

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Bradwood Landing LLC)	Docket No.	CP06-365-000
Northern Star Energy LLC)	Docket Nos.	CP06-366-000 CP06-376-000 CP06-377-000

MOTION FOR LEAVE TO RESPOND AND RESPONSE, INCLUDING COMMENTS ON
THE PROPOSED EMERGENCY RESPONSE PLAN, BY THE
CITY OF ASTORIA, OREGON

Movant-Intervenor¹ the City of Astoria, a municipal corporation, through its City Commission, the duly elected governing body for the City of Astoria (the "City" or "Astoria"), hereby submits its response to Applicants', Northern Star Energy LLC and Bradwood Landing LLC, March 25, 2008 and April 16, 2008 Motions and Response to Comments, and its comments on the Proposed Emergency Response Plan filed March 25, 2008.

Background

As described in the DEIS, the City of Astoria, Oregon is a municipality consisting of approximately 6.2 square miles in geographic jurisdiction located at the mouth of the Columbia River. The City's year round population is currently 10,000 however based on proposed development plans this is expected to increase over the next several years. The summer time population can exceed 15,000. The City is directly and significantly impacted by the proposed vessel transits carrying liquefied natural gas ("LNG") to the proposed Northern Star Natural Gas LLC ("NSNG") facility at Bradwood Landing, located at approximately river mile ("RM") 38 upstream.

Included within or immediately adjacent to Astoria are a diverse number of private and critical government occupancies. Among these are Columbia Memorial Hospital (the only

¹ On or about July 6, 2006, the City of Astoria's timely Motion to Intervene was docketed by the Federal Energy Regulatory Commission (the "Commission") as Accession No. 20060706-0181.

trauma center in the region), nursing home, dense commercial and residential downtown area, several schools, a commercial port and two major recreational and commercial fishing boat mooring basins.

Public Safety is provided by local police and fire departments. The Astoria Police Department is comprised of fifteen full-time officers and a few reserve officers, who are responsible for 24 hour protection of the City's 6.2 square mile area. The Astoria Fire Department consists of eleven full-time fire personnel, 10 volunteer firefighters, and seven response vehicles. The Fire Department's service area includes the numerous facilities noted above and a large Federal Job Corps facility. In addition, through existing Mutual Aid Agreements, Astoria supports the Knappa-Svensen-Burnside Rural Fire Protection District ("Knappa"), in which the proposed LNG terminal would be located. The City currently has no marine law enforcement or firefighting capability.

The City has very limited funding resources available for public safety services. It relies on limited property tax revenues that are used primarily for existing personnel expenses. In recent years equipment purchases have depended on grants.

The City's public safety responsibility extends along the southerly bank of the Columbia River beginning at Young's Bay then continuing eastward to Tongue Point. Approximately four miles of the Columbia River shipping channel from the City of Warrenton east to Tongue Point are within the municipal jurisdiction of the City of Astoria. Astoria is the largest municipality potentially impacted once the LNG Carrier enters the Columbia River. As described in the DEIS (Section 4.7.1), portions of the City are located within all three Zones of Concern, including the police and fire stations, communications center, Astoria waterfront, several parks, Riverwalk trail, a hotel and maritime museum within Zone 1 (p. 4-273), a hospital, nursing home, several parks, one school, two museums and several other significant structures within Zone 2 (p. 4-278), two schools and many dense neighborhoods within Zone 3 (p. 4-327). All three zones

include, essentially the entire City of Astoria. The entire Astoria waterfront and downtown areas are sufficiently close to the vessel transit route to warrant heightened safety and security measures.

Procedural History

On June 26, 2006, during the Pre-Filing Process, the City of Astoria wrote the Commission to advise that the City had a number of safety related concerns regarding to the potential transit of LNG carriers through and adjacent to the corporate limits of the City of Astoria, which would occur should the Bradwood Landing site be approved by the Commission. A copy of that June 26, 2006 letter was also included in the Safety Advisory Report submitted to the Commission by the Oregon Department of Energy, attached as Appendix K to the DEIS. The City timely moved to intervene, which motion was docketed July 5, 2006 as Accession No. 20060706-0181. Since that time, Astoria's Police Chief, Fire Chief and Fire Marshal have participated in various meetings and workshops held in conjunction with preparation of the U.S. Coast Guard Waterway Suitability Assessment Report ("WSR") dated February 28, 2007, attached as Appendix H to the DEIS, and with respect to development of an Emergency Response Plan ("ERP").

Comments on Proposed Emergency Response Plan

Astoria categorically rejects and disputes any claim or characterization that the Proposed Emergency Response Plan ("ERP") and proposed cost-sharing agreements are acceptable to Astoria, or are otherwise fair and reasonable. Astoria met with Applicants numerous times, along with other agencies, in an effort to reach agreement on funding of the acknowledged and documented resource gaps, which gaps have been documented throughout the Draft Environmental Impact Statement ("DEIS"), as well as the U.S. Coast Guard Waterway Suitability Report ("WSR") (App. H to the DEIS). Although the ERP identifies the offer Applicants made to the City with respect to fire and police cost-sharing, those proposals are

insufficient and unacceptable.²

Specifically, Applicants presented City officials with proposed agreements which were legally objectionable, including, among other things, a requirement that Astoria "agrees to indemnify, defend and hold harmless" Applicants, their officers, officials and employees for the death or injury to persons arising out of services provided under the agreement except if the injuries or damages are caused by the sole negligence of Bradwood. It is unconscionable for a private entity to seek indemnity from public local emergency response officials on account of the entity's project which has inherent dangers associated with it.

The Astoria Police Department is comprised of fifteen full-time officers and a few reserve officers. Although the exact details of the required level of police effort which will be required to secure the riverfront within its jurisdiction are not public or finally determined, additional staff may be needed to perform necessary actions associated with securing the waterfront.

In addition, as detailed in the WSR, as first responders, Astoria police require specialized training and equipment, including intrinsically-safe communication and gas detection equipment for each vehicle and officer. Applicants commitments with respect to training and equipment for law enforcement first responders are vague and non-committal, and descriptions in the almost 350-page filing dated March 25, 2008 are confusing and internally inconsistent. The bottom line is that the USCG determined that **both** police and fire emergency response personnel along the vessel transit route must be equipped with gas detection equipment and specialty communications equipment, and the proposal made to the Astoria Police department does not include these requirements.

With respect to fire department resources, the proposed cost-sharing agreement from

² The lack of agreement and resolution was documented in Attach. 5 of the ERP, the PBS&J Report, November 2007, at pp. 13, 21-22.

Applicants is likewise unacceptable. Although it offers up-front payment, this is a "one-time payment" representing a "subsidy" of additional full-time employees for a period of five years. There is no commitment for cost-sharing for the expected life of the LNG terminal, which is inconsistent with the requirements of the Energy Policy Act.

Additionally, the Applicants only agree to reimburse the City in the event of an actual "Bradwood emergency." This offer of payment solely when an actual emergency occurs totally ignores the identified resource gaps outlined in the DEIS and WSR which must be in place prior to construction and service, and further must be documented with binding agreements before the Commission issues a Certificate. Emergency response planning requires that the personnel and equipment be secured in advance. Any commitment to cover the cost of emergency services must be unconditional, irrespective of whether any actual emergencies ever occur. The applicant's proposal to Astoria to compensate for fire services only in the event of an actual emergency is nonsensical and tantamount to "Russian roulette." No responsible public entity could agree to such an approach.

Applicants try to suggest in their Proposed ERP that their proposal is justified because their consultant has studied the actual number of events at the other operating facilities and concluded that none of the communities where existing facilities are located receives any funding, beyond local taxes, earmarked for fire department buildings, firefighting positions, or fire department equipment. *See* ERP, Attach. 7, Emergency Services Consulting, Inc. Report, February 2008. The report neglects to mention that all of the existing facilities were built and are operated under a statutory scheme which predates the Energy Policy Act requirement for an agreed cost-sharing plan. Additionally, three of the four existing facilities analyzed have substantial career staffing resources, unlike Astoria with only one staffed fire engine. Lastly, as reflected in Attach.5 of the ERP, the November 2007 PBS&J report (p. 19), "Jordan Cove [a proposed LNG project near Coos Bay, Oregon] has committed to provide North Bay [the local

fire department] with one ladder, one engine and 10 personnel, other equipment and a fire station" which more closely reflects the post-Energy Policy Act commitments required of developers.

Applicants further attempt to justify the lack of commitment to fill the identified resource gaps by claiming that they will employ an Industrial Fire Brigade and will staff their facility with either 4 or 5 members of such a brigade at all times. However, the State Fire Marshal determined that initial response to any reported incident would require, *at a minimum*, the immediate response of 16-20 fire personnel, which immediate response would likely be staffed from Knappa, Astoria and Warrenton. Although an Industrial Fire Brigade is a good first step, it does not fill the identified resource gaps, and does nothing to address an incident outside the footprint of the facility, including along the vessel transit route.

Lastly, Applicants commitment to provide specialized training, gas detection equipment and communications equipment must be spelled out in the cost-sharing agreement executed with each entity. Maintenance of a "cache" of Intrinsically Safe Radios, gas detectors, or other specialized equipment is of no use if the first responders do not have such equipment in advance of any incident. There won't be time to get in a queue and sign-out a piece of equipment at the facility in the event of an emergency. Moreover, career firefighters and local citizens who put their lives on the line without compensation serving as volunteer firefighters deserve the best technical training available and they deserve to be compensated for their lost work time to attend such training. As noted above, the commitments made in the Proposed ERP are vague and confusing on these points.

Conclusion

As described herein and in its prior correspondence and comments (incorporated by reference), Astoria requires a commitment to fund necessary capital and on-going expenditures

related to police and fire protection before it can agree to any proposed ERP and cost-sharing agreement. NSNG should be required to document such commitments, in a form agreeable to Astoria, before any final Order from the Commission issues. Astoria remains willing to negotiate with Applicants on the precise details of its cost-sharing agreements, but it will not agree to the "take it or leave it" approach proffered by Applicants. In addition, such cost-sharing agreement must provide for reimbursement for its expenses in finalizing the agreements.

Respectfully submitted,

Willis Van Dusen
Mayor
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June ____, 2008

CERTIFICATE OF SERVICE AND MAILING

I hereby certify that I have this day served the foregoing document on each person designated on the official service list compiled by the Secretary in this proceeding on June 4, 2008, by first class mail, postage prepaid.

Paul Benoit, City Manager

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