

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

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**CONOCOPHILLIPS ALASKA  
NATURAL GAS CORPORATION  
AND  
MARATHON OIL COMPANY**

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**FE DOCKET NO. 10-63-LNG**

**ORDER GRANTING AUTHORIZATION  
TO EXPORT  
LIQUEFIED NATURAL GAS  
FROM ALASKA**

**DOE Opinion and Order No. 2860**

**OCTOBER 5, 2010**

## I. SUMMARY

Following an examination of all record evidence in this proceeding in conformity with the requirements of section 3 of the Natural Gas Act, 15 USC 717b as amended by section 201 of the Energy Policy Act of 1992 (Pub. L. 102-486) (NGA); part 590 of DOE's regulations, 10 CFR part 590 (2008), and applicable delegations and redelegations of authority,<sup>1</sup> the Office of Fossil Energy (FE) of the Department of Energy (DOE) is herein granting the application of ConocoPhillips Alaska Natural Gas Corporation (CPANGC) and Marathon Oil Company (Marathon) (jointly, Applicants) for authority to export the balance of the volume of LNG authorized for export in Opinion and Order Nos. 2500<sup>2</sup> and 2500-A<sup>3</sup> (collectively, Order No. 2500) which will not have been exported by the termination date of the Order No. 2500 authorization on March 31, 2011. Order No. 2500 authorized the export of up to 99 Trillion British thermal units (TBtus) of LNG.<sup>4</sup>

The instant authorization will be effective for a period of two years, commencing April 1, 2011, and terminating March 31, 2013, and will permit exports from natural gas liquefaction and marine terminal facilities owned and operated by the Applicants near Kenai, Alaska (Kenai LNG Facility) to Japan and/or one or more countries globally with which trading is not prohibited by United States law. In making the forgoing determinations under section 3 of the NGA, FE has found that the requested authorization

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<sup>1</sup> See, DOE Delegation Order No. 00-002.001 (Nov. 10, 2009) and DOE Redelegation Order No. 00-002.04D (Nov. 6, 2007).

<sup>2</sup> ConocoPhillips Alaska Natural Gas Corporation and Marathon Oil Company's blanket authorization to export natural gas to Japan and/or one or more countries on either side of the Pacific Rim granted in DOE/FE Order No. 2500 on June 3, 2008, extends through March 31, 2011 (2 FE ¶ 71,623).

<sup>3</sup> Chugach Electric Association, Inc.'s Application for Rehearing of DOE/FE Order No. 2500, denied in DOE/FE Order No. 2500-A (2 FE ¶ 71,652).

<sup>4</sup> Based on a conversion factor of 1009 Btu/cubic foot of natural gas, this is equivalent to 98.1 Bcf of natural gas.

will not be inconsistent with the public interest and the application should be granted as filed.

## **II. PROCEDURAL HISTORY**

In Order No. 2500, FE authorized CPANGC and Marathon to export up to 99 TBtus of LNG for a two year period beginning on April 1, 2009, and extending through March 31, 2011, to Japan and/or one or more countries on either side of the Pacific Rim. On June 8, 2010, CPANGC and Marathon filed a joint application with FE seeking authority to export on their own behalf or as agents for others on a short-term or spot market basis a quantity of LNG equal to the difference between that authorized for export in Order No. 2500 and the quantity of LNG actually exported during the two-year period specified in Order No. 2500. The application sought an additional two-year blanket authorization commencing April 1, 2011, and terminating March 31, 2013, to export the balance of the Order No. 2500 volumes to Japan and/or one or more countries globally with which trade is not prohibited by United States law. Applicants expect to continue exporting LNG on their own behalf or as agents for others. The application included a request for expedited action, preferably within 90 days of the date of filing.

The application appended copies of three letters in support, respectively from the State of Alaska, Department of Natural Resources; Chugach Electric Association, Inc.; and United States Congressman Don Young. The application also contained resolutions in support from the State of Alaska House of Representatives; the State of Alaska Senate; the City of Kenai, Alaska; the Kenai Borough Assembly; the Mayor's Energy Task Force of the Municipality of Anchorage; the Board of Directors of the Kenai Peninsula Economic Development District; and the Greater Kenai Chamber of Commerce.

Additionally, the application included copies of press releases in support from Alaska Speaker of the House of Representatives, Mike Chenault; Alaska State Senator, Lesil McGuire; and the Mayor's Energy Task Force of the Municipality of Anchorage.

DOE issued a public notice of the application on June 28, 2010, requesting interested persons to submit interventions, comments, and/or protests by August 2, 2010.<sup>5</sup>

No interested person filed a motion to intervene or a protest of the application.

However, pursuant to the notice and 10 C.F.R. §§ 590.302 and 590.303, FE received timely filed comments from Congressman Don Young and United States Senators Mark Begich and Linda Murkowski; Wendy F. Lykins; Fritz G. Nagel; Don and Michelle Marshall; Alaska State Senators Bill Wielechowski, Bettye Davis, and Hollis French, and Alaska State Representatives Pete Petersen, Berta Gardner, Les Gara, and Chris Tuck; Resources Development Council for Alaska; ENSTAR Natural Gas Company; Michael and Kathy Grabowski; and Alaska State Representative Mike Hawker.

Additionally, on August 3, 2010, FE received a Motion for Extension of Time to File Comments and Comments from Sean Parnell, Governor of the State of Alaska. On August 17, 2010, the Applicants submitted a request to respond and a response to certain of the aforementioned comments. On August 19, 2010, Alaska State Senators Bill Wielechowski, Bettye Davis, and Hollis French, and Alaska State Representatives Pete Petersen, Berta Gardner, Les Gara, and Chris Tuck submitted additional comments and a motion for leave to file the additional comments out-of-time. On August 31, 2010, the

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<sup>5</sup> 75 FR 38093, July 1, 2010.



Applicants filed a response to the August 19 filing and renewed their request for expeditious consideration of the application.

### **III. REQUESTS FOR LEAVE TO FILE OUT OF TIME**

As indicated above, FE received requests for leave to file comments and responses out of time from the Governor, the Applicants, and jointly from several members of the Alaska legislature. Upon review, I find that acceptance of these filings will not prejudice the rights of other persons. I note also that no person filed in opposition to the acceptance of these pleadings. Accordingly, they will be accepted for filing.

### **IV. THE APPLICATION**

Pursuant to Order No. 2500, the Applicants hold an existing short-term, or “blanket” authorization to export up to 99 TBtus of LNG for a two year period beginning on April 1, 2009, and continuing through March 31, 2011, to Japan and/or one or more countries on either side of the Pacific Rim. The full history of the Applicants’ existing export authorization is recounted in greater detail in Order No. 2500.

In the instant application, the Applicants seek an additional two-year blanket authorization beginning on April 1, 2011, and extending through March 31, 2013, and to broaden the range of authorized destinations from “Japan and/or one or more countries on either side of the Pacific Rim” to “Japan and/or one or more countries globally with which trading is not prohibited by United States law”. In all other respects, the Applicants do not propose to alter their existing blanket authorization. In particular, the Applicants do not propose to increase the cumulative export volumes beyond those

authorized for export in Order No. 2500. Of the 99 TBtu's authorized for export in Order No. 2500, the Applicants state that approximately 35 TBtu's were exported as of the last tanker departure on May 24, 2010, and they estimate a total of 55 TBtu's will have been exported when the Order No. 2500 authorization expires on March 31, 2011.

The Applicants further state that the purpose of the instant application is to ensure that they have the necessary blanket authorization to make additional exports beyond March 31, 2011, not to exceed the un-exported balance of volumes authorized for export in Order No. 2500, but note that the decision to do so will be affected by LNG market conditions; the ability to secure LNG shipping at economic rates; and strategic decisions regarding the future role of the Kenai LNG facility.

In support of their application, the Applicants state that the proposed export authorization is not inconsistent with the public interest and thus meets the public interest standard established pursuant to section 3 of the NGA.

More specifically, the Applicants contend that allowing an additional two years time to complete the export volumes authorized in Order No. 2500 will not jeopardize service to the local markets into which this natural gas might otherwise be sold and, that, on the contrary, the operations of the Kenai LNG Facility will enhance the supply security of local markets on a day-by-day basis during the export term. In this regard, the Applicants explain that they currently divert Kenai LNG Facility plant inlet volumes when necessary in order to meet supply obligations to local customers, including utilities, during periods of peak local demand. According to the Applicants, this diversion of gas provides a critical back-up supply service for the local market on the coldest days of the year.

The Applicants note their awareness of the local desire for additional natural gas storage capacity but opine that such additional capacity is not likely to be developed during the two years of the requested authorization, thereby suggesting the importance of continuing operations at the Kenai LNG Facility. Also, the Applicants state that the base level of demand at the Kenai LNG Facility during the summer ensures that natural gas wells are not curtailed or shut-in due to decreased local utility demand which, in turn, helps to protect reserves and well deliverability to serve higher utility demand during the winter. The Applicants further state that the Kenai LNG Facility could be retrofitted to provide revaporization capability and function as a natural gas storage facility and/or an import and regasification facility. Also, the Applicants posit the possibility that the Kenai LNG Facility could be critical to the economic viability of any natural gas “bullet line” from the North Slope of Alaska should one be built.

The Applicants observe that the natural gas to be exported if the current application is granted has already been determined in Order No. 2500 to be surplus to regional needs on a reserve basis, and additionally that the LNG to be exported during the additional two-year period will not be needed to satisfy regional demand for natural gas. They also cite to three natural gas studies that have been conducted since issuance of Order No. 2500 that, they allege, are consistent with the conclusion that the natural gas to be exported under the requested blanket authorization is not needed to meet regional demand. These three studies include:

(1) “Cook Inlet Gas Study—An Analysis for Meeting the Needs of Cook Inlet Utility Customers,” a March 2010 report by Petrotechnical Research Alaska (PRA), commissioned by three utility companies, including Anchorage Municipal Light and Power, Chugach Electric Association, Inc., and ENSTAR Natural Gas Company. The



Applicants state that the PRA Cook Inlet Gas Study evaluated natural gas reserves and forecast annual natural gas production in the Cook Inlet and concluded that the Kenai LNG Facility is beneficial to supply security in the region and that, while the utilities must develop natural gas storage to assure deliverability on the coldest days, the Kenai LNG Facility would continue to provide peak shaving service in the meantime.

(2) “Preliminary Engineering and Geological Evaluation of Remaining Cook Inlet Gas Reserves,” a December 2009 study by the Division of Oil and Gas and the Division of Geological & Geophysical Surveys in the State of Alaska’s Department of Natural Resources (the DNR Study). According to the Applicants, the DNR Study assumed that the full 99 TBtus authorized for export in Order No. 2500 would be exported by March 31, 2011, and that LNG exports would cease thereafter, but concluded nonetheless that “enough proved and probable gas reserves exist in Cook Inlet Reservoirs to satisfy local demand well into, and possibly beyond the next decade.” Application at 11 (quoting the DNR Study at 34). The Applicants add that, notwithstanding the DNR Study’s assumption of no LNG exports after March 31, 2011, the conclusions in the DNR Study do not depend upon there being no such further exports. In this regard, the Applicants have appended to the application a March 15, 2010, letter from DNR which states that the DNR Study “provides a basis for there being a supply of gas for continuation of LNG exports after March 31, 2011 pursuant to the export authorization required by Applicants while also meeting local demand.” Application at 12.

(3) “Potential Supply of Natural Gas in the United States,” the most recent (December 31, 2008) report of the Potential Gas Committee on domestic natural gas reserves. According to the Applicants, the PGC Report indicates that there were 1,050 Bcf of Probable reserves and 2,100 Bcf of Possible reserves in the Cook Inlet-Susitna



Basin, thereby largely confirming the reserves projections set forth in the studies used to support the findings of adequate supply in Order No. 2500.

In connection with the foregoing studies, the Applicants also point out that they have taken steps to ensure that regional natural gas needs will be met as a consequence of their having drilled a number of exploratory and developmental natural gas wells. These wells, according to the Applicants, were drilled in accordance with and in excess of the Applicants' obligations under a settlement with the State of Alaska in the proceeding that resulted in Order No. 2500.

Furthermore, the Applicants maintain that with the supply to be provided pursuant to two recently executed and approved contracts between an affiliate of Marathon and Cook Inlet utilities, in combination with other preexisting supply arrangements, virtually all of the utilities' projected natural gas needs will be satisfied through the term of the authorization requested in the instant application.

In addition to addressing the question of domestic need, the application asserts that the public interest will be served by a grant of the requested authorization due to economic benefits that derive from the operations at the Kenai LNG Facility. In particular, the Applicants assert that the Kenai LNG Facility employs approximately 60 people directly and 50 people indirectly, thereby generating an estimated \$17 million in personal income. CPANGC estimates that the Kenai LNG Facility's impact on the state and local economy is \$130 million per year. The application states also that the facilities generate approximately \$60 million per year in royalties and taxes for the State of Alaska and the Kenai Peninsula Borough.

Applicants contend that a grant of the application will not constitute a major Federal action significantly affecting the quality of the human environment within the

meaning of the National Environmental Policy Act of 1969, 42 USC 4321, *et seq.* (NEPA) and that no environmental impact statement or environmental assessment is required. The Applicants state that a grant of the application will not necessitate any modification of the Kenai LNG Facility and that the LNG manufacturing and storage facilities to be utilized during the blanket authorization already exist and have been operated safely without major disruption of supply or accident from their startup in 1969.

## **V. INTERVENTIONS, COMMENTS, AND PROTESTS**

As summarized above, FE received several comments, including letters, press releases, and official resolutions, in response to the application. The letters, press releases, and resolutions that were appended to the application support an unconditional grant of the requested authorization. Of the comments received following publication of the notice of application in the Federal Register, several likewise supported a grant of the requested authorization without condition. Certain other comments, however, opposed a grant of the application or proposed a conditional grant of the application. The comments received by FE included the following:

(1) The letter from Wendy F. Lykins, filed July 19, 2010, while not expressly opposing a grant of the application, stated her understanding that there may not be enough natural gas available locally in the future to meet local supply needs and that, given the harsh winters in the Cook Inlet area, granting the application could be “a major problem”.

(2) The letter from Fritz G. Nagel, filed July 19, 2010, opposed a grant of the requested authorization. Mr. Nagel stated that he was a retired Marathon Oil Company employee and a geological engineer with many years of experience in exploration. He

further contended “that chances of discovering substantial new reserves of this resource [natural gas] in the Cook Inlet Basin are very poor;” that he hoped “that modest reserve supplements...will tide us over until supplies are piped from the North Slope or imported from overseas;” and that “[d]evelopment of geothermal and new hydroelectric power sources will not arrive in time to forestall the impending crisis here.”

(3) The letter from Don and Michelle Marshall, filed July 23, 2010, asked that DOE/FE adopt the position expressed in an attached emailed newsletter from State of Alaska Representative Berta Gardner (Gardner newsletter). The Gardner newsletter took the position that the requested authorization should not be granted until local needs for natural gas have been met. In order to show that local needs are met, the newsletter specified three conditions should be imposed on any authorization issued by FE. These included: (a) Binding contracts must be in place with Alaskan utilities to meet local needs at fair prices through the term of the export license; (b) Commitment to new exploration in Cook Inlet to maintain current levels of gas reserves; and (c) Agreement to provide access to the Kenai LNG Facility to encourage new explorers in Cook Inlet. The Gardner newsletter further contended that these three conditions were warranted since ConocoPhillips allegedly derives significant benefits from new state legislation (HB280), including: (a) enhanced regulatory certainty from a requirement directing the Regulatory Commission of Alaska to consider the impact on consumers when proposed gas contracts are denied; (b) tax benefits that include a low tax rate; a tax credit that can be applied to production from the North Slope or other fields; and the fact that ConocoPhillips’ tax credits are worth \$100 million but its estimated state tax revenues are \$60 to \$70 million; and (c) full financial support for construction of a new gas storage facility. Additionally, the Gardner newsletter states that ConocoPhillips has 9,000 acres of State land under



lease in the Cook Inlet and that its Alaskan profits last year were \$1.54 billion while ConocoPhillips' operations in the rest of the United States yielded a loss of \$37 million.

(4) The letter from Michael and Kathy Grabowski, filed August 2, 2010, like the letter from the Marshalls, described above, contends that the requested authorization should not be granted until local needs for natural gas have been met and argues that the same three conditions listed in the Gardner newsletter should be imposed on any authorization issued by FE.

(5) The letter from Alaska Senator Wielechowski, et al., filed July 28, 2010,<sup>6</sup> argues that the requested export authorization should not be granted until local needs for gas have been met through signed contracts with gas producers. This letter challenges the proposition, set forth at page 12 of the application, that existing gas contracts will satisfy utilities' needs for gas through the term of the requested authorization. Specifically, the letter maintains that "[t]he local gas company which serves roughly half of Alaska's population is short about .9 billion cubic feet of gas in 2011 and 1.1 billion cubic feet in 2012." The letter also projects that "in the first quarter of 2013, more than one-third of the region's energy needs is unmet, leaving families and business in Southcentral Alaska in a perilous position."

(6) ENSTAR filed a letter on August 2, 2010, in support of the application. ENSTAR is the largest utility in the State of Alaska and it serves approximately one-half of the State's population. ENSTAR states that it depends entirely upon Cook Inlet natural gas to meet the needs of its customers; that it has in place two supply agreements with Marathon; and that it has recently negotiated and submitted for approval by the Regulatory Commission of Alaska (RCA) a non-firm supply agreement with CPANGC

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<sup>6</sup> This filing is dated July 8, 2010 but it was not filed until July 28, 2010.



that, if approved, will be in effect during the term of the authorization requested in this proceeding. While ENSTAR supports a grant of the requested authorization, its letter is noteworthy in that it expounds upon the extent of the obligations of gas suppliers, including the Applicants, to meet local supply needs. ENSTAR indicates that the Applicants obligation to divert gas from the Kenai LNG Facility and to make sales of gas under these contracts is interruptible, not firm, and more specifically that it is subject to a provision reserving to the Applicants the right not to divert gas if curtailment of deliveries to the Kenai LNG Facility would result in any material operational difficulties or technical harm to the facilities. Notwithstanding the interruptible obligation of the Applicants to meet ENSTAR's gas needs, ENSTAR supports a grant of the requested authorization for the following stated reasons:

(a) The ability to divert gas deliveries from the LNG export facility currently functions as back-up natural gas supply for the local market. The diversion of this gas is a critical supply resource on the coldest winter days.

(b) A company affiliated with ENSTAR and an affiliate of MidAmerican Energy Holdings Company have recently applied to the RCA for a certificate for a new gas storage facility in Alaska. While the proposed storage facility will not become fully operational until 2012-13 at the earliest, approval of the requested export authorization will allow the Kenai LNG Facility to continue to operate and thus for gas to be diverted from the plant for local use until the new storage facility is in place.

(c) If the requested authorization were denied and the Kenai LNG Facility shuts down during 2011-2013, Marathon has the contractual right to reduce its deliveries to ENSTAR by 14 million cubic feet per day. Such a reduction would effectively increase the unmet needs of ENSTAR's customers during the winter months.

(d) Export-driven demand during the summer allows local producers to keep Cook Inlet wells flowing during periods of low utility customer demand. This steady demand contributes to the maintenance of well deliverability and the protection of reserves, which are important to ensure the availability of gas during the winter months.

(7) The letter from State Representative Hawker, filed August 2, 2010, also supports a grant of the requested authorization. Representative Hawker stresses the importance of continued operations of the Kenai LNG Facility for the creation of an expanded market for gas producers and to ensure that local demand is met. The importance of this facility, according to Representative Hawker, is made even greater because production from existing wells in the region is tapering off and additional supplies are tougher and costlier to access. “To date, the export facility has proven the linchpin holding the entire production, distribution and supply chains together. The need to maintain, at a minimum, existing production levels in Cook Inlet is immediate and pressing, and depends in large part on the ability to export.” A failure to grant the requested authorization, according to Representative Hawker, would put natural gas supply to regional homes, businesses, and industry in jeopardy. Representative Hawker acknowledges that the contracts between gas suppliers and regional utilities are not presently sufficient to ensure full expected demand in the next several years. But, he states, “the gap is a small percentage of total need” and he “fear[s] that without the option of continued exports at Kenai, producers will be confronted with additional disincentives to maintain current production levels, potentially darkening the potential of contracts closing even that narrow gap.”

(8) On August 3, 2010, the State of Alaska filed a Motion for Extension of Time to File Comments and a letter from Governor Sean Parnell which constitute the State’s

comments. As discussed above, the Motion for Extension of Time is granted. The State supports a conditional grant of the application. In particular, the State observes that the Applicants' existing export authorization under Order No. 2500 is governed by a settlement agreement with the State and that an extension of the Order No. 2500 authorization should only be permitted if the two critical terms of the settlement agreement are likewise extended. These two terms of the settlement include: (a) local gas utility gas supply needs are met, particularly during times of shortage under terms that protect Alaskans' interests; and (b) third-party producers will be allowed access to the export facility under terms FE deems reasonable. Generally, the State acknowledges the critical role that continuing operations of the Kenai LNG Facility in balancing the region's demand and supply equilibrium. However, the State maintains that local gas utilities' needs also must be met. To harmonize these goals, the State asserts that approval of the application must be conditioned on having local utility gas supplies under contract for the export period.

(9) On August 19, 2010, Alaska Senator Wielechowski, et al. submitted a supplement to their July 28 comments. The August 19 supplemental comments re-emphasized the authors' position that an unconditional export license that does not guarantee a local natural gas supply for Alaska residents and businesses is not in the public interest. In support of their comments, the authors appended a copy of a 2008 settlement agreement between the Applicants and the State of Alaska. According to the authors, that settlement agreement required the Applicants to make written, binding commitments to supply local gas needs in exchange for the State of Alaska withdrawing their opposition to a grant of the Applicant's current export authority. The August 19 supplemental comments also challenge a statement in the Application to the effect that



existing supply contracts will “satisfy virtually all” of the local utilities’ natural gas needs through the term of the requested blanket authorization. According to the August 19 supplemental comments (at page 3), that statement “is both a concession that all supply needs are not met and an exaggeration.” The August 19 comments continue:

The local gas company [ENSTAR] which serves roughly half of Alaska’s population is potentially short about .9 billion cubic feet of gas in 2011 and 1.1 billion cubic feet in 2012. Then, in the first quarter of 2013, more than one-third of the region’s need is potentially unmet. Unless a best case scenario occurs, families and businesses in Southcentral Alaska could be left in a perilous position.

Given the foregoing, the August 19 comments conclude that a contract requiring the Applicants to meet local gas demand is needed again.

## **VI. APPLICANTS’ REPLIES**

As noted above, the Applicants submitted two responses to the various filed comments. In the August 17 response, the Applicants responded to the July 28 filing from the seven named Alaska State legislators and the August 3 comments from the Governor of Alaska. The Applicants’ August 31 response addressed the August 19 supplemental response from the seven named Alaska State legislators. Essentially, the two rounds of responses from the Applicants explained and reaffirmed the commitment they have made toward meeting local gas supply needs. Specifically, the response states that an affiliate of one of the Applicants entered into natural gas supply contracts with both Chugach Electric Association, Inc. and ENSTAR Natural Gas Company that have been approved by the RCA. The Applicants reiterated that these contracts, together with preexisting natural gas supply would supply substantially all of the local utility natural gas needs through the term of the authorization requested. In addition, the Applicants state that the August 2, 2010, ENSTAR letter of support for the export application reported that ENSTAR had



negotiated a new natural gas supply contract with an affiliate of CPANGC for additional non-firm service during the proposed export period, for which it will seek RCA approval. In addition, the Applicants state that ENSTAR noted that as part of their contractual arrangements, the Applicants have agreed to divert natural gas from the export facility to the local market. Further, the Applicants included a letter dated July 13, 2010, from Mr. Trond-Erik Johansen, the President of ConocoPhillips Alaska, reiterating the Applicants' commitment to continue to divert plant inlet volumes when necessary in order to meet supply obligations to local customers, including utilities, during times of peak local demand. In addressing Governor Parnell's concern regarding access to the LNG Plant, the Applicants state that Mr. Johansen observed that operation of the export facility creates a market into which any potential producer in Cook Inlet could place natural gas. Consequently, the Applicants state that it is unnecessary to condition the requested authorization on a requirement that the Applicants do anything further.

## **VII. DECISION**

The current application seeks authorization to export LNG from Alaska to Japan and other locations in volumes that were previously reviewed and authorized in Order No. 2500. The standard of review in Order No. 2500, as here, is whether the proposed export is inconsistent with the public interest and, in particular, whether there is a shortage of natural gas supplies in the local Southeastern Alaska market such that local needs for natural gas cannot be met and whether there are other public interest considerations which would make a grant of the requested authorization inconsistent with the public interest.

The Applicants have adduced new supply studies performed after the issuance of Order No. 2500 in support of their claim that natural gas to be exported under the requested blanket authorization is not needed to meet regional demand, and that allowing the proposed exports and permitting exports of the remaining authorized but un-exported Order No. 2500 volumes will not be inconsistent with the public interest. The Applicants have also contended that a grant of the requested authorization will redound to the benefit of the local community principally due to the willingness of the Applicants to use their facility in effect as a source of supply on the coldest days of the year when other sources of local supply may become unavailable.

No comments received in response to the application challenge the validity of the Applicants' assertions regarding supply conditions and the public interest. While certain commenters, most notably the Governor of Alaska and seven State of Alaska legislators, contend that DOE should impose a condition on the requested authorization requiring the Applicants to contractually commit in writing to meet local natural gas needs during the term of the requested authorization, DOE's public interest determination under the Natural Gas Act does not turn on whether applicants for export authority have entered into contractual commitments with local customers.

The Applicants state their intention to export the LNG authorized in this application on their own behalf or as agents for others. DOE/FE has reviewed its policy with respect to exports of LNG on behalf of other entities and denies the request for the Applicants to export LNG on behalf of other entities who themselves hold title, as discussed below.

DOE is adopting a non-binding policy that the title for all LNG authorized to be exported shall be held by the authorization holder (in this case, the Applicants) at the

point of export. LNG exports occur when the LNG is delivered to the flange of the LNG export vessel. By adopting a non-binding policy limiting exports to the authorization holder (the Applicants in this case), DOE will ensure that the exporter is aware of all requirements in the Order, DOE will have a record of all authorized exporters, and DOE will have direct contact information and point of contact with the exporter who has title. Regardless of who assumes title after the LNG has been exported from the United States, the Applicants, as authorization holder, shall ensure that all exports authorized by this order are permitted and lawful under United States laws and policies, including the rules, regulations, orders, policies, and other determinations of the Office of Foreign Assets Control of the United States Department of the Treasury.

This order does not vacate the authority in Order 2500 authorizing the Applicants to export LNG on behalf of other entities, which expires March, 31, 2011. However, DOE/FE is in the process of preparing a separate order that will vacate such authority in all such existing orders involving the Applicants and others, after allowing time to modify commercial transactions that may be affected.

In determining whether the requested authorization is inconsistent with the public interest, DOE also is required to consider the National Environmental Policy Act (NEPA) compliance aspects of the requested LNG export authorization. In the present case, DOE has determined that it is not required to prepare a detailed analysis of the potential effects of granting the application. The requested authorization does not involve new construction or changes in existing export operations. Authorization by DOE would not involve any extraordinary circumstances. Therefore, DOE has determined that its authorization of the Applicants' request to export LNG is covered by the Categorical



Exclusion found at paragraph B5.7 of Appendix B to Subpart D, 10 CFR Part 1021, which applies to the approval of new authorization to import/export natural gas.

## **VIII. FINDINGS**

Upon consideration of the record, we find that the proposed authorization has not been shown to be inconsistent with the public interest and should be granted. In particular, the record shows LNG to be exported under the requested blanket authorization is not needed to meet regional demand through the authorization timeframe. Furthermore, we believe the blanket authorization will continue benefits provided by the export to the Alaskan economy and international trade.

## **ORDER**

Pursuant to section 3 of the Natural Gas Act, and for the reasons set forth above, it is ordered that:

A. CPANGC and Marathon are authorized to export, on their own behalf, a quantity of LNG equal to the difference between the 99 TBtus of LNG authorized by DOE/FE in Order No. 2500 and the cumulative volume that is ultimately exported by Applicants under Order No. 2500 through March 31, 2011. This LNG may be exported to Japan and/or one or more countries globally with which trading is not prohibited by United States law. This authorization shall be effective for a two-year term beginning on April 1, 2011, and extending through March 31, 2013.

B. This LNG may only be exported from the Kenai LNG Facility located near Kenai, Alaska.

C. Monthly Reports: With respect to the export of LNG authorized by this Order, both CPANGC and Marathon shall file with the Office of Natural Gas Regulatory



Activities, within 30 days following the last day of each calendar month, a report indicating whether exports of LNG have been made. Monthly reports must be filed whether or not initial deliveries have begun. If no exports have been made, a report of “no activity” for that month must be filed. If exports of LNG have occurred, the report must give the following details of each LNG cargo: (1) the name of the U.S. export terminal; (2) the name of the LNG tanker; (3) the date of departure from the U.S. export terminal; (4) the country of destination; (5) the name of the supplier/seller; (6) the volume in thousand cubic feet (Mcf); (7) the delivered price per million British thermal units (MMBtu); (8) the duration of the supply agreement (indicate spot sales); and (9) the name(s) of the purchaser(s). (Approved by the Office of Management and Budget under OMB Control No. 1901-0294.)

D. The first monthly report required by this Order is due not later than May 30, 2011, and should cover the reporting period from April 1, 2011, through April 30, 2011.

E. All monthly report filings shall be made to U.S. Department of Energy (FE-34), Office of Fossil Energy, Office of Natural Gas Regulatory Activities, P.O. Box 44375, Washington, D.C. 20026-4375, Attention: Ms. Yvonne Caudillo. Alternatively, reports may be e-mailed to Ms. Caudillo at [Yvonne.caudillo@hq.doe.gov](mailto:Yvonne.caudillo@hq.doe.gov) or [ngreports@hq.doe.gov](mailto:ngreports@hq.doe.gov), or may be faxed to Ms. Caudillo at (202) 586-6050.

G. The State of Alaska’s Motion for Extension of Time to File Comments, and Governor Sean Parnell’s Comments, submitted August 3, 2010, is granted.

H. Alaska State Legislator’s (Alaska State Senators Bill Wielechowski, Bettye Davis, and Hollis French, and Alaska State Representatives Pete Petersen, Berta Gardner, Les Gara, and Chris Tuck) motion for leave to file additional comments out-of-time and comments, submitted August 19, 2010, is granted.

Issued in Washington, D.C., on October 5, 2010.

A handwritten signature in blue ink, reading "John A. Anderson". The signature is fluid and cursive, with a horizontal line extending from the end of the name.

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John A. Anderson  
Manager, Natural Gas Regulatory Activities  
Office of Oil and Gas Global Security and Supply  
Office of Fossil Energy