system is approximately 70 feet. The length of the PiP trench is approximately 4.25 miles. This would create a dredge footprint of 35 acres. Because the means and methods of trench excavation is continuing to be studied and refined, at a minimum, the Second DEIR should include a detailed evaluation of alternative construction methods under consideration in order to minimize impacts to habitat and aquatic organisms. Top down mechanical dredging for the PiP trench will not be possible at certain locations in the Taunton River because of various utility crossings. This should be considered when evaluating alternative dredging methods. Depending on the preferred construction method,

construction impacts could vary substantially. The proponent proposes to dredge the entire length of the pipeline route, which will result in the trench being left open for an extended period of time, and to lay the pipeline during periods outside of the TOY restrictions for in-water work. The Second DEIR should evaluate dredging alternatives, alternative pipeline installation techniques, and the potential for additional dredging to be required as a result of potential slumping of the side slopes of the trench and sedimentation caused by natural processes including storm-induced sediment movement.

The requirements outlined in this Scope related to modeling the sediment plume for the Berthing Station also apply to the pipeline trenching and installation. The anticipated minimum trench depth is 10 feet in order to obtain five feet of cover, but in certain locations the trench dimensions may vary to accommodate constraints such as the federal navigational channel, obstructions, utilities, etc. In areas where five feet or more of sediment cover cannot be restored, the Second DEIR should assess whether additional armoring will be required in these areas and its impacts on the benthic habitat.

The proponent plans to restore the bottom of the Taunton River impacted by the trenching with suitable cover material at essentially the same contours that would have existed prior to construction. The Second DEIR should address the criteria to determine bathymetric and sediment characterization and the suitability of the backfill material in order to avoid habitat conversion. The Second DEIR should also propose a benthic recovery monitoring program, and criteria and methodology for comparison in evaluating and documenting the success of the restoration.

The draft Resource Report indicates that dewatering may be required for the excavated material on the LNG Terminal shoreline area for the submerged pipeline to transition to the facility. The dewatering operation will require a joint federal and state National Pollutant Discharge Elimination System (NPDES) permit and a state 401 Water Quality Certification. In anticipation of dewatering activities, the Second DEIR should assess the proposed operation and propose appropriate measures in order to avoid, minimize or mitigate potential adverse impacts.

Waterways

The project is subject to M.G.L. c. 91, and its implementing regulations at 310 CMR 9.00 for the proposed dredging activities and to license the construction of the Berthing Station and submarine pipeline in Commonwealth-owned tidelands and their operation in Commonwealth waters. Those regulations establish performance standards for the impacts of those structures and facilities on the benthic environment and the public's rights to navigation and free passage over the water. The licensing provisions establish different performance standards depending on whether the project is classified as a water or non-water dependent use. The Second DEIR should propose a water dependency classification for the activities or structures and address applicable performance standards, as well as the requirement for minimization of impacts and appropriate mitigation measures.

In contrast to the prior proposal, significant aspects of the project are occurring outside of the Designated Port Area (DPA). The regulations at 310 CMR 9.40(1)(a) provide that a project

outside a DPA cannot dredge channels and turning basins to a mean low water depth greater than 20 feet unless the project “serves a commercial navigation purpose of state, regional, or federal significance and cannot be reasonably located within a DPA.” The project proposes to dredge to a depth of 41 feet in the area of the Berthing Station, the dedicated channel and the turning area in Mount Hope Bay. None of these areas are within a DPA. The report should present the facts and the supporting rationale that addresses both the significance test and the DPA location alternative. The report should also address whether or under what circumstances the project could proceed within the regulation’s dredge depth limitation.

Prior determinations by United State Coast Guard and MassDEP regarding the impact to navigation from the transit of LNG ships in these waterways raise substantial issues regarding the potential interference or impairment to public rights to navigation, fishing and general access to the waterways from the project as it is current proposed. The proposed location of the Berthing Station near the navigation channel and in an area frequented by public and commercial vessels adds to those concerns. The regulations at 310 CMR 9.35(2) and (3) set out the performance standards the project must meet to obtain a Chapter 91 Waterways License. These standards establish criteria that should be incorporated into the proponent’s analysis of alternatives, measures to minimize adverse impacts, and appropriate mitigation. The Second DEIR should comprehensively examine and evaluate all potential impacts that the proposed project may have during construction and on a long-term basis upon existing and projected future competing uses of Mount Hope Bay and the Taunton River. This analysis should address how standard operating procedures, security and exclusion zones (to be imposed during LNG vessel transits and berthing, as well as when the berth is not in use), and emergency response activities associated with the project will impact recreational and commercial navigation and fishing, shellfishing, shoreline access, existing and future tourism uses on the affected waterways, as well as the potential Wild and Scenic River Designation for the Taunton River.

Additionally, the Second DEIR should address the burial depth of the pipeline to ensure that it will not present a hazard to navigation; that it will be adequately protected from scouring; that it will not be uncovered by sediment transport; and that it will not present a hazard or obstruction to fishing gear. This analysis should also address the potential for impacts from anchor dragging and fish trawls.

Air Quality

MassDEP regulates emissions associated with the facility and any other air contaminant emission sources associated with the Berthing Station, including without limitation, engines or other equipment to transfer the LNG cargo from the ship into the pipeline system, the vapor generation system, energy generating equipment on the platform such as emergency back-up generators and tugs if they will be tied up at the berthing facility. The Second DEIR must include a regulatory applicability analysis for the LNG Terminal and the Berthing. This analysis should address whether the Terminal and Berthing areas, even though in excess of four miles apart, are one “facility”, pursuant to 310 CMR 7.00 Definitions, or one “stationary source” pursuant to 310CMR 7.00 Appendix A.

General Conformity

The project is subject to a General Conformity finding by the Federal Energy Regulatory Commission (FERC). A General Conformity determination is required by the federal Clean Air Act (CAA) for federal actions other than transportation actions. The requirements for General Conformity are contained in Section 176(c)(1) of the CAA and in the General Conformity regulations promulgated by the U.S. Environmental Protection Agency (USEPA) in 1993 and amended in 2006 (40 CFR Part 51, Subpart W). In general, federal actions must support the goals of the State Implementation Plan (SIP) and be shown to not:

- Cause or contribute to new violations of any National Ambient Air Quality (NAAQ) standard in any area;
- Increase the frequency or severity of any existing violation of any NAAQs; or
- Delay timely attainment of any NAAQs or interim emission reductions.

In order to meet the requirements of the General Conformity regulations, the Second DEIR should consider Massachusetts attainment status with respect to the National Ambient Air Quality Standards. Massachusetts was classified as a moderate eight-hour ozone non-attainment area in April of 2004. It is expected that additional emission reductions will be required to meet the eight-hour ozone standard by the 2010 attainment year deadline. The Second DEIR should include a detailed discussion of how the project will mitigate its impacts because the SIP cannot accommodate increases in nitrous oxide (NOx) emissions and expect to demonstrate attainment of the public health standard.

Air Emissions Inventory

The Second DEIR should include an emissions inventory for the project and estimates of projected direct and indirect emissions, including tons per year of NOx and volatile organic compounds (VOC). The direct emissions are to be generated from equipment such as heaters, fire pumps, and emergency generators. The indirect emissions will be generated from LNG ships, trucks, and tugs.

A Comprehensive Plan Application (310 CMR 7.02(5)) is required for the LNG ships when at berth and actively unloading LNG. The LNG ships apparently will be equipped to burn boil-off gas from the cargo in their boilers, thus minimizing consumption of fuel oil and avoiding any venting of gas to the atmosphere. Propulsion systems employing gas-burning diesel engines or fuel oil-burning diesel engines combined with boil-off gas reliquefaction have been developed and are increasingly being installed in new LNG tankers. The Second DEIR should address the range of fuels and related emissions associated with the LNG fleet that may service the Berthing Station and the means by which the emission profile for this project may be kept at the lowest levels. This analysis should address the requirement that the project must:

- Conduct a Best Available Control Technology (BACT) analysis;
- Demonstrate through an ambient air quality impacts analysis that the Massachusetts and National Ambient Air Quality Standards (NAAQS) will not be exceeded;
- Demonstrate that the operation of the Berthing Station will not cause or contribute to a condition of air pollution due to the emission of sound, dust, odor, and sound; and
- Conduct an evaluation of methods to minimize sound, dust and odor impacts during construction of the Berthing Station and the submarine pipeline to the LNG Terminal, including a demonstration of compliance with MassDEP's Noise Policy (DAQC 90-00).

Noise and Glare

Construction of the FERC-approved LNG Terminal was to include dredging undertaken on a 24-hour basis, and included estimated maximum noise levels from dredging activity of 62 dBA and 56 dBA, respectively, at the nearest residences on the Somerset and Fall River sides of the Taunton River. Based on proposed location of the Berthing Station, and thus the principal dredge area, noise and glare impacts from dredging and berth construction would be different. At the LNG Terminal site, noise impacts may change based not only on the proposed location of the Berthing Station, but on the status of an earlier option (in the review of the FERC-approved LNG Terminal) entailing possible use of the LNG Terminal site for dredge disposal, with associated off-loading and stabilization activity. Regarding project operation, based on the now-proposed berth location separate from the terminal, there are added concerns regarding possible noise and glare from both the construction and operation of the Berthing Station in open water, including expected nighttime activity.

Therefore, the Second DEIR should include:

- updated information as to hours of marine construction, including dredging and other noisy operations to install the Berthing Station and submarine pipeline, and as to the status of possible dredge disposal at the terminal site;
- an updated analysis of construction noise impacts related to dredging or other noisy construction, particularly at night;
- an analysis of noise and glare impacts of offshore Berthing Station operations; and
- provisions for development of updated noise and glare mitigation measures, including specific measures to ensure that nighttime construction and operating noise impacts do not exceed levels that would unduly disturb noise-sensitive areas.

Greenhouse Gas Emissions

The project will emit Greenhouse Gases (GHGs), including carbon dioxide (CO₂). The Second DEIR should include an analysis of GHGs to be generated by the project as a whole (including the previously proposed LNG Terminal and landside natural gas pipelines) as required under the MEPA GHG Emissions Policy and Protocol (including an alternatives analysis conforming with the policy).

The project, in its entirety, will include structures, equipment and systems to dock LNG tankers, transfer the LNG from the tanker (via a submarine pipeline) into a storage tank, and gasify and process the LNG for distribution into pipelines and trucks. The Second DEIR should quantify the CO₂ emissions associated with operation of the proposed project in its entirety, including the LNG off-loading operations (specifically, GHGs that would be emitted by the berthed LNG tankers); the Berthing Station itself (if applicable); the LNG terminal; buildings associated with the terminal; the storage, regasification, and transmission of the LNG via pipeline; and the vehicular traffic generated by the LNG Terminal.

The proponent should identify a series of energy efficiency and conservation measures it is considering in the design and operation of building(s) associated with the project in the Second DEIR, and then identify those measures the proponent will commit to. As part of that commitment, the proponent should quantify the GHG reductions associated with these measures even if the annual tons reduced are relatively insignificant. The Second DEIR should evaluate

the feasibility of incorporating renewable energy components into the project, including wind, solar and ground source heat loop (geothermal) systems.

Additionally, as provided in the GHG Policy, if on-site reductions are not sufficient to mitigate the GHG emissions associated with the project, the proponent should consider and commit to off-site measures that would yield additional GHG reductions, including commitments to renewable power generation in adjacent communities or in the region. The proponent may also wish to consider making a contribution to regional or state efforts to facilitate renewable energy generation in considering how to meet its GHG reduction and mitigation obligations for the project.

The proponent should consult with the MEPA Office, MassDEP and the Department of Energy Resources (DOER) in preparing the GHG emissions analysis and to explore the feasibility and appropriateness of any proposed mitigation measures. I note that the recently enacted Climate Protection and Green Economy Act, M.G.L. c. 21N, mandates economy-wide reduction targets for GHG emissions in Massachusetts of between 10 and 25 percent by 2020. I strongly encourage the Proponent to consider the potential advantages of early GHG reduction under the new law when reviewing the mitigation commitments it will make for the project.

Safety and Security

I acknowledge that there is significant public concern about whether the project, including both elements already a part of the FERC-approved LNG Terminal and elements newly proposed as part of the offshore Berthing Station, can be safely operated in the affected project area, including the Massachusetts waters where elements are newly proposed. Questions raised encompass both effects on Fall River and nearby Somerset of possible fire or explosion at the LNG Terminal site, effects on Fall River and other nearby communities from possible LNG tanker or transfer facility spills in Mount Hope Bay or the Taunton River, and the effects of any potential breach or failure of the over 4-mile long buried pipeline. Adding to the above concerns is the potential for the LNG terminal and Berthing Station to be attractive targets for terrorist attack. Furthermore, in addition to the issue of direct safety impacts on area population and property, local emergency responders must have the resources and training to respond to project-related contingencies.

The Second DEIR should discuss all safety and security issues posed by the project, particularly those issues that may impact uses along the shore or use of the waters surrounding the facility. It should characterize all potential safety impacts to populations and neighborhoods, in consideration of the Sandia Report and any other reports focusing on public safety impacts. It should also discuss potential safety and security impacts to major public and private operations and infrastructure in the area, including the Brayton Point Power Generation Station, the Braga Bridge, the Fall River Municipal Wastewater Treatment Facility, the Fall River State Pier, and maritime industrial uses located along the Fall River shoreline. The analysis should present changes in the area's exposure to safety impacts, including changes in the location and degree of possible adverse safety conditions, as well as safety response requirements, resulting from relocation of the proposed tanker berth and all related facility and operational changes. In addition to identifying these changed safety impacts, the analysis should present such changes in

the context of the overall safety impacts of the project including impacts from elements of the FERC-approved LNG terminal. Finally, the analysis also should discuss new information from an expected Sandia Report update, and from any other recent or expected safety studies or safety agency project reviews.

The SDEIR should also discuss the potential impacts of a worst-case storm event on the proposed Berthing Station, as well as more typical and frequent storm events. This should include a discussion of the expected storm surge and potential damage to the facility and possibly the vessel, in the event one is moored at the berth during a storm. Accommodations in the project design for potential sea level rise associated with climate change should also be discussed.

Historic and Archeological Resources

The Second DEIR should include the results of the cultural resource surveys currently being undertaken for the offshore Berthing Station and submarine pipeline. In addition to the visual study to consider effects to historic resources, an archeological study is also underway to provide information that will provide the basis for consultation with the Massachusetts Historical Commission (MHC) so that the project components described in the NPC can avoid, minimize and mitigate any adverse impacts to significant archeological resources. These studies will allow MHC to comment on FERC's determination of the Area of Potential Effect for historic properties and to participate in consultation in consultations in the determinations of eligibility and effect by FERC.

The Second DEIR should include a general discussion of potential environmental impacts to historic and archeological resources posed by the project and consider ways to avoid, minimize and mitigate these impacts.

The previously reviewed Mill River pipeline component of the project consists of two segments, the Western Lateral and the Northern Route. Several route variations have been, and may still be, considered by the proponent and/or FERC. The effects of the pipeline on archeological sites and an archeological district that are eligible for listing in the National Register of Historic Places are unresolved, as are avoidance, minimization and mitigation measures. The proponent should continue to consult with MHC and FERC regarding this issue and report on its status in the Second DEIR.

Responses to Comments

Because the Scope contained in this Certificate is comprehensive in that it incorporates virtually all of the substantive comments submitted, I will not require that the Second DEIR contain a separate section that specifically responds to comments. However, the Second DEIR should include copies of all the comment letters submitted and ensure that the substance of each comment is thoroughly addressed throughout the document.

Mitigation and Draft Section 61 Findings

In the NPC, the proponent proposes a set of mitigation and compensation measures related to its current estimation of the anticipated impacts arising from different components of the construction and operation of the project. However, I note that further scoping, quantification and consensus building on the scale and temporal extent of the impacts must be reached before detailed discussion of mitigation may productively ensue. In developing the mitigation and compensation package, the proponent should consider the mitigation and compensation packages for the off-shore LNG Terminals and pipelines for the Northeast Gateway and Neptune projects, although I note that those projects were proposed to be located in federal rather than state waters.

The Second DEIR should propose detailed pre-construction, construction, and post-construction monitoring programs to be developed with input from an inter-agency technical working group. Based on input from this group, the proponent should propose appropriate mitigation and compensation measures in the Second DEIR, and in doing so, make every attempt to ensure that mitigation measures would be implemented as near as possible to the impacted resources, particularly those impacted resources within Massachusetts waters. The Second DEIR should include a summary of all proposed mitigation and compensation measures, as well as a Draft Section 61 Finding for use by MassDEP in order to issue its permits for the project.

Finally, I acknowledge the level of effort and responsiveness the proponent has demonstrated in pro-actively providing data and assessments to the inter-agency technical working group comprised of state and federal resource agencies reviewing this project, and I strongly encourage the proponent to continue this consultation process in preparing both the Second Draft and Second Final EIRs.

Circulation

The Second DEIR should be circulated in compliance with Section 11.16 of the MEPA regulations and copies should be sent to any state agencies from which the Proponent will seek permits or approvals and to the list of commenters noted below. Additionally, I will require that the proponent contact all prior commenters on all previous documents submitted for the review of this project under MEPA via letter to determine their interest in receiving a copy of the Second DEIR. Copies of the Second DEIR should also be made available for public review at the Fall River, Somerset, Swansea, and Freetown Public Libraries. The proponent should contact the MEPA Office to discuss the strategy for contacting previous commenters well in advance of submitting the Second DEIR, as well as methods for circulation of the document via CD-ROM rather than bound paper copies, thereby minimizing paper waste.

November 21, 2008

Date


Ian A. Bowles

Comments received on the NPC:

11/10/08 Holland & Knight (on behalf of the City of Fall River and the Fall River
Conservation Commission)
11/10/08 Office of Coastal Zone Management
11/10/08 Rep. David B. Sullivan
11/10/08 Taunton River Watershed Alliance
11/11/08 Taunton River Watershed Campaign
11/12/08 Southeastern Regional Planning and Economic Development District
11/13/08 Department of Environmental Protection
11/13/08 Division of Marine Fisheries
11/13/08 Massachusetts Historical Commission
11/14/08 Manuel Alves
11/14/08 Rhode Island Department of Environmental Management
11/14/08 Save the Bay
11/17/08 Coalition for Responsible Siting of LNG Facilities
11/17/08 Energy Facility Siting Board
11/20/08 Town of Somerset Conservation Commission

IAB/RB/rb