

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 WARRENTON, OREGON

Movant-Intervenor¹ the City of Warrenton, a municipal corporation, through its City Commission, the duly elected governing body for the City of Warrenton (the "City" or "Warrenton"), hereby submits its response to Applicants", NorthernStar 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 Warrenton, Oregon is a municipality consisting of approximately 17 square miles in geographic jurisdiction located at the mouth of the Columbia River. It is the most northwesterly City in Oregon. The former Town of Hammond is merged into Warrenton. The City's year round population is currently 4,600, however based on proposed development plans this is expected to increase to over 8,000 in the next several years. The summer time population can exceed 10,000. 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.

¹ On or about July 5, 2006, the City of Warrenton's timely Motion to Intervene was docketed by the Federal Energy Regulatory Commission (the "Commission") as Accession No. 20060706-0160, but to date the City has not been placed on the Service List.

Included within or immediately adjacent to Warrenton are a diverse number of private and critical government occupancies. Among these are Fort Stevens (Oregon's largest State Park), Warrenton-Astoria Regional Airport (Clatsop County's only commercial airport), Camp Rilea Armed Forces Training Center (Oregon's largest active military reservation), a 100 bed juvenile corrections facility, and two major recreational and commercial fishing boat mooring basins.

Public Safety is provided by local police and fire departments. The Warrenton Police Department is comprised of eight full-time officers and several reserve officers, who are responsible for 24 hour protection of the City's 17 square mile area. The Warrenton Fire Department consists of two full-time personnel, 32 volunteer firefighters, and seven response vehicles. The Fire Department's service area is 28 square miles and includes the numerous facilities noted above. In addition, through existing Mutual Aid Agreements, Warrenton 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 and loans.

The City's public safety responsibility extends for approximately seven miles along the southerly bank of the Columbia River beginning at approximately Clatsop Spit (Buoy 14) then continuing eastward to Smith Point. Approximately four and one-half miles of the Columbia River shipping channel from Hammond Marina east to the Astoria city limits are within the municipal jurisdiction of the City of Warrenton. Warrenton is the first 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

Hammond and Warrenton waterfront within Zone 1 (p. 4-273), the Warrenton Waterfront Trail, Carruthers Park and the community library within Zone 2 (p. 4-278), and the police and fire stations are located within Zone 3 (p. 4-327). Within all three zones are many areas where people congregate outdoors including essentially the entire route from Fort Stevens State Park, along the River Walk trail, in the area of Hammond Boat Basin and at Carruthers Park. Each of these public assembly areas is sufficiently close to the vessel transit route to warrant heightened safety and security measures.

Procedural History

On May 24, 2006, during the Pre-Filing Process, the City of Warrenton wrote to the Commission to advise that the City had a number of safety related concerns regarding to the potential transit of LNG carriers through the corporate limits of the City of Warrenton, which would occur should the Bradwood Landing site be approved by the Commission. A copy of that May 24, 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. 20060706-0160. Since that time, both Warrenton's Police Chief and Fire Chief 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

Warrenton categorically rejects and disputes any claim or characterization that the Proposed Emergency Response Plan ("ERP") and proposed cost-sharing agreements are acceptable to Warrenton, or are otherwise fair and reasonable. Warrenton 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).² 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.³

Specifically, Applicants presented City officials with proposed agreements which were legally objectionable, including, among other things, a requirement that Warrenton "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 totally unacceptable for a private entity to seek an indemnity from local emergency response officials on account of a project which has inherent dangers associated with it.⁴

Next, with respect to police services for required security details during vessel transits, Applicants have only agreed to pay Warrenton based on three hours of overtime (plus vehicle use and administration) per vessel transit (estimated at 125 deliveries each year or 250 transits). Under the proposed agreement, Warrenton police officers would be required to attend up to 100 man-hours per year of training, but there is no compensation offered for that training under the agreement proffered to the City.

The Warrenton Police Department is comprised of eight full-time officers and several reserve officers. Although the exact details of the required level of police effort which required to secure the approximately seven miles of riverfront within its jurisdiction are not public or

² Warrenton specifically incorporates by reference its comments on the DEIS filed December 18, 2007.

³ 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.

⁴ As a result of Applicants' positions, Warrenton was forced to secure outside legal services to help it address these issues, for which it should be compensated by Applicants. But for this project Warrenton would not be required to incur these costs. Any final cost-sharing agreement must include a provision to reimburse Warrenton for the reasonable legal fees it incurred in connection with the project.

finally determined, suffice it to say that reimbursement of three man-hours per vessel transit will not be sufficient. Warrenton requested Applicants fund additional full-time personnel because it cannot meet the anticipated security needs based on its current staffing levels.

In addition, as detailed in the WSR, as first responders, Warrenton 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 be equipped with gas detection equipment and specialty communications equipment, and the proposal made to the Warrenton Police department does not include these requirements.

With respect to fire department resources, the proposed cost-sharing agreement from Applicants is likewise unacceptable. Although it offers a greater up-front payment than the annual police compensation, this is a "one-time payment" representing a "subsidy" of a single additional full-time employee for a period of five years. There is no commitment for cost-sharing for the life of the project, which is inconsistent with the requirements of the Energy Policy Act.

Additionally, the Applicants agree to reimburse the City only in the event of an actual "Bradwood emergency." This offer of payment only in the event of an actual emergency totally ignores the identified resource gaps outlined in the DEIS and WSR which must be in place prior to construction and service, and which 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, and the commitment to cover the cost of such services must be

firm, irrespective of whether any actual emergencies ever occur. Applicants proposal to Warrenton to compensate for fire services only in the event of an actual emergency is nonsensical and tantamount to "Russian roulette." No responsible governmental entity would agree to such an approach.

Applicants try to suggest in their Proposed ERP that such an approach makes sense 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 do not rely upon volunteer firefighters, like Warrenton with only two full-time personnel. 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, as noted in Warrenton's initial comments dated May 24, 2006 (incorporated here by reference), 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), Warrenton 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 Warrenton, before any final Order from the Commission issues. Warrenton 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 out-of-pocket legal expenses in finalizing the agreements.

Respectfully submitted,



Gilbert Gramson

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May 13, 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 May~~30~~, 2008, by first class mail, postage prepaid.


Linda Engbretson
City Recorder