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January 3, 2014

**VIA ELECTRONIC DELIVERY**

Mr. John A. Anderson  
Director  
Office of Fuels Programs, Fossil Energy  
U.S. Department of Energy  
Docket Room 3F-056, FE-50  
Forrestall Building  
1000 Independence Avenue SW  
Washington, DC 20585

**Re: Delfin LNG, LLC  
FE Docket No. 13-147-LNG  
Petition and Motion for Issuance of an Order Establishing a Separate and  
Simultaneous Process to Consider Applications for the Export of Liquefied  
Natural Gas to Non Free Trade Agreement Countries from Offshore  
Deepwater Natural Gas Ports, Amicus Brief and Motion for Expedited  
Consideration**

Dear Mr. Anderson:

Pursuant to Sections 590.103 and 590.302(a) of the Administrative Procedures with Respect to the Import and Export of Natural Gas ("Procedures") of the Department of Energy ("DOE"), 10 C.F.R. §§ 590.103 and 590.302(a) (2013), The Texas Alliance of Energy Producers ("Petitioner") hereby submits for filing with the DOE's Office of Fossil Energy ("DOE/FE") an electronic version of its Petition and Motion for Issuance of an Order Establishing a Separate and Simultaneous Process to Consider Applications for the Export of Liquefied Natural Gas to Non Free Trade Agreement Countries from Offshore Deepwater Natural Gas Ports, Amicus Brief and Motion for Expedited Consideration ("Brief") to be placed as public comment in FE Docket No. 13-147-LNG, Delfin LNG, LLC.

As set forth in greater detail in the Brief, Petitioner respectfully requests that the DOE establish a separate process for the review of applications for the exportation of liquefied natural gas ("LNG") to countries with which the United States does not have in effect a Free Trade Agreement ("FTA") for trade in natural gas that involve exports from deepwater natural gas ports that are subject to the Deepwater Port Act, 33 U.S.C. § 1501 *et seq.* The separate process would operate simultaneously with the review criteria issued by the DOE on December 5, 2012.

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The Brief contains a signed verification statement pursuant to Section 590.103(b) of the DOE's Procedures, 10 C.F.R. § 590.103(b).

If you have any questions about this submission, please do not hesitate to contact D. Alex Mills at (940) 723-4131.

Respectfully submitted,



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D. Alex Mills  
President and Chief of Staff  
Texas Alliance of Energy Producers

**UNITED STATES of AMERICA**

**before the**

**DEPARTMENT OF ENERGY,**

**OFFICE of FOSSIL ENERGY**

**In the Matter of**

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**FE Docket No. 13-147-LNG**

**Delfin LNG, LLC**

**AMICUS BRIEF IN SUPPORT OF PETITION AND MOTION FOR  
ISSUANCE OF AN ORDER ESTABLISHING A SEPARATE AND  
SUMULTANEOUS PROCESS TO CONSIDER APPLICATION FOR THE  
EXPORT OF LIQUEFIED NATURAL GAS TO NON FREE TRADE  
AGREEMENT COUNTRIES FROM OFFSHORE DEEPWATER  
NATURAL GAS PORTS**

The Texas Alliance of Energy Producers (the "Alliance") submits this Amicus Curiae brief in support of issuance of a separate process to consider application for export of liquefied natural gas to non free trade agreement countries from offshore deepwater natural gas ports.

**STATEMENT OF INTEREST OF THE  
TEXAS ALLIANCE OF ENERGY PRODUCERS**

The Texas Alliance of Energy Producers is a Texas-based trade association of independent oil and gas producers. It is one of the largest state independent oil

and gas associations in the United States, with over 3,500 members distributed throughout 300 cities in 25 different states. The Alliance's principal office is in Wichita Falls, Texas, with additional offices in Austin and Houston. The fees for this brief will be solely paid by the Texas Alliance of Energy Producers.

The Alliance was formed in 2000, when the North Texas Oil & Gas Association and the West Central Texas Oil & Gas Association merged. The Alliance traces its history back to the 1930s, when small groups of independent oil producers met and formally organized as the North Texas Oil and Gas Association and, separately, the West Central Texas Oil & Gas Association. Since its inception, the Alliance has represented the interests of independent producers in Texas and Washington on a variety of matters, including issues related to oil and gas policy, budget, taxation, environmental issues, endangered species act and other regulatory matters. It also frequently appears as amicus curiae in cases affecting its members and the industry.

On November 12, 2013, the Board of Directors of the Texas Alliance of Energy Producers unanimously voted to support the export of LNG from ports within the United States of America.

The Texas Alliance of Energy Producers will make no financial contribution to Respondent Delfin LNG, LLC or United LNG, LP or its affiliates in connection

with the preparation of this brief. The fees for this brief will be paid solely by the Alliance.

The production of natural gas from shale formations has rejuvenated the natural gas industry in the United States.

Shale gas refers to natural gas that is trapped within shale formations. Shales are fine-grained sedimentary rocks that can be rich sources of petroleum and natural gas. Over the past decade, the combination of horizontal drilling and hydraulic fracturing has allowed access to large volumes of shale gas that were previously uneconomical to produce.

Of the natural gas consumed in the United States in 2011, about 95% was produced domestically; thus, the supply of natural gas is not as dependent on foreign producers as is the supply of crude oil, and the delivery system is less subject to interruption. The availability of large quantities of shale gas should enable the United States to consume a predominantly domestic supply of gas for many years and produce more natural gas than it consumes.

The Energy Information Administration's 2012 Natural Gas Annual Report shows record natural gas production and consumption levels in the United States. In 2012, domestic dry production of 24.1 trillion cubic feet (Tcf), or 65.7 billion cubic feet per day, (Bcf/d) rose 5 percent over 2011 with Pennsylvania making the largest gains of any state. Dry production in Pennsylvania rose from 3.6 Bcf/d in

2011 to 6.1 Bcf/d in 2012. Record levels of consumer deliveries at 23.4 Tcf, or 64.0 Bcf/d, were spurred by unprecedented use of gas used to generate electricity -- which rose from 20.7 Bcf/d in 2011 to 24.9 Bcf/d in 2012.

The U.S. Energy Information Administration's [\*Annual Energy Outlook 2013 Early Release\*](#) projects U.S. natural gas production to increase from 23.0 trillion cubic feet in 2011 to 33.1 trillion cubic feet in 2040, a 44% increase. Almost all of this increase in domestic natural gas production is due to projected growth in shale gas production, which grows from 7.8 trillion cubic feet in 2011 to 16.7 trillion cubic feet in 2040.

As producers of natural gas, the members of the Texas Alliance of Energy Producers have a high level of interest in future markets for natural gas. Because natural gas is a clean-burning fuel and it has a high energy content, it is in high demand by consumers worldwide. For these reasons, the Board of Directors and membership of the Texas Alliance of Energy Producers believe that the Department of Energy should create a separate and simultaneous review process for all pending LNG export applications that do not fall within the FERC purview.

At this time, Petitioner has identified two pending non-FTA LNG export applications that will be treated separately if the relief requested herein is granted by DOE/FE.

1. FE Docket No. 13-26-LNG

FE Docket No. 13-26-LNG involves an offshore deepwater port.<sup>1</sup> This application is seeking a long-term, multi-contract authorization to export domestically sourced LNG in the amount of 1,176 billion cubic feet (“Bcf”) per year of natural gas, or 3.2 Bcf per day to both FTA and non-FTA Countries for a 30-year term from the planned MPEH Port.<sup>2</sup> The Application was submitted following the enactment of the CG&MT and includes a request for separate treatment on the grounds that it involves exports from a proposed offshore DWPA facility.<sup>3</sup> The Application indicates that it will apply for an authorization from MARAD for the proposed terminal facilities of the MPEH Port.<sup>4</sup>

This Application was noticed in the *Federal Register* on June 6, 2013.<sup>5</sup> Several comments were filed, but no person or entity has challenged the request for separate treatment. On May 24, 2013, the DOE issued DOE/FE Order No. 3290 authorizing the export of LNG from the MPEH Port to FTA Countries, while

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<sup>1</sup> See Department of Energy, Notice of Application, FE Docket No. 13-26-LNG, 78 Fed. Reg. 34,084 (June 6, 2013) (“Notice of Application”). This application involves the MPEH.

<sup>2</sup> See Application, § I.

<sup>3</sup> Application, § VII. Application explains that good cause exists to consider the Application separately from other applications involving exports to non-FTA countries because they are subject to a completely different regulatory authority, which includes different review processes, procedures and timing. As noted in the Application, the MPEH Port is subject to MARAD’s jurisdiction; however, MARAD’s jurisdiction over natural gas exports from deepwater port terminals was only enacted on December 20, 2012, only 64 days prior to the submission of the Application to the DOE. Applicant also explained that it had submitted a Letter of Intent to MARAD on October 3, 2012, informing MARAD of its intention to seek out an authorization to export LNG from the MPEH Port and, following discussions with the DOE concerning Applicant’s intention to file the Application, Applicant understood that it could not file its Application until after MARAD’s jurisdiction was extended to cover natural gas exports from deepwater port terminals.

<sup>4</sup> Application, Section VI.

<sup>5</sup> See Notice of Application.

leaving the portion of the Application concerning non-FTA Countries open for further review.<sup>6</sup>

2. FE Docket No. 13-147-LNG

This docket involves an FTA application submitted to the DOE/FE on November 12, 2013, by Delfin LNG LLC (“Delfin”).<sup>7</sup> Delfin requests an authorization to export natural gas to both FTA and non-FTA Countries in the amount of 1.8 Bcf per day or 657.5 Bcf per year, for a term of 20 years, from a proposed deepwater port located in West Cameron Block 167 of the Gulf of Mexico, offshore Cameron Parish, Louisiana.<sup>8</sup>

The DOE should establish a separate process for non-FTA export applications that involve deepwater ports. This process should be operated simultaneously and in parallel with the process established on December 5, 2012, which by its own terms relies on the FERC’s pre-filing process to stratify applications submitted on or before that date. The FERC’s pre-filing procedures do not apply to MARAD and the current Order of Precedence was designed primarily with the FERC process in mind.

Establishing a separate order of precedence for non-FTA export applications involving MARAD-licensed facilities is consistent with the legislative history of

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<sup>6</sup> DOE/FE Order No. 3290, Order Granting Long-Term Multi-Contract Authorization To Export Liquefied Natural Gas By Vessel From The Proposed Main Pass Energy Hub™ Deepwater Port 16 Miles Offshore Of Louisiana To Free Trade Agreement Nations, FE Docket No. 13-26-LNG (May 24, 2013) (“FTA Order”).

<sup>7</sup> See Delfin LNG LLC, Application for Long-Term Authorization to Export LNG To Free Trade Agreement Countries, FE Docket No. 13-129-LNG (Oct. 7, 2013) (“Delfin Application”).

<sup>8</sup> Delfin Application, §§ III-IV.



the DWPA. It is also consistent with more recent official communications from Members of the House of Representatives and the Senate to the Secretary of the DOE, which indicate Congress' desire for expeditious handling of deepwater port natural gas exports. Moreover, several Executive Orders issued by President Barack Obama and President George W. Bush direct Federal agencies to coordinate and expedite the review of energy-related projects. Granting the relief requested herein would recognize these important priorities and is in the public interest.

Applications that propose to use deepwater port terminals to export natural gas are also distinguishable from applications that propose to use onshore terminals for other reasons. The MPEH is a good example. It is sited 16 miles offshore in the Gulf of Mexico, which affords it the special capability of accessing both offshore and onshore sources of natural gas, including natural gas sourced from the Outer Continental Shelf ("OCS"). The MPEH has the potential to access nine major natural gas pipelines, which are part of the existing offshore pipeline infrastructure. That offshore pipeline infrastructure was constructed for the initial purpose of transporting natural gas to the continental U.S. As onshore natural gas demand is met through land-based shale gas production, those offshore pipelines

could maintain a high level of usefulness if now used to supply natural gas exports through the MPEH.<sup>9</sup>

Additionally, the diversity of supply available to the MPEH would impact offshore natural gas production. Exports of natural gas, if sourced from the Gulf of Mexico and the OCS, would encourage offshore producers and transporters to maintain Federal leases and continue their operations.<sup>10</sup>

Last, the MPEH, with its underground natural gas storage capability, is specially equipped to function as a strategic reserve. MPEH would maintain the unique ability to move stored natural gas into the domestic natural gas market with little delay, acting as a tool to stabilize market fluctuations caused by unforeseen or force majeure circumstances.

When considered together, the evolution, policy imperatives and jurisdiction of the DWPA, the correspondence from Members of Congress calling on the DOE to act, the clear and fundamental distinctions between the review processes of MARAD and the FERC, reliance by applicants on MARAD's published guidance in regard to the pre-application time period and the unique public interest benefits associated with deepwater ports all indicate the distinguishing nature of natural gas export applications before the DOE that include deepwater port terminals. That class of applications is independent of applications that are subject to the FERC's

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<sup>9</sup> See FE Docket No. 13-26-LNG Application, § V.E.

<sup>10</sup> See *id.*

jurisdiction, and therefore should be placed in a separate and simultaneous process to be established by the DOE.

Petitioner respectfully requests that the DOE act expeditiously to grant the relief requested herein. The DOE's Order of Precedence is no longer consistent with the DWPA as amended. There are currently pending and/or imminent non-FTA export applications that are made or will be made subject to the Order of Precedence. In the interest of minimizing any further delay in the establishment of a separate and simultaneous process for the review of applications that involve natural gas exports from deepwater ports to non-FTA Countries, good cause exists to grant the motion for expedited consideration.

WHEREFORE, The Texas Alliance of Energy Producers respectfully requests that the DOE establish a separate and simultaneous process for non-FTA LNG export applications that involve exports from offshore deepwater natural gas ports as set forth herein.

Petitioner respectfully requests that the DOE act expeditiously to grant the relief requested herein. The DOE's Order of Precedence is no longer consistent with the DWPA as amended. There are currently pending and/or imminent non-FTA export applications that are made or will be made subject to the Order of Precedence. In the interest of minimizing any further delay in the establishment of a separate and simultaneous process for the review of applications that involve

natural gas exports from deepwater ports to non-FTA Countries, good cause exists to grant the motion for expedited consideration.

Respectfully submitted,



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D. Alex Mills  
President and Chief of Staff  
Texas Alliance of Energy Producers  
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Wichita Falls, TX 76301  
Telephone: (940-723-4131  
[alexm@texasalliance.org](mailto:alexm@texasalliance.org)

January 3, 2013

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

In the Matter of )  
 ) FE Docket No. 13-147-LNG  
DELFIN LNG, LLC )  
 )

VERIFICATION

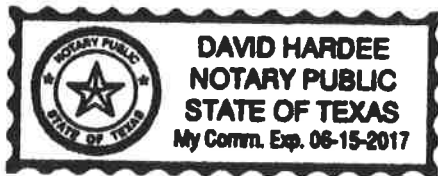
County of HARRIS

State of TEXAS

BEFORE ME, the undersigned authority, on this day personally appeared D. Alex Mills, President and Chief of Staff, who, having been by me first duly sworn, on oath says that he is duly authorized to make this Verification on behalf of the Texas Alliance of Energy Producers; that he has read the foregoing instrument and the facts therein stated are true and correct to the best of his knowledge, information and belief.

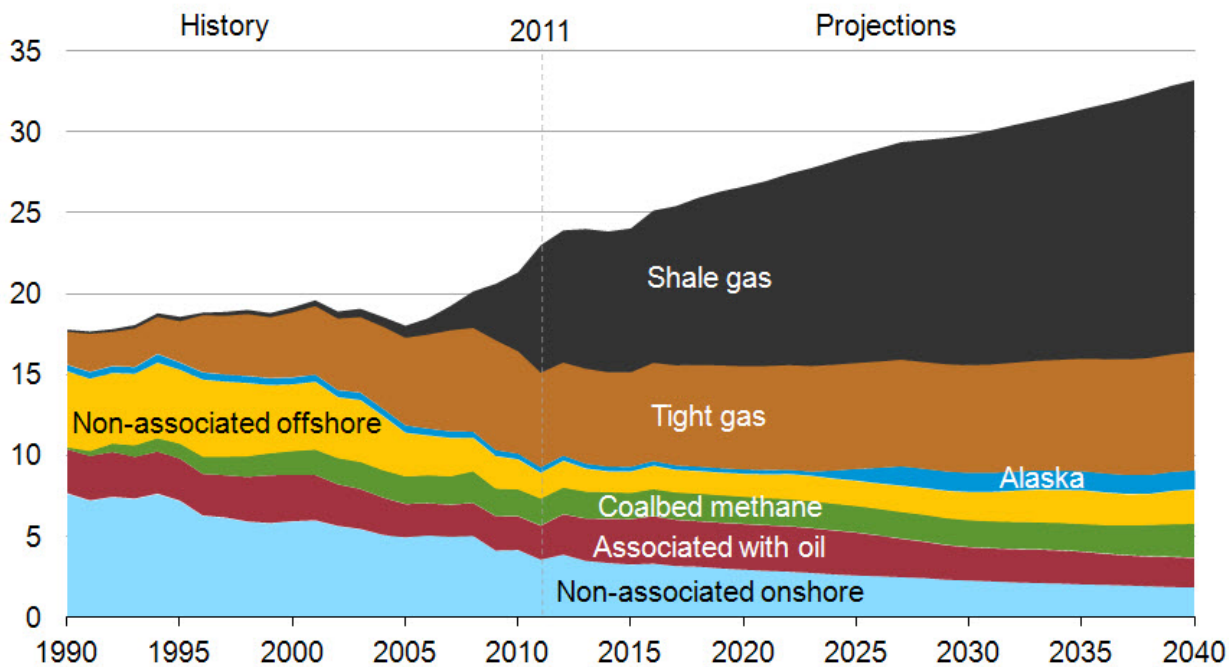
D. Alex Mills  
D. Alex Mills

SWORN TO AND SUBSCRIBED before me on this 3<sup>rd</sup> day of January, 2014.

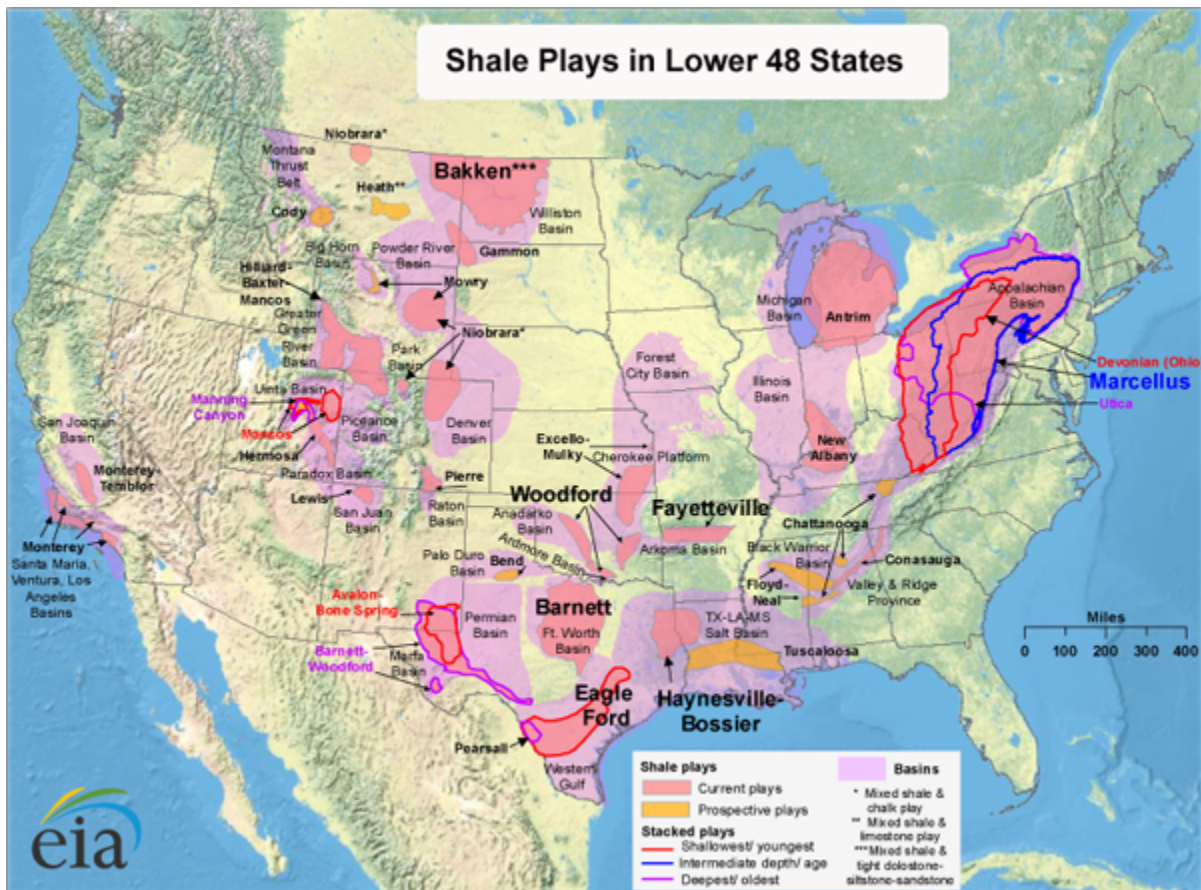


David Hardee  
Notary Public

# U.S. dry natural gas production trillion cubic feet



Source: U.S. Energy Information Administration, *Annual Energy Outlook 2013 Early Release*



Source: Energy Information Administration based on data from various published studies. Updated: May 9, 2011

## **EXHIBIT A**

- Letter from the Secretary of Transportation Ray LaHood to The Honorable John Boehner, Speaker of the House of Representatives, and The Honorable Joseph Biden, President of the Senate, April 16, 2012.





THE SECRETARY OF TRANSPORTATION  
WASHINGTON, D.C. 20590

April 16, 2012

The Honorable John Boehner  
Speaker of the House of Representatives  
Washington, DC 20515

Dear Mr. Speaker:

Enclosed for the consideration of Congress is draft legislation "To amend and enhance certain maritime programs of the Department of Transportation, and for other purposes."

The Maritime Administration Enhancement Act of 2012 implements programs to modernize the United States maritime industry, make it more competitive in the international maritime industry, and assist the maritime industry in order to support these efforts. Specifically, the legislation would:

**Enhance Aid for the Department of Defense and Relief Efforts.** The Maritime Administration (MARAD) proposes to modernize the Maritime Security Fleet Program by clarifying the terms for extending operating agreements in the program. The utility of these agreements to the U.S. Department of Defense would be enhanced by specifying that the primary consideration for determining priority for replacement of Maritime Security Program vessels is established by military requirements of the Secretary of Defense. The Maritime Administration also proposes that it be authorized to allow the use of National Defense Reserve Fleet vessels for civil contingency operations, when requested by State and local governments for foreign disaster relief and humanitarian assistance operations.

**Protect the Environment.** The Maritime Administration proposes to establish a Maritime Environment and Technology Assistance Program to identify, evaluate, demonstrate, and improve upon promising technologies that facilitate compliance with environmental laws and standards and share the findings with the public. The Maritime Administration also seeks authority to include transportation services that may reduce congestion on landside infrastructure in the definition of short sea transportation. Additionally, MARAD proposes authorization for non-monetary recognition awards that would be used to recognize the operation of U.S.-flag vessels in an environmentally friendly manner.

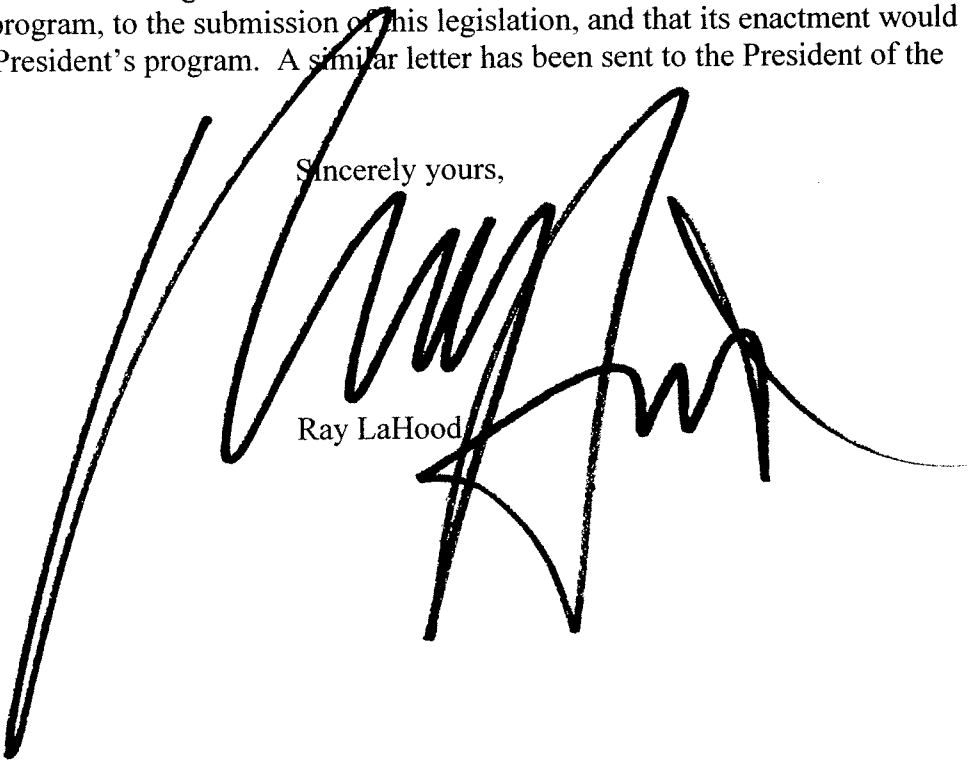
**Promote the Maritime Industry.** To achieve MARAD's promotional mission, the U.S. Department of Transportation proposes a variety of programs to increase awareness of the maritime industry and thereby aid recruitment efforts. Among these proposals is authority to give non-monetary recognition awards for significant achievements, such as transporting a significant share of their international cargo on U.S.-flag vessels. The Maritime Administration also seeks authority to donate items of historical value, other than vessels and real property, to various entities that have expressed interest, thereby raising awareness of the United States' maritime heritage.

**Support the Maritime Industry.** The Department proposes provisions to aid the U.S. maritime industry and keep it competitive in the global maritime economy. The Maritime Administration also seeks authorization to donate excess vessel fuel to state maritime academies for training purposes.

The Office of Management and Budget advises that it has no objection, from the standpoint of the Administration's program, to the submission of this legislation, and that its enactment would be in accord with the President's program. A similar letter has been sent to the President of the Senate.

Sincerely yours,

Ray LaHood

A large, stylized handwritten signature in black ink, appearing to read 'Ray LaHood', is written over the typed name. The signature is highly cursive and extends across the width of the typed name.

Enclosure

**SEC. 114. TRANSFER OF VESSELS INTO THE NATIONAL DEFENSE RESERVE FLEET.**

Section 57101 of title 46, United States Code, is amended by inserting the following at the end:

“(c) **AUTHORITY OF FEDERAL ENTITIES TO TRANSFER VESSELS.**--All federal entities are authorized to transfer vessels to the National Defense Reserve Fleet without reimbursement subject to the approval of the Secretary of Transportation and Secretary of the Navy with respect to Ready Reserve Force vessels and the Secretary of Transportation with respect to all other vessels.”.

**SEC. 115. AMENDMENTS TO NATIONAL DEFENSE RESERVE FLEET.**

Sections 11(c)(1)(B)-(D) of the Merchant Ship Sales Act of 1946 (50 U.S.C. App. 1744(c)(1)(B)-(D)) are amended to read as follows:

“(B) activate and conduct sea trials on each vessel at a frequency that is deemed necessary;

“(C) maintain and adequately crew, as necessary, in an enhanced readiness status those vessels that are scheduled to be activated in five (5) or less days;

“(D) locate those vessels that are scheduled to be activated near embarkation ports specified for those vessels; and”.

**SEC. 116. OFFSHORE LNG TERMINALS FOR EXPORT OF NATURAL GAS.**

(a) **AMENDED DEFINITION.**--Section 3(9) of the Deepwater Port Act of 1974 (33 U.S.C. 1502(9)(A)) is amended by adding the words, “or from any state” after the words, “to any state”.

(b) **PRIORITY IN LICENSING.**--Section 4(i) of the Deepwater Port Act of 1974 (33 U.S.C. 1503(i)) is amended to read as follows:

“(i) To promote the security of the United States, the Secretary shall give top priority to the processing of a license under this chapter for liquefied natural gas facilities that will be supplied with liquefied natural gas by United States flag vessels or that will supply liquefied natural gas to United States flag vessels.

**SEC. 117. AUTHORITY TO WAIVE NAVY RESERVE SERVICE OBLIGATIONS FOR OFFICERS SERVING ON DEPARTMENT OF TRANSPORTATION VESSELS.**

Section 8103(g) of Title 46, United States Code, is amended by adding the following at the end:

requirements necessary to maintain vessel readiness, thus maximizing funding while ensuring readiness in accord with Department of Defense readiness needs.

#### **SEC. 116. Offshore LNG terminals for Export of Natural Gas.**

Section 118 would authorize MARAD to issue licenses for offshore Liquid Natural Gas (LNG) terminals for the export of natural gas or oil. MARAD currently has authority to issue licenses for offshore LNG terminals for the import of natural gas or oil. Expanding MARAD's authority to licenses for LNG terminals used for export would provide a safe and secure method for the export of emerging natural gas markets and would benefit U.S. energy companies. This amendment could result in increased revenue for U.S. exporters and foster employment for the U.S.-flag fleet. The Department of Energy (DOE) and the U.S. Coast Guard concur with the change to the Deepwater Port Act. It is anticipated that there would be no conflict between the proposed amendment of section 1502(9)(A) and DOE's current authority over the export of natural gas under section 3 of the Natural Gas Act, 15 USC 717b. MARAD would have authority to license facilities used for natural gas exports from deepwater ports, while DOE's authority would apply to the authorization of the export of natural gas as a commodity. This distinction between authority over export facilities and authority over exports of natural gas as a commodity is consistent with current law affecting exports of natural gas from onshore LNG terminals.

In the case of onshore LNG terminals, the Federal Energy Regulatory Commission (FERC) presently has exclusive jurisdiction to license the facilities, while DOE has jurisdiction to authorize export of the commodity. DOE and FERC have developed a complementary working relationship that expedites the review of applications that are based on a common set of facts. It is anticipated that a similar working relationship would be developed with MARAD should the proposed amendment of section 1502(9)(A) be enacted.

#### **SEC. 117. Authority to Waive Navy Reserve Service Obligations for Officers Serving on Department of Transportation Vessels.**

Section 117 would provide the Maritime Administrator with flexibility in enforcing the requirement that a deck or engineer officer aboard an NDRF vessel be a member of the Navy Reserve. Providing the Maritime Administrator with the authority to waive this requirement would give MARAD the discretion to waive the requirement in instances where it is determined not to be appropriate, thus facilitating crewing necessities aboard NDRF vessels.

#### **SEC. 118. Reserve Service Obligations for State Academy Graduates.**

Section 118 would assist MARAD in enforcing and fostering the performance of service obligations entered into by State Academy graduates. The amendment would also clarify the intent of the requirement that after accepting a reserve appointment, the individual must meet all participation requirements and remain in good standing in the reserves. Lastly, the provision would change the reference to the Navy program in which the individual is to participate to

## **EXHIBIT B**

- Letter from Senator Mary Landrieu and Senator David Vitter to Senator Jay Rockefeller IV, Chairman, U.S. Senate Committee on Commerce, Science & Transportation and Senator Kay Bailey Hutchison, Ranking Member, November 7, 2012;
- Letter from Senator Landrieu to Secretary of the Department of Energy Steven Chu, April 2, 2013;
- Letter from Senator Vitter to Secretary of the Department of Energy Ernest Moniz, June 12, 2013;
- Letter from Senator John Cornyn and Senator Ted Cruz to Secretary of the Department of Energy Moniz, July 12, 2013;
- Letter from Congressman Rodney Alexander to Secretary of the Department of Energy Moniz, July 31, 2013.

# United States Senate

WASHINGTON, DC 20510

November 7, 2012

The Honorable Jay Rockefeller IV  
Chairman  
U. S. Senate Committee on Commerce,  
Science & Transportation  
SR-254 Russell Senate Office Building  
Washington, D.C. 20510

The Honorable Kay Bailey Hutchison  
Ranking Member  
U. S. Senate Committee on Commerce,  
Science & Transportation  
SD-560 Dirksen Senate Office Building  
Washington, D.C. 20510

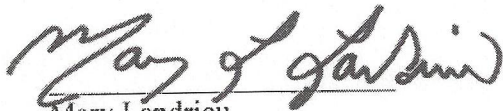
Dear Chairman Rockefeller and Ranking Member Hutchison:

We are writing to request your support for the inclusion of a correction to the Deepwater Port Act (33 U.S.C. 1501 *et seq.*) (DWPA) in the pending Coast Guard Authorization Act (H.R. 2838) now under active discussion within the Commerce, Science & Transportation Committee. The attached correction would allow deepwater ports to participate in both import and export transport activities just as shore-side ports are already allowed to do.

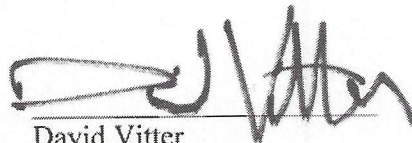
When the DWPA was first enacted in the mid-1970s, it simply was not contemplated at that time that deepwater ports would be able to engage in activities beyond handling cargo imports. In order to ensure flexibility for offshore ports, a correction to the DWPA is required to also allow the approval and use of such ports by the U.S. Department of Transportation if the Federal government otherwise permits the export of energy resources under separate statutory authority. Notably, Secretary of Transportation Ray LaHood proposed this same DWPA change in his legislative maritime program request to the U.S. Senate on April 16, 2012.

We would appreciate your support for the enactment of this correction. With such legislation, deepwater ports would be eligible when otherwise approved to facilitate the economic and safe transport of inbound or outbound products.

Sincerely,



Mary Landrieu  
United States Senator



David Vitter  
United States Senator

## Deepwater Port Act -- Proposed Correction

Sec. \_\_\_\_\_. Section 1502(9)(A) of title 33, United States Code, is amended by inserting "or from" before "any State,".

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*As a result, the DWPA would be changed to read:*

33 U.S.C. 1502(9) "deepwater port"—

(A) means any fixed or floating manmade structure other than a vessel, or any group of such structures, that are located beyond State seaward boundaries and that are used or intended for use as a port or terminal for the transportation, storage, or further handling of oil or natural gas for transportation to or from any State, except as otherwise provided in section 1522 of this title, and for other uses not inconsistent with the purposes of this chapter, including transportation of oil or natural gas from the United States outer continental shelf;

(B) .....

MARY L. LANDRIEU  
LOUISIANA

## United States Senate

WASHINGTON, DC 20510-1804

April 2, 2013

The Honorable Steven Chu  
Secretary, U.S. Department of Energy  
1000 Independence Ave., SW  
Washington, DC 20585

Dear Secretary Chu:

I am writing to ensure that the U.S. Department of Energy (DOE) provides separate and simultaneous review of applications for the export of domestically-produced liquefied natural gas (LNG) through associated offshore deepwater port facilities.

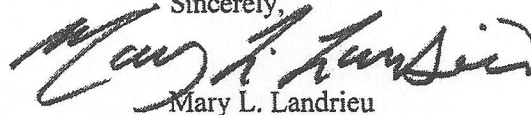
Upon DOE's public release on December 5, 2012 of the NERA Economic Consulting study concerning LNG exports, DOE also announced its application review policy for LNG exports to non-Free Trade Agreement (non-FTA) countries. At that time, such applications involved only the associated review by the Federal Energy Regulatory Commission for the establishment and operation of U.S. shore-based LNG export terminals. No non-FTA export applications associated with offshore deepwater terminals were pending with DOE because the Deepwater Port Act (DWPA) (33 U.S.C. 1501 *et seq.*) did not then provide any U.S. Maritime Administration (MarAd) or other Federal jurisdiction for offshore export terminals. That matter has since been addressed through the subsequent enactment on December 20, 2012 of the Coast Guard and Maritime Transportation Act of 2012 (CG&MT Act) (Pub. L. 112-213) that amended the DWPA to include offshore LNG export terminals under MarAd jurisdiction.

Prior to the December 20<sup>th</sup> enactment of the CG&MT Act, DOE was unable to process LNG export applications that involved the proposed use of offshore terminals. Therefore, given that the December 5<sup>th</sup> priority announcement by DOE only extended to export projects with proposed shore-based terminals, and in view of the later statutory amendment authorizing MarAd review and approval for offshore export facilities, DOE should establish a separate and simultaneous processing for those LNG export applications involving offshore deepwater terminals.

I strongly urge DOE to implement separate and simultaneous review to ensure that LNG export applications utilizing offshore deepwater terminals are properly considered alongside any onshore applications.

Thank you for your personal consideration of this matter.

Sincerely,



Mary L. Landrieu

MLL:ca

{W0027152.1}



DAVID VITTER  
LOUISIANA

DEPUTY WHIP

Environment and Public Works  
Top-Ranking Republican

Armed Services

Banking, Housing, and Urban Affairs

Small Business and Entrepreneurship

## United States Senate

WASHINGTON, DC 20510

June 12, 2013

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The Honorable Ernest Moniz  
Secretary, U.S. Department of Energy  
1000 Independence Ave., SW  
Washington, DC 20585

Dear Secretary Moniz:

I am writing to request the U.S. Department of Energy (DOE) to provide separate and simultaneous review of liquefied natural gas (LNG) export applications for which the use of offshore deepwater port facilities is planned.

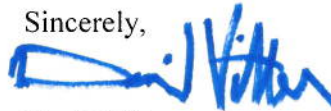
In December 2012, DOE announced its application review policy for LNG exports to non-Free Trade Agreement countries following the release of the related NERA Economic Consulting study concerning such exports. Up until that time, export applications only involved the associated review by the Federal Energy Regulatory Commission for the use of U.S. shore-based or nearshore LNG export terminals. DOE applications associated with offshore deepwater terminals were not pending at that time because the Deepwater Port Act (DWPA) did not provide U.S. Maritime Administration (MarAd) or other Federal jurisdiction for offshore export terminals located beyond the territorial seas of the United States. However, with the subsequent enactment on December 20, 2012, of the Coast Guard and Maritime Transportation Act of 2012 (CG&MT Act), the DWPA was amended to provide MarAd jurisdiction over offshore LNG export terminals.

Prior to the enactment of the CG&MT Act, DOE was unable to process LNG export applications that involved the proposed use of offshore terminals. Therefore, given that the earlier DOE priority announcement only extended to export projects with proposed shore-based terminals, and in view of the later statutory amendment authorizing MarAd review and approval for offshore export facilities, I strongly urge DOE to establish a separate and simultaneous processing priority for those LNG export applications involving offshore deepwater terminals.

It has been clearly shown that LNG exports will create significant employment opportunities, improve the Nation's current trade deficit, and provide key strategic opportunities to impact our foreign policy objectives around the world. Separate and simultaneous review by DOE will ensure that LNG export applications utilizing offshore deepwater terminals are properly and expeditiously considered.

Thank you for your personal consideration of this matter.

Sincerely,



David Vitter  
U.S. Senator

## United States Senate

WASHINGTON, DC 20510-4305

July 12, 2013

The Honorable Ernest Moniz  
Secretary, U.S. Department of Energy  
1000 Independence Ave., SW  
Washington, DC 20585

Dear Secretary Moniz:

We are writing to request information about the U.S. Department of Energy's (DOE) work with the U.S. Maritime Administration (MarAd) to establish a review of liquefied natural gas (LNG) export applications for which the use of offshore deep water port facilities is planned.

In December 2012, the DOE announced its application review policy for LNG exports to non-Free Trade Agreement countries following the release of the related NERA Economic Consulting study concerning such exports. Up until that time, export applications only involved the associated review by the Federal Energy Regulatory Commission (FERC) for the use of U.S. shore-based or near shore LNG export terminals. The DOE applications associated with offshore deep water terminals were not pending at that time because the Deep Water Port Act (DWPA) did not provide U.S. Maritime Administration (MarAd) or other Federal jurisdiction for offshore export terminals located beyond the territorial seas of the United States. However, with the subsequent enactment on December 20, 2012 of the Coast Guard and Maritime Transportation Act of 2012 (CG&MT Act), the DWPA was amended to provide MarAd jurisdiction over offshore LNG export terminals.

Prior to the enactment of the CG&MT Act, we understand the DOE was unable to process LNG export applications that involved the proposed use of offshore terminals. Given that the earlier DOE priority announcement only extended to export projects with proposed shore-based terminals, offshore deep water projects were unable to apply for an LNG export application. As such and in view of the later statutory amendment authorizing MarAd review and approval for offshore export facilities, we ask what efforts the DOE has taken to establish a review process for any current or future LNG export applications involving offshore deep water terminals.

LNG exports will create significant employment opportunities, improve the nation's current trade deficit, and provide key strategic opportunities to impact our foreign policy objectives around the world. The DOE should ensure that LNG export applications utilizing offshore deep water terminals are properly considered and provide clarity for how these applications will be handled. Furthermore, consistent with our previous letters, we continue to urge you to expeditiously review all LNG export applications now pending.

Thank you for your consideration of this matter. We look forward to your prompt response.

Sincerely,

A handwritten signature in blue ink that reads "John Cornyn". The signature is fluid and cursive, with the first name "John" written in a larger, more prominent script than the last name "Cornyn".

JOHN CORNYN  
United States Senator

A handwritten signature in blue ink that reads "Ted Cruz". The signature is highly stylized and cursive, with the first name "Ted" and last name "Cruz" written in a compact, flowing script.

TED CRUZ  
United States Senator



**Congress of the United States**  
**House of Representatives**

July 31, 2013

The Honorable Dr. Ernest Moniz  
Secretary of Energy  
U.S. Department of Energy  
1000 Independence Ave, SW  
Washington, D.C. 20585

Dear Secretary Moniz:

This letter is a revised follow up to a letter my office previously sent you dated July 25, 2013. In the recently passed FY2014 Energy and Water Appropriations bill as adopted by the House of Representatives, I and my bipartisan colleagues included language in the bill requiring the Department of Energy to submit its plan to finish consideration of all applications filed to export liquefied natural gas (LNG) to non-Free Trade Agreement countries, as required under the Natural Gas Act.

The Committee and Congress as a whole remain concerned that any further delay in approving these applications will be detrimental to the United States ability to meet current international market demands for LNG exports. I share the concerns of my colleagues in the Senate who have communicated to you that action on the non-FTA LNG export applications is of national importance in keeping with our competitive and energy security stance globally.

In the meantime, it has also come to our attention that two distinct approaches to apply for these permits have developed, one for shore-based LNG projects through the Federal Energy Regulatory Commission and the other for those on the water through the U.S. Maritime Administration (MarAd). As you also may be aware, the offshore deep-water port facility projects had to have clear delineation and Congress acted on that in December 2012 by amending the Deep-water Port Act giving the MarAd that power. We understand the DOE's dilemma prior to this enactment, but now we need action on both fronts, on and offshore.

The facilities that will be utilized for the LNG export terminals, some of which already have significant infrastructure in place, have the opportunity to create jobs. LNG exports themselves will return royalty payments to the U.S. Treasury, thereby adding billions of revenue dollars to our federal budget over the next decade as it progresses. However, we must act soon. Expenditures on LNG export projects are large and have long lead-times and investors, and countries who receive our exported LNG must have the certainty of an efficient permitting process.

I appreciate your attention to this matter and look forward to your response to the language included in the FY2014 Energy and Water Appropriations bill that seeks to accelerate the DOE

decision process. We would also like to request a meeting with DOE staff so we can discuss this issue further.

Please know that my colleagues and I will continue to closely monitor progress in this area as advancement of these projects will result in jobs, revenue for our government and ensuring America's international and energy security interests.

Sincerely,



Rodney Alexander  
MEMBER OF CONGRESS

RA:pb