

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

REFERENCE: NOTICE OF CHANGE OF PROCEDURES

COMMENTS

BY

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

Dated: July 21, 2014

July 21, 2014

**UNITED STATES OF AMERICA
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DEPARTMENT OF ENERGY
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**COMMENT
ON
NOTICE OF PROPOSED CHANGE OF PROCEDURES**

**I.
INTRODUCTION**

Freeport LNG Expansion, L.P., FLNG Liquefaction, LLC, FLNG Liquefaction 2, LLC and FLNG Liquefaction 3, LLC (collectively, “FLEX”) have filed four applications with the Department of Energy, Fossil Energy (“DOE/FE”) for long-term export of domestically sourced liquefied natural gas (“LNG”) from the Freeport LNG Terminal at Quintana Island, Texas. Two of these applications, DOE/FE Docket Nos. 10-160-LNG and 12-06-LNG, are for LNG exports to countries with which the United States has Free Trade Agreements (“FTA”) providing for national treatment for trade in natural gas. The two FTA applications were approved by DOE/FE in DOE/FE Order Nos. 2913 and 3066.¹ The other two applications, in DOE/FE Docket Nos. 10-161-LNG and 11-161-LNG, are for exports to countries with which the United States does not have a FTA (“non-FTA”). The two non-FTA applications were conditionally granted on May 17, 2013, in DOE/FE Order No. 3282, and on November 15, 2013, in DOE/FE Order No. 3357. DOE/FE subsequently amended the foregoing FTA orders and non-FTA conditional orders in DOE/FE Order Nos. 2913-A, 3066-A, 3282-A, 3282-B

¹ *Order Granting Long-Term Authorization to Export Liquefied Natural Gas from Freeport LNG Terminal to Free Trade Nations*, DOE/FE Order No. 2913 (FE Docket No. 10-160-LNG), February 10, 2011; DOE/FE Order No. 2913-A, February 7, 2014; *Order Granting Long-Term Multi-Contract Authorization to Export Liquefied Natural Gas by Vessel from the Freeport LNG Terminal to Free Trade Agreement Nations*, DOE/FE Order No. 3066 (FE Docket No. 12-06-LNG), February 10, 2012; DOE/FE Order No. 3066-A, February 7, 2014

and 3357-A.²

FLEX respectfully submits these comments in response to the Notice of Change in Procedures announced by DOE/FE on May 29, 2014, and DOE/FE's request and invitation for comments on this proposed change.

All communications should be address to:

Les E. Lo Baugh, Esq.

Brownstein Hyatt Farber Schreck, LLP

2049 Century Park East, Suite 3550

Los Angeles, CA 90067

Phone.: (310) 500-4638

Fax: (310) 500-4602

Email: llobaugh@bhfs.com

John B. Tobola

Vice President & General Counsel

Freeport LNG Expansion, L.P.

333 Clay Street, Suite 5050

Houston, Texas 77002

Phone.: (713) 333-4241

Fax: (713) 980-2903

Email: jtobola@freeportlng.com

II.

DESCRIPTION OF THE FLEX PROJECT

The FLEX LNG export project will liquefy and export domestically sourced natural gas to both FTA and non-FTA countries. The FLEX export facilities will initially include three liquefaction trains.

Financial close for and the start of construction of Train 1 and Train 2 will be simultaneous and are anticipated to occur early in the fourth quarter of 2014. Financial close and the start of construction of Train 3 is anticipated to occur 6 to 9 months following the financial close for Train 1 and Train 2.

The Federal Energy Regulatory Commission ("FERC") has released its Final Environmental Impact Statement for the FLEX export project pursuant to the

² *Application of Freeport LNG Expansion, L.P. and FLNG Liquefaction, LLC for Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Agreement Countries*, DOE/FE Order No. 3282 (FE Docket No. 10-161-LNG), December 17, 2010. *Application of Freeport LNG Expansion, L.P. and FLNG Liquefaction, LLC for Long-Term Authorization to Export Liquefied Natural Gas to Non-Free Trade Countries*, DOE/FE Order No. 3357 (FE Docket No. 11-161-LNG), December 19, 2011. [DOE/FE Order No. 3282-A, February 7, 2014; DOE/FE Order No. 3282-B, June 6, 2014 and DOE/FE Order No. 3257-A, June 6, 2014.

National Environmental Policy Act (“NEPA”).³ FLEX anticipates that FERC will soon issue an Order granting authorization under Section 3 of the Natural Gas Act⁴ to site, construct and operate the FLEX export project, and that DOE/FE will act shortly thereafter to issue final decisions on FLEX's conditional non-FTA authorizations.

III

DOE/FE PROPOSED CHANGE IN PROCEDURES

On June 4, 2014, a Notice was published in the Federal Register announcing a proposed change in DOE/FE procedures in the processing of applications for the export of LNG to non-FTA countries.⁵ If approved and finalized as drafted, the effect of the proposed change would be that DOE/FE would no longer issue conditional decisions in dockets involving applications to export LNG to non-FTA countries. Instead, DOE/FE would wait until the conclusion of the NEPA process before it acts on such applications. In the notice, DOE/FE stated that the proposed change in procedures would have no impact on applications to export to FTA countries. DOE/FE also made clear in its notice that the proposed change in its procedures would not have any impact on applications where a conditional authorization has already been issued, stating that “[the] proposed procedure, if adopted, would not affect the continued validity of the conditional orders the [DOE/FE] has already issued. For those applications, the [DOE/FE] will proceed as explained in the conditional orders: when the NEPA review process for those projects is complete, the [DOE/FE] will reconsider the conditional authorization in light of the information gathered in the environmental review and take appropriate action.”⁶

Furthermore, DOE/FE stated in its notice that DOE/FE “is not establishing a new proceeding or docket” and that “submission of comments in response to [the] Notice will not make commenters parties to any of the pending 25 cases. Persons with an interest in the outcome of one or more of the 25 pending matters have been given an opportunity to intervene in or protest those pending matters by complying

³ 42 U.S.C. 4321 *et seq.*

⁴ 15 U.S.C. 717; 42 U.S.C. 7151

⁵ Federal Register, Vol. 79, p. 32261-32264, June 4, 2014.

⁶ *Ibid.*

with the procedures established in the respective notices of application issued in the pending 25 matters and published in the Federal Register."⁷ DOE/FE expressly confirmed that the timing of final action on conditional orders would not be affected by the proposed procedural changes, in stating that, "[f]urther, the [DOE/FE] will continue to act on requests for conditional authorizations during the period when the procedures proposed in this notice are under consideration."⁸

IV

FLEX COMMENTS ON THE PROPOSED PROCEDURAL CHANGES

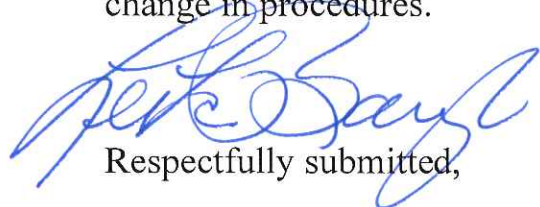
In the Notice, the DOE articulates three basic categories of concerns motivating the proposal for a change in established procedures: 1) a lack of need for "conditional decisions"; 2) a desire to have greater staff focus on the most "mature" applications; and 3) the realities of working with a limited staff. Without commenting on the basis for these concerns, FLEX does not object to the proposed changes in procedures so long as they: 1) do not adversely affect the timing or substance of FLEX's final order(s); and 2) do not provide opportunities for entities not currently having standing in the FLEX proceedings before DOE/FE to intervene and gain party status.

FLEX filed its initial applications in 2010 and 2011 and received its conditional approvals in May and November 2012. For almost four years, it has acted in reliance on the existing procedures established by DOE/FE. As described by DOE/FE, the proposed change in procedures will not affect FLEX as an existing conditional non-FTA authorization holder. As long as this remains true, FLEX is agnostic to the proposed change in procedure. If this proves to be untrue, for any reason, FLEX strongly objects to the proposed change.

⁷ *Ibid.* p. 32263

⁸ *Ibid.*

It is vitally important that, in any final decision on the proposed change, DOE again unequivocally states that: 1) such change will not apply to any FTA export decisions; 2) such change will not apply to any application where export of domestically sourced LNG to non-FTA countries has been conditionally authorized by DOE/FE; and 3) persons and entities not currently having standing in existing DOE/FE export dockets will not gain intervener or party status by virtue of the change in procedures.



Respectfully submitted,

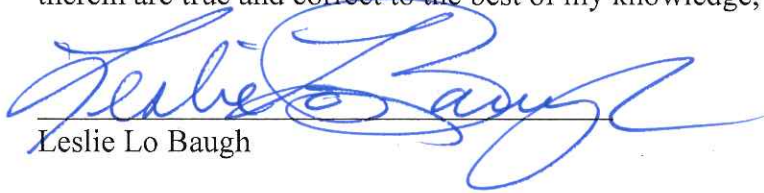
Les E. Lo Baugh, Jr.
Attorney for Applicants
Brownstein Hyatt Farber Schreck
2049 Century Park East, Ste. 3550
Los Angeles, California 90067

VERIFICATION

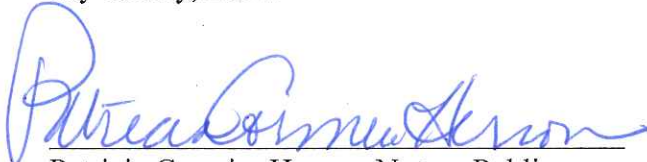
County of Los Angeles

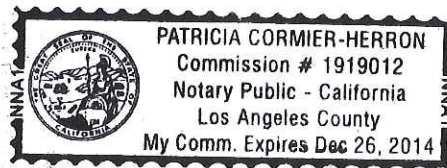
State of California

I, Leslie Lo Baugh, being duly sworn on his oath, do hereby affirm that I am familiar with the contents of this Request for Approval of Change in Control and that the matters set forth therein are true and correct to the best of my knowledge, information and belief.


Leslie Lo Baugh

Sworn to and subscribed before me, a Notary Public, in and for the State of California, this 21st day of July, 2014.


Patricia Cormier Herron, Notary Public



CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon the parties on listed below in Docket Nos. 10-160 LNG, 10-161 LNG, 12-06 LNG and 11-161-LNG and DOE/FE for inclusion in the FE dockets in the above-referenced proceedings in accordance with 10 C.F.R. § 590.107(b)(2011).

David Schryver
Executive V.P
American Public Gas Association
Suite C-4
201 Massachusetts Ave., NE
Washington, DC 20002

William T. Miller
Miller, Balis & O'Neil, P.C.
12th Floor
1015 Fifteenth Street, NW
Washington, DC 20005

Nathan Matthews
Associate Attorney
Sierra Club Environmental Law Program
85 2nd Street, Second Floor
San Francisco, CA 94105

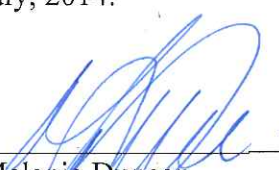
Kathleen Krust
Paralegal
Sierra Club Environmental Law Program
85 2nd Street, Second Floor
San Francisco, CA 94105

Joseph M. Santarella, Jr.
Santarella & Eckert, LLC
7050 Puma Trail
Littleton, CO 80125

Susan Eckert
Gulf Coast Environmental Labor Coalition
7050 Puma Trail
Littleton, CO 80125

Dated at Los Angeles, California, this 21st day of July, 2014.

By: _____


Melanie Duncan
Brownstein Hyatt Farber Schreck, LLP
2049 Century Park East, Suite 3550
Los Angeles, CA 90067