



AES Sparrows Point LNG, LLC
4300 Wilson Boulevard
Arlington, VA 22203

February 1, 2007

Chairman S.G. Samuel Moxley
Baltimore County Council – First District
400 Washington Avenue
Towson, Maryland 21204

Re: Council Work Session on Bill #9-07 (AES Sparrows Point LNG Facility)

Dear Chairman Moxley:

I am writing to express my appreciation for your focused discussion and the opportunity to reply to questions at the Council work session Tuesday. Inevitably, there were points time prevented discussing in greater detail. Additional information on (i) AES's compliance with the Critical Areas law, (ii) the applicability of the recent court decision to the proposed zoning amendment, and (iii) the safety aspects of LNG is provided briefly in this letter.

The State Critical Areas law is intended to minimize water quality impacts in locations designated as Critical Areas. As noted at the work session, the proposed facility will reduce the water quality impacts in an amount greater than required by the law. This use obviously is consistent with the objectives of the Critical Areas law. It is improper to use the Critical Areas law to thwart an activity that meets the objectives of the Critical Areas law. Questions raised at the work session dealing with dredging (an activity unrelated to use of Critical Areas land or the land located above mean high tide near the shoreline) are not under the purview of the Critical Areas law and, therefore, it is not an appropriate consideration for local zoning legislation carrying out the objectives of the Critical Areas law. In short, because the AES proposal improves water quality, there is no justification or "nexus" to amend the County's zoning regulations to stop this project based on the objectives of the State's Critical Areas law.

We understand that some officials and citizens have voiced concerns about our proposed project. There is a process in place to address those concerns that does not involve the inappropriate use of local zoning legislation. The County is already a participant in the process. We look forward to continuing to work with the County in that process so as to assure the best and safest facility for the County, the State, and our Country will be built if the final decision in the federal process determines that it is in the best interests of this nation to locate the LNG facility at Sparrows Point.

Both national and local interests are considered in the final decision on siting, constructing, and operating LNG facilities; however, Section 3 of the Natural Gas Act

gives the Federal Energy Regulatory Commission (“FERC”) the “exclusive authority to approve or deny an application for the *siting*, construction, expansion, or *operation* of an LNG [import] terminal.” 15 U.S.C. §717b(e)(1) (emphasis added). This exclusive authority was clearly recognized by United States District Judge Richard D. Bennett in his decision regarding the County’s last attempt to thwart the project by amending its zoning regulations. The current bill, entitled “An Act concerning Baltimore County Zoning Regulations”, is very much the same as the recently-struck law. Any attempt to distinguish the current zoning amendment from the zoning amendment recently ruled to be unconstitutional by saying the new bill prohibits “use” rather than “siting” ignores the court’s opinion that stated “[a] local government may not exercise veto power over this nationwide process by local zoning legislation.” It also ignores language cited above from the Natural Gas Act that includes not only “siting” but also “operation.”

As noted in our comments at the work session, Maryland courts recognize that a local critical area program involves exercise of each local jurisdiction's zoning authority. In this case, the federal court will quickly see that the County is attempting to (again) improperly attempt to block the project through zoning rather than any legitimate concern for the environmental or water quality. In light of the recent strongly worded opinion of Judge Bennett, we suggest that it is prudent to fully examine the bill and its objectives before approving it.

Two other points that deserve additional clarification involve statements/questions about the “volatility” of LNG and statements attempting to relate terrorism to LNG. Regarding volatility, LNG in its liquid state is not flammable. When it is converted back to its vapor state, it is the same natural gas that we used in our homes and businesses. It has a narrow flammability range of 5 to 15% and an ignition temperature of about 1,000°F. In its non-flammable liquid form, natural gas has an energy content of about 84,000 Btu/gallon. By contrast, ethanol has a flammability range of 3.3 to 24.5%, an ignition temperature of 685°F, and an energy content of about 76,000 Btu/gallon. What this means is that ethanol will ignite over a wider range of conditions, ignite at a lower temperature, and release about the same amount of energy as the equivalent amount of LNG. Moreover, ethanol for fuel must be mixed with gasoline and other flammable additives prior to leaving the production facility.

Regarding the issue of terrorism, some opponents of the project have suggested that attention be given to the views of Richard Clarke, former White House Advisor on national security and counter-terrorism. In a letter to FERC dated May 11, 2006, the County stated that Mr. Clarke’s analysis “can’t [be] dismiss[ed]”. Mr. Clarke has previously stated that LNG terminals located in close proximity to high density population areas could be attractive terrorist targets. When asked to review the proposed terminal at Sparrows Point – using the exact same methodology as employed in reviewing other LNG terminals – Mr. Clarke concluded that the proposed terminal “represents an unlikely terrorist target”, and that any risks that might be associated with the terminal “can be effectively managed.” A copy of the summary of Mr. Clarke’s analysis is enclosed. The rationale for Mr. Clarke’s opinion, and the key difference in other analyses he has conducted, lies in the remote siting of the proposed facility. By

simple analogy, a candle held at arms length will be visible, but will not result in a burn; a candle held close to one's face will be uncomfortable, hot, or painful depending on the distance at which it is held.

Related to this latter issue is a paper presented to the Council by Mr. Russell Donnelly during the work session. AES has previously responded to Mr. Donnelly's analysis in a report titled, *Energy Potential of LNG: Analysis of Paper "Explosive Calculations Based on Nuclear Equivalent"* (Author Unknown). A copy of that report is also enclosed. Section 5.2 of the report speaks to the extremely robust nature of LNG ships, which was another issue raised at the work session.

In closing, we urge you not to enact a law that we fully anticipate will be found unconstitutional. Such developments do lasting harm to the integrity of the legislative process, erode public trust and, in this case, are entirely unnecessary. As described above, there is an appropriate, highly detailed, federal process currently ongoing in which all concerns may be raised. If those concerns cannot be adequately addressed, the project will not be approved.

Once again, thank you for the opportunity to address the Council's questions and to present additional information. We look forward to working with you to best serve the interests of the County, State, and Nation.

Sincerely,

Kent J. Morton
Project Director

Enclosures (2)

CC: Robert C. Douglas