

**UNITED STATES OF AMERICA  
BEFORE THE  
DEPARTMENT OF ENERGY  
OFFICE OF FOSSIL ENERGY**

**COMMENTS**

**BY**

**FREEMPORT LNG EXPANSION, L.P.; FLNG LIQUEFACTION, LLC;;  
FLNG LIQUEFACTION 2, LLC; AND FLNG LIQUEFACTION 3, LLC**

**ON**

**ADDENDUM TO ENVIRONMENTAL ANALYSIS**

**Dated: July 21, 2014**

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**I.  
INTRODUCTION**

On June 4, 2014, DOE/FE noticed the above-reference Addendum to Environmental Analysis (“Addendum”).<sup>1</sup> Along with the draft Addendum, several background documents were attached dealing with various matters. In addition, DOE/FE has invited comments on the draft Addendum. These comments are respectfully submitted by the above-noted applicants, namely Freeport LNG Expansion, LP; FLNG Liquefaction, LLC; FLNG Liquefaction 2, LLC; and FLNG Liquefaction 3, LLC, commonly referred to as “FLEX”.

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<sup>1</sup> Addendum to Environmental Analysis, June 4, 2014.

## II. INAPPLICABILITY

The FLEX applicants have received four LNG export authorization decisions, namely DOE/FE Orders Nos. 2913, 3066, 3282, and 3357. The first two of these orders authorize LNG exports to countries enjoying a Free Trade Agreement (“FTA”) with the United States that calls for the national treatment of natural gas. These two orders are final and non-appealable. Therefore, the Addendum and comments filed to the Addendum have no application to those two FLEX orders.

The second two DOE/FE orders are conditional decisions granting FLEX conditional export authorization for LNG exports to non-FTA countries where such exports are not prohibited by U.S. law or policy. The public interest determinations required under Section 3 of the Natural Gas Act (“NGA”)<sup>2</sup> have been already been made, namely the two proposed non-FTA exports are not inconsistent with the public interest; the only remaining issue being the satisfactory completion of the National Environmental Policy Act (“NEPA”) review.<sup>3</sup> That environmental review has already been completed and is only waiting the issuance by DOE of the final orders for those non-FTA export authorizations. Therefore, the Addendum and the comments filed to the Addendum should not be applicable to FLEX and its applications to export domestically sourced LNG.

In addition, DOE/FE has already determined that the Addendum and its sub-material, and consideration of such, is beyond the requirements of NEPA.<sup>4</sup>

## III. BEYOND THE SCOPE OF NEPA

In the introduction to the Addendum, it is stated that the addendum is intended to address a litany of claims by some commenters. Among those is that “... authorizing exports of LNG to non-FTA countries would induce additional natural gas production in the United States and that the environmental impacts of the additional natural gas production should be considered as a factor affecting the

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<sup>2</sup> DOE/FE Order No. 3282, p. 125; DOE/FE Order No. 3357, p. 168. [DOE/FE Orders Nos. 2913 and 3066 did not contain similar conditions in their ordering paragraphs.

<sup>3</sup> 42 U.S. C. 4321 *et seq.*

<sup>4</sup> FLEX completely agrees with DOE/FE on this point. Therefore, the Addendum and its sub-material may be an interesting scholastic exercise, but they can have no application to the FLEX authorizations.

public interest.”<sup>5</sup> It appears that the purpose of the Addendum and its supporting studies is to disclose that DOE is aware of broad analysis of environmental issues raised and but they are either irrelevant to the NEPA analysis, not within the scope of NEPA or even if within the scope of NEPA do not demonstrate that U.S. sourced LNG exports are inconsistent with the public interest. The introduction also summarizes the several fundamental conclusions that have been reached by DOE, including the following:

1. There are “fundamental uncertainties” to any attempt to predict if any or what production would be “induced” by any specific authorization to export LNG.

2. A specific authorization to export LNG does not guarantee that a particular facility will be built or financed.

3. Even if an LNG export proposal resulted in additional volumes of export, any export would be serviced by a combined increase in domestic production from “unconventional sources,” decreased consumption domestically, and adjustments in the U.S./Canada/Mexico net trade.

4. Shale production of natural gas is already occurring, and it is unreasonable to believe that natural gas from shale (and any alleged potential environmental impacts) would not occur if LNG were not exported to non-FTA countries.

5. It is not possible to reasonably “estimate where, when, or by what method any additional natural gas would be produced.”

6. DOE cannot meaningfully determine or assess environmental impacts of production, which are almost completely local in nature.

7. DOE’s regulatory jurisdiction under Section 3 of NGA encompasses only the export of natural gas, not the production of natural gas. Therefore, DOE cannot meaningfully evaluate alternatives to exports of natural gas.

8. Any potential environmental impacts from LNG exports to non-FTA countries are not “reasonably foreseeable” within the meaning of CEQ’s regulations under NEPA.<sup>6</sup>

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<sup>5</sup> *Ibid.*, p.1.

<sup>6</sup> 40 CFR 1508.7.

9. The potential impacts discussed in the subsections of the Addendum most likely overstate any potential environmental impacts because best practices continue to improve over time and will continue to do so in the future.<sup>7</sup>

FLEX strongly agrees with each of these conclusions reached by DOE. These conclusions are conclusive of the issues raised by commenters challenging U. S. sourced LNG exports on the basis of alleged environmental impacts, cumulative or otherwise. The potential environmental impacts discussed in the subsection and in the Addendum in no way undermine the fact that the FLEX proposed exports are in the public interest.

### III.

#### SUBSECTIONS OF ADDENDUM

The subsections of the Addendum cover a comprehensive list of the claimed environmental impact areas: water, air, human health, greenhouse gas emissions, alleged induced seismicity, and land use impacts. They also contains an extensive survey of challenges of shale gas development to air, fracture fluids and hydraulic fracturing processes, as well as a collection of material from subcommittee reports, etc.

Not only are these analyses unduly conservative in their methodology, they are, at best, overly conservative snap shot analyses. The gas industry has demonstrated that it is consistently refining and elevating best practices. There is no reasonable basis to presume that this historic trend will now abruptly cease. Furthermore, the relationship between an LNG export project and any of the localized potential environmental impacts is not reasonably foreseeable. Mere speculation cannot serve as a platform for reasoned decision making. The review of the scientific literature contained in the subsections is broad based. Even if all the statements in that material were accepted as definitive, the Addendum does not demonstrate that any LNG export proposal is inconsistent with the public interest.

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<sup>7</sup> Draft Addendum to Environmental Review Documents concerning exports of Natural Gas from the United States, May 29, 2014, p. 2-3.

IV.

CONCLUSION

The Addendum and its subsections are not applicable to the FLEX application. The potential environmental impacts discussed in that material are not reasonably related to the FLEX export applications. Any alleged connection between the FLEX proposed exports and those alleged potential environmental impacts is, at best, speculative and not the proper basis of a NEPA analysis. It is requested that DOE expeditiously issue its final decisions approving the pending FLEX requests for authorization to export LNG to non-FTA countries.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Les Lo Baugh', written over a horizontal line.

Les Lo Baugh  
Brownstein Hyatt Farber Schreck, LLP  
Attorney for the FLEX applicants.

July 21, 2012