

Sweeney, Reg

From: McLean, Mark [CEAA]
Sent: February 11, 2004 2:25 PM
To: Pataki-Therault, Germaine (ELG/EGL); Knight, Jim (DOE/MDE); Brewster, Deanna [Dartmouth]; Blane, Jean [CEAA]
Cc: Zwicker, Stephen [Dartmouth]; DFO - Ted Currie; Sweeney, Reg K: DFO XMAR
Subject: LNG Projects

As I have not been involved with the NB project, I leave that aspect of the discussion to those more familiar with it.

With regard to the Bear Head project and the Land Use Plan, the West Richmond County Development Plan was finalized at a public meeting which was held on May 29, 2000. Both the date of the meeting and the plan itself was made publicly available through local advertising. There was only one oral submission related to the possible creation of a park in the area and no written submissions. Then Plan was adopted at the meeting.

The number of submissions cannot be considered a lack of opportunity for public input. The fact the plan was publicly available and the meeting was open to the public were both well advertised. It is our understanding that the process was compliant with the Nova *Municipal Government Act*.

Mark McLean

-----Original Message-----

From: Pataki-Therault, Germaine (ELG/EGL) [mailto:Germaine.Pataki-Therault@gnb.ca]
Sent: Wednesday, February 11, 2004 12:23 PM
To: Knight, Jim (DOE/MDE); 'McLean, Mark [CEAA]'; 'Brewster, Deanna [Dartmouth]'
Cc: 'Zwicker, Stephen [Dartmouth]'; 'DFO - Ted Currie'
Subject: RE: CEAA Presentation

Jim/Mark -

Thanks for copying me on this, because in fact this is not exactly accurate. The Comprehensive Study was determined to be required (November 2001) in advance of the authorization requirement being identified for the NB LNG project (October 2003). In fact, the exemption that was referred to in the highlighted portion below was NOT applied in New Brunswick (although the monobuoy has been operational at Canaport for years) because it was unclear how much public consultation was involved in the City of Saint John's rezoning of the project to include LNG as a use. If memory serves, the City went through the Council process (open to the public).

What I have heard from the NS Land Use process was that there was a public meeting 7 years ago and I heard yesterday (I'm not sure who knew this or if it's right) that there was very limited attendance at that meeting (1 person).

Mark said -

For the NB project, the federal involvement includes authorizations/permits for the marine terminal under the Navigable Waters Protection Act, the Fisheries Act and the Canadian Environmental Protection Act (Disposal at Sea). There is also federal involvement with the LNG storage facility itself in NB as the construction will involve the diversion of a stream which will require authorization under the Fisheries Act (subsec. 35(2)). Both the terminal and LNG facility are on the Comprehensive Study List, although terminals that are proposed for lands that are routinely and have been historically used as a marine terminal or that are designated for such use in a land-use plan that has been the subject of public consultation are exempt from the Comprehensive Study List. This exemption would have likely applied to the NB terminal but as there were two associated projects requiring a federal assessment (the terminal and the LNG Facility), the Responsible Authority is encouraged to lump the projects under one assessment and apply the more detailed level of review, in this case Comprehensive Study.

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-----Original Message-----

From: Knight, Jim (DOE/MDE)
Sent: Wednesday, February 11, 2004 10:58 AM
To: 'McLean,Mark [CEAA]'; Brewster,Deanna [Dartmouth]; Pataki-Therault, Germaine (ELG/EGL)
Cc: Zwicker,Stephen [Dartmouth]
Subject: RE: CEAA Presentation

Mark:

Thank you for this. It may be subject of the Atlantic Energy Ministers meeting next week so it was good to be able to brief our Minister more fully.

Jim

-----Original Message-----

From: McLean,Mark [CEAA] [mailto:Mark.McLean@ceaa-acee.gc.ca]
Sent: February 10, 2004 4:33 PM
To: Brewster,Deanna [Dartmouth]; jim.knight@gnb.ca; germaine.pataki-therault@gnb.ca
Cc: Zwicker,Stephen [Dartmouth]
Subject: RE: CEAA Presentation

Deanna asked me to reply to your question.

The scope of the project was done by DFO as the Responsible Authority in both cases, therefore they would have the best information on details and timing of decisions but here's the general answer.

The *Canadian Environmental Assessment Act* applies to projects for which the federal government has decision-making authority. The key point to note are those aspects of the projects that have federal involvement. Although at face value both projects look very similar, from the perspective of the federal involvement, only one of the LNG facilities will require a federal authorization because of the stream diversion.

For the NB project, the federal involvement includes authorizations/permits for the marine terminal under the *Navigable Waters Protection Act*, the *Fisheries Act* and the *Canadian Environmental Protection Act* (Disposal at Sea). There is also federal involvement with the LNG storage facility itself in NB as the construction will involve the diversion of a stream which will require authorization under the *Fisheries Act* (subsec. 35(2)). Both the terminal and LNG facility are on the Comprehensive Study List, although terminals that are proposed for lands that are routinely and have been historically used as a marine terminal or that are designated for such use in a land-use plan that has been the subject of public consultation are exempt from the Comprehensive Study List. This exemption would have likely applied to the NB terminal but as there were two associated projects requiring a federal assessment (the terminal and the LNG Facility), the Responsible Authority is encouraged to lump the projects under one assessment and apply the more detailed level of review, in this case Comprehensive Study.

For NS, the federal involvement is associated only with the marine terminal (*Navigable Waters Protection Act* and *Fisheries Act*) as there are no federal permits/authorizations associated with the LNG Storage Facility itself (i.e. no streams or other activities requiring federal approval). As the area for the terminal underwent a public land-use planning process in 2000 that zoned the area for heavy industrial port use, the terminal does not require a comprehensive study.

Although the scope and levels of review are different, the other factor influencing the level of public involvement and timeframes for the reviews is the provincial processes for both projects. NB is currently reviewing this project under their full EIA process with the federal

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process harmonized within their review timeframes. The NS LNG project will be reviewed as a Class 1 Undertaking under the NS Environmental Assessment Regulations, which is typically a 25 day review but may also require a full EA at the end of 25 days. In NS, there will be a formalized agreement on the harmonized federal-provincial EA review that will establish a longer timeframe for the provincial review and provide a joint public consultation process. Although the provincial review will examine the LNG Facility and the marine terminal, the final decision for the federal review will be on the terminal itself.

I hope this answers your questions. Please give me a call if you have anything else. Thanks.

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