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July 28, 2006

CERTIFICATE OF THE SECRETARY OF ENVIRONMENTAL AFFAIRS
ON THE
SUPPLEMENTAL FINAL ENVIRONMENTAL IMPACT REPORT

PROJECT NAME	: Weaver's Cove LNG 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	: June 21, 2006

As the Secretary of Environmental Affairs, I hereby determine that the Final Environmental Impact Report (FEIR) submitted for this project **adequately and properly complies** with the Massachusetts Environmental Policy Act (M.G.L. c. 30, ss. 61-62H) and its implementing regulations (301 CMR 11.00).

The SFEIR is generally responsive to the limited scope contained in the Certificate on the FEIR issued on April 14, 2006, and included additional information about the impacts from proposed dredging on water quality and marine fisheries habitat, and proposed additional mitigation measures for unavoidable impacts to fisheries resources. While the results of technical analyses are forthcoming and the final details of mitigation commitments still need to be resolved, the proponent has met the standard in the MEPA regulations at 301 CMR 11.08(8)(c) for adequacy of the SFEIR, because it has generally described the project's impacts and proposed mitigation such that the state permitting agencies have adequate information on which to base their Section 61 Findings and issue necessary permits for the project.

Throughout the review of this project under MEPA, the primary concerns raised by commenters have involved the security of both the land-side facility and the liquefied natural gas (LNG) ships in transit, and the potential impacts to public safety. These issues are largely under federal control, and the U.S. Coast Guard (USCG) continues to review aspects of the project pertaining to navigation, safety and security of land-side facility and the LNG ships in transit. If

there is any material change to the project resulting from the USCG's review that is subject to MEPA jurisdiction, I will require the submission of a Notice of Project Change (NPC).

I would like to acknowledge the thoughtful comments submitted in response to the numerous submissions made under MEPA for this project. Although many of the commenters remain steadfastly opposed to this project, I must emphasize that I do not have the authority to approve or deny this project. MEPA review is not a permitting process, nor does it pass judgment on whether a project is or is not environmentally beneficial, or whether a project can or should receive a particular permit. Rather, the MEPA process requires public disclosure of a project's environmental impacts as well as the measures that the proponent will undertake to mitigate these impacts. MEPA review occurs before state agencies act to issue permits for a proposed project to ensure that they are fully cognizant of the environmental consequences of their actions.

I am confident that the numerous submissions for this project under MEPA has garnered sufficient information on the project, its impacts and mitigation, as well as input from the public, so as to make the state agencies with permitting authority for this project fully aware of the important environmental issues involved. Moreover, I expect that the state agencies will take their oversight responsibility very seriously in reviewing the various permit applications for this project.

Project Description

As proposed, the project entails 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 proposes 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 currently proposed, the project involves 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 has 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 is proposed along the northern edge of the site. According to the SFEIR, the proponent no longer proposes to discharge fill material below the Mean Low Water Mark, as originally anticipated, and as a result, the project is 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 proposes to dredge the channel to 37 feet below mean lower low water (MLLW) - the channel has an authorized depth of 35 feet below MLLW - and deepen and expand the existing Turning Basin to 41 feet. The dredging program involves 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 proposes 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) have determined that the material is suitable for open water disposal at either location.

No changes to the project have been proposed since the submission of the FEIR, which discussed 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 prohibits the demolition of the existing Brightman Street Bridge.

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 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 FEIR was found to be inadequate in a Certificate issued on April 14, 2006 and, as a result, the submission of a SFEIR was required.

State Permitting Requirements and MEPA Jurisdiction

At the state level, the project will require a Chapter 91 License and Permit, a 401 Water Quality Certificate, 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 (DEP), and State Highway Access and Construction Permits from the Massachusetts Highway Department (MHD). 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) and the Massachusetts Historical Commission (MHC). The project may also require a Site Assignment from DEP under the Solid Waste regulations.

The project has 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. In its Federal Consistency Review, CZM will review the proponent's application for a Section 10/404 Permit from the U.S. Army Corps of Engineers, but not the authorization of the project by FERC.

Review of the SFEIR

Site Remediation

In response to DEP's concerns involving the upland disposal of 60,000 cubic yards of contaminated dredged sediment, the FEIR presented data showing that levels of contamination in the sediment are within DEP's acceptable limits for sediment reuse at a lined landfill. However, it appeared that the characterization of the sediment may have been based on the analysis of a single core sample. The SFEIR indicates that the proponent will undertake the sampling and testing program necessary to evaluate the suitability of these sediments for offshore disposal, the proponent's preferred disposal method. However, if the results of this sampling and testing do not support offshore disposal, the proponent will arrange for safe upland management or disposal of this material. In the SFEIR, the proponent also acknowledged that additional testing, under the supervision of a Licensed Site Professional (LSP), of this relatively limited volume of dredged material would be required before DEP could determine if it would allow the dredged material to be reused at a lined landfill within Massachusetts. The proponent should continue to work cooperatively with DEP on this matter.

Dredging and Water Quality

The SFEIR presented refinements to the draft Water Quality Monitoring Plan, as requested by DEP in its comments on the FEIR. DEP requires an approved Water Quality Monitoring Plan as part of its review for Section 401 of the Clean Water Act Certification. In the SFEIR, the proponent indicated agreement with DEP that the size of the mixing zone should

be a function of the dredging rate, including bucket size, and the specific tidal conditions in the area to be dredged. As a result, the size of the mixing zone will vary depending upon the location of the area to be dredged (e.g., the turning basin, S-bend, Federal Navigation Channel) and tidal conditions.

The SFEIR asserts that adherence to the Mixing Zone Policy should provide adequate protection of fisheries resources. In its comments, DEP notes that the Mixing Zone Policy typically applies to point source discharges regulated pursuant to the National Pollutant Discharge Elimination System (NPDES); however, the policy has been applied to dredging operations in certain instances. DEP will review whether it is appropriate to apply the policy to this project, and if so, in what manner. DEP agrees with the proponent that applying some of the principles of the policy could result in conditioning of the project to protect fisheries resources. Specifically, maintenance of a zone of passage for fish could be achieved by limiting the width of the area of the river within which dredges can operate to less than 50 percent of the river's width, and by positioning the dredges to provide (an) unimpeded zone(s) of passage in the river at all times as dredging progresses.

In its comments, DEP states that the proponent proposes to conduct three sampling events during dredging, and that DEP considers this proposed monitoring to be inadequate to ensure the protection of water quality and compliance with state Water Quality Standards. In Follow-up comments to EOEA, the proponent has clarified that this does not reflect the extent of the proposed Water Quality Monitoring Plan, which entails sampling programs in each of the three dredging reaches (turning basin, S-bend, lower channel). For the first year of dredging, sampling would be conducted bi-weekly for the first two months of the work (for a total of four sampling rounds in each dredge reach). Assuming that there are no monitored exceedances during this period, the frequency of sampling would be reduced to a monthly basis for the balance of the dredging season. Assuming a 5 ½-month season, this would allow for two or three more rounds of sampling in each reach (for a total of six or seven sampling rounds in each reach). Additionally, any equipment changes (e.g., use of a larger bucket) would necessitate the restart of the bi-weekly sampling sequence. Thus, the proponent is proposing that, at a minimum, a total of 18 samples would be taken during the initial 5 ½-month dredge season. Assuming that sampling results during the first season are acceptable, the proponent proposes to conduct a lower-intensity monitoring effort for the second and subsequent dredge seasons. The proponent should continue to work closely with DEP during the 401 Walter Quality Certification process to refine this plan.

The proponent previously submitted an application to DEP for a 401 Water Quality Certification. Because the project was at a preliminary stage at the time of application, DEP reserved the right to re-open the public comment period on the 401 Water Quality Certification. Given that the project has undergone substantive changes as it became better defined through the MEPA process, and given that the final details regarding Time-of-Year restrictions on dredging (see discussion below), water quality monitoring, and other mitigation have not been finalized, I

strongly recommend that DEP re-open the public comment period prior to issuing the 401 Water Quality Certification.

Marine Fisheries

As discussed in the Certificate on the FEIR, both the Massachusetts Division of Marine Fisheries (DMF) and the National Marine Fisheries Service (NMFS) have maintained that the proponent adhere to time-of-year (TOY) restrictions on dredging activities for the protection of winter flounder spawning and juvenile development and the upstream spawning migrations of anadromous fish. Both agencies have maintained that no in-water silt-producing activity should occur between January 15 and May 31 of any year in order to minimize adverse impacts on winter flounder spawning and juvenile development habitat. In order to provide protection for upstream spawning migrations of anadromous fishery resources within the Taunton River, both agencies have maintained that no in-water, silt-producing activity should occur between March 1 and July 31 of any year.

In response to the Certificate on the FEIR, the SFEIR proposes a dredging program that is characterized as protective of marine resources and reasonably achievable within the constraints of the project construction schedule. The SFEIR indicates that the proponent has committed to two substantial enhancements to the proposed mitigation program presented in previous MEPA submissions. Specifically, the proponent accepts a Time-of-Year (TOY) restriction on dredging for the full upstream anadramous fish migration from March 1 through July 31. Secondly, the proponent has proposed to add an entirely new element to the mitigation program with a goal towards yielding substantial long-term improvements in anadramous fish spawning habitat in the tributaries of the upper Taunton River, the specific measures of which are outlined below.

The proponent has not yet reached agreement with the fisheries resource agencies regarding proposed work during the downstream migrations of anadromous fish and proposes to adhere to a restriction through June 15 within Mount Hope Bay. Differences of opinion also remain about the presence and viability of a sturgeon population. DMF has maintained that a TOY restriction from June 15 through November 30 of any year is necessary to protect the downstream anadromous fish migration, including Atlantic sturgeon. In its comments, DEP indicates that it will continue to seek further information on these remaining issues from the fisheries resource agencies and will coordinate with the proponent. Therefore, the proponent should continue to consult with DEP, DMF and NMFS to achieve consensus on TOY restrictions and any other appropriate measures to avoid, minimize and mitigate the project's impacts. I will require the submission of a Notice of Project Change (NPC) if the proponent proposes any significant change or retreat from the mitigation commitments and proposals made thus far.

The SFEIR addressed issues pertaining to the validity of the hydrodynamic and suspended sediment modeling. In its comments, DEP states that, based on its review of the hydrodynamic model (BFHYDRO) used to provide analysis, it appears that the model was adequately calibrated and verified, and that it adequately simulates local circulation patterns and tidal responses. SSFATE is a sediment transport model that uses the outputs from BFHYDRO to

estimate sediment deposition. The two models, in combination, function like a groundwater flow/contaminant transport model. SSFATE has been widely applied to many dredging projects around the country, but DEP identified instances where the model did not work properly and gave incorrect results. In response to this concern, the proponent has indicated that it has provided a response to DEP. The proponent should continue to work cooperatively with DEP on any follow-up questions or concerns related to this matter.

Summary of New Mitigation Measures

The following is a summary of additional mitigation measures that the proponent has committed to implement in the draft Section 61 Findings presented in the SFEIR. Although the finalization of these mitigation proposals remain to be addressed before the project can proceed to permitting, in the Certificate on the FEIR, I stated that while I did not expect the SFEIR to resolve the outstanding issues identified in the agency comment letters to a final level of detail necessary for permits to be issued, I expected the SFEIR to address significant concerns regarding the impacts from dredging on water quality and marine fisheries habitat and the appropriateness of proposed mitigation measures. In this regard, the SFEIR has met the standard for adequacy and compliance with MEPA.

Marine Fisheries

In lieu of mitigation previously proposed in the FEIR, specifically a contribution of $500,000 towards measures to bring about water quality improvements through the reduction of discharges from combined sewer overflows (CSOs) in the Taunton River/Mount Hope Bay watershed to mitigate for the loss of winter flounder habitat, the proponent now proposes to implement a mitigation program to address impacts to sub-tidal winter flounder habitat consisting of three elements:

- A financial contribution of $250,000-$300,0000 to a third-party natural resource management entity or trustee for the purpose of restoring and/or creating an off-site eelgrass habitat in Narragansett Bay;
- A financial contribution of $200,000 for a carefully targeted winter flounder re-stocking program;
- A financial contribution of $750,000 to be used for long-term improvement and enhancement of anadramous fish spawning areas in the tributaries of the upper Taunton River, including but not limited to the removal of existing restrictions, such as dams, and the repair and rehabilitation of fish ladders; and
- Reconfiguration and expansion of the approximately 0.7-acre salt marsh restoration area to incorporate approximately 0.25 acres of new open shallow sub-tidal habitat to partially compensate for the loss of 11 acres of winter flounder spawning habitat.

Summary of Previously Established Mitigation Measures

Additionally, the following is a summary of the major mitigation measures that have been developed and finalized to date through the MEPA and NEPA processes that the proponent has

committed to implement in the draft Section 61 Findings presented in the FEIR, and that were previously summarized in the Certificate on the FEIR issued on April 14, 2006, reprinted here.

Site Remediation

In accordance with the Massachusetts Contingency Plan, the proponent will monitor groundwater levels and the effectiveness of the site remediation during construction and will implement measures, including the construction of a sheet pile wall, to prevent the migration of light aqueous phase liquid (LNAPL) to the Taunton River. Upon final design of the sheet pile wall and prior to its construction, the proponent will submit to DEP a revised Remedial Alternatives Analysis and Remedy Implementation Plan Analysis that will address the impact of the sheet pile wall on the site remediation system.

Stormwater Management

The proponent will implement erosion and sedimentation control measures contained in FERC's *Upland Erosion Control, Revegetation, and Maintenance Procedures* and *Wetland and Waterbody Construction and Mitigation Procedures*, as well as a site-specific erosion and sedimentation control plan and stormwater management plan. The proponent will comply with DEP's Stormwater Management Guidelines during both construction and operation.

Wetlands

The project will result in the filling of 0.56 acres of intertidal habitat on the project site and dredging will result in impacts to 191 acres of subtidal habitat. Construction of the pipelines will result in temporary impacts to 2.82 acres of wetlands, of which approximately 0.47 acres will be converted to other wetland types. Although the project will no longer result in permanent impacts to salt marsh, the proponent remains committed to implement a salt marsh mitigation plan consisting of the restoration and creation of approximately 0.7 acres of salt marsh to partially mitigate for the loss of winter flounder habitat. The proponent will also create approximately 0.18 acres of freshwater wetlands in an upland area.

Marine Fisheries

The proponent has committed to conduct a pre-harvest survey, and implement a shellfish harvest, relay and seeding plan to mitigate impacts to Northern quahogs resulting from dredging for the entire 84-acres of the proposed dredging footprint identified as potential habitat.

Chapter 91 Waterways

According to the FEIR, construction and operation of the project are not expected to significantly affect recreational activities in the project area. Construction and operation of the facility could affect recreational boaters on a temporary basis, but the proponent will schedule dredging activities in coordination with the federal and state regulatory agencies to minimize disruption and conflicts with other users of the river. The Navigation Work Plan and Navigation Transit Plan, currently under development with the USCG, will include measures to ensure the safe passage of waterborne transportation and recreational use of the waterway during construction and operation of the facility, respectively. I expect that DEP will consider impacts

to public waterfront access and to the passage of recreational and commercial vessels resulting from the moving security zone when it issues its Chapter 91 License for the project.

Transportation

Although the use of smaller ships will result in an increase in the number of ships traveling to and from the project site, EOT does not expect that the traffic impacts posed by this change to the project will be significant. The proponent has committed to implement the following traffic mitigation measures at state highway locations:

- minor geometric improvements at the intersection of North Main Street, New Street, and the Route 79 southbound ramps, including signalizing this intersection if approved by the Massachusetts Highway Department (MHD);
- minor widening of Route 79 between the Route 6 (new Brightman Street Bridge) ramps and the North Main Street ramps; and
- provision of portable signage to identify detours for crossing the Taunton River in the case of emergency closure of the Braga Bridge on I-195.

The proponent should continue to work cooperatively with MHD and appropriate emergency management agencies to determine the most effective locations for the placement of these signs.

Air Quality

The proponent will avoid, minimize and mitigate air quality impacts by using diesel electric-propelled ships fueled by natural gas. The Certificate issued by FERC requires that the proponent shall use transportation grade or better diesel fuel in all construction equipment, including dredging equipment. I strongly encourage the proponent to use catalysts and diesel particulate filters on this equipment and placing idling limits on construction vehicles to further reduce particulate matter, carbon monoxide (CO), and volatile organic compound (VOC) emissions. During construction, dust emissions will be minimized by the application of water. During operation, NOx and CO would be minimized by using ultra-dry low NOx water/glycol heaters. The proponent will meet federal and state air emission requirements by implementing best available control technology and undergoing an air plan approval process through DEP.

Historic and Archeological Resources

The proponent has undertaken a reconnaissance archeological survey, intensive (locational) archeological surveys, and archeological site examinations to identify archeological resources that may be present in the proposed project area. The proponent will continue to consult with MHC to resolve any potential adverse effects to archeological sites eligible for listing in the National Register of Historic Places, as well as above-ground historic properties.

Conclusion

Although specific details of the dredging program and certain mitigation measures remain to be finalized, I am satisfied that the proponent, through its various submissions under MEPA, has adequately assessed the potential impacts of the project and committed to measures

that will avoid, minimize and mitigate adverse impacts. I am also satisfied that any remaining issues can be addressed through the state permitting processes. However, I will require the submission of a NPC if the proponent proposes any material change to the mitigation proposals and commitments previously made in the FEIR and SFEIR.

The proposed project requires no further review under MEPA and may proceed to permitting. The permitting agencies should forward a copy of their final Section 61 Findings to the MEPA Office for completion of the project file.

July 28, 2006
Date

Stephen R. Pritchard

Comments received on the SFEIR:

07/12/06	Massachusetts Historical Commission
07/17/06	Rep. David Sullivan
07/20/06	The Nature Conservancy
07/20/06	Save the Bay
07/20/06	Cecile Scofield
07/21/06	ESS Group, for the City of Fall River
07/21/06	Department of Environmental Protection Southeast Regional Office
07/21/06	Division of Marine Fisheries
07/21/06	Town of Somerset Board of Selectmen
07/21/06	Town of Somerset Conservation Commission
07/21/06	Coalition for Responsible Siting of LNG Facilities
07/21/06	Taunton River Watershed Alliance
07/21/06	Taunton River Watershed Campaign
07/21/06	Robert Camara
07/21/06	Nancy Durfee
07/21/06	Alexander Houtzager
07/21/06	Marian Rocha LeComte
07/24/06	Congress of the United States
07/24/06	Department of Environmental Protection
07/24/06	Office of Coastal Zone Management
07/24/06	Louis Bousquet
07/25/06	Roger Hood
07/26/06	e-mail correspondence from Epsilon Associates on behalf of Weaver's Cove Energy, LLC

SRP/RB/rb