

United States Department of Agriculture



Natural Resources Conservation Service
101 South Main Street
Temple, TX 76701-7602

A1

March 15, 2005

ORIGINAL

Magalie R. Salas, Secretary
Federal Energy Regulatory Commission
888 First Street, N. E., Room 4A
Washington, D.C. 20426

Attention: Magalie R. Salas, Secretary

Subject: LNG-Farmland Protection-
OEP/DGGE/Gas Branch 3
Inletside Energy-Center LNG Pipeline Project
Draft EIS FERC/EIS-0177D
Reference Document Nos. CP05-13-000, et al.
San Patricio County, Texas

We have reviewed the Draft Environmental Impact Statement for the Inletside Energy Center LNG Terminal and Pipeline Project in San Patricio County, Texas dated February 2005 which was prepared for the Federal Energy Regulatory Commission. We have reviewed the project as required by the Farmland Protection Policy Act (FPPA).

We have previously reviewed this project and sent a letter to ENSR International on January 24, 2005 and completed an AD-1006 form. In that letter we suggested that the top 20 inches of topsoil be saved and placed back on top after pipeline construction. The sodium content of most soils in the project area increases with depth. A copy of that letter is attached. This applies to the note on page 4-7 of the draft EIS. We know you recognize the importance of maintaining the agricultural productivity of the soils in San Patricio County. Saving topsoil is indicated in Figure 2.3-2 on page 2-18. Also please add saving topsoil as a step in Figure 2.4-1 in the final EIS. We believe this pipeline and agricultural production can co-exist if these actions are taken.

A1-1

Thanks for the resource materials you submitted to evaluate this project. If you have any questions please call James Greenwade at (254)-742-9960, Fax (254)-742-9859.

Thanks,

James M. Greenwade
Soil Scientist
Soil Survey Section
USDA-NRCS, Temple, Texas

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FEDERAL AND STATE AGENCIES

A1 United States Department of Agriculture, Natural Resources Conservation Service

A1-1 Thank you for your comment. We have revised section 4.2.1 of the EIS to include information on depth of topsoil to be segregated. We have also revised figure 2.4-1 to include topsoil segregation.

ORIGINAL



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS, TX 75202-2733

April 6, 2005

A2

FILED
FOR THE
SECRETARY
APR 13 4 06
FEDERAL ENERGY
REGULATORY
COMMISSION

Magalie R. Salas, Secretary
Federal Energy Regulatory Commission
888 First St., N.E. Room 1A
Washington, DC 20426

Docket Nos: CP05-13-000, CP05-11-000, CP05-12-000, CP05-14-000

Dear Ms. Salas:

In accordance with our responsibilities under Section 309 of the Clean Air Act, the National Environmental Policy Act (NEPA), and the Council on Environmental Quality Regulations (CEQ) for Implementing NEPA, the U.S. Environmental Protection Agency (EPA) Region 6 office in Dallas, Texas, has completed its review of the Draft Environmental Impact Statement (DEIS) for the Ingleside Energy Center and Liquefied Natural Gas (LNG) Terminal and Pipeline Project, Nueces and San Patricio Counties, Texas. This facility would have a nominal output of about 1.0 billion cubic feet of imported natural gas per day to the U.S. Market.

The following comment is being provided for your consideration in preparation of the Final EIS (FEIS):

In addition to the analysis regarding the ballast water exchange procedures as they might relate to invasive species, EPA asks for a similar discussion of the potential for invasive species introduction via other pathways, such as by organisms which might travel affixed to or onboard the LNG vessels or associated with any materials exchanged at the port. The statement is made that: "... the local biotic community is likely adapted to a regular influx of exogenous organisms." We see two problems with this statement. First, it presumes that specific ecological adaptations are at work but those adaptations are left undocumented in the text. Second, although a direct response to the concern was prepared, this statement seems to dismiss the issue as a valid concern. As you know, it is the one exotic species that takes off (i.e., becomes invasive) that can severely impact an ecosystem. Please provide additional discussion on this matter in the FEIS.

A2-1

EPA classified your DEIS and proposed action as "LO," i.e., EPA has "Lack of Objections" to the proposed alternative. Our classification will be published in the Federal Register according to our responsibility under Section 309 of the Clean Air Act, to inform the public of our views on proposed Federal actions.

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A2 United States Environmental Protection Agency, Region 6

A2-1 Thank you for your comment. We have revised section 4.5.1.5 of this EIS.

2

EPA appreciates the opportunity to review the DEIS. We request that you send our office one (1) copy of the FEIS at the same time that it is sent to the Office of Federal Activities (2251A), EPA, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20044.

Sincerely yours,



Bonnie Braganza
Acting Chief
Office of Planning and
Coordination

A2 Continued, page 2 of 2



United States Department of the Interior

OFFICE OF THE SECRETARY
Office of Environmental Policy and Compliance
P.O. Box 26567 (MC-9)
Albuquerque, New Mexico 87125-6567



IN REPLY REFER TO:

April 14, 2005

A3

9043.1
ER 05/176

Magaie R. Salas, Secretary
Federal Energy Regulatory Commission
888 First Street NE, Room 1A
Washington, DC 20426

Dear Ms. Salas:

The U.S. Department of the Interior (DOI) has reviewed the Federal Energy Regulatory Commission (FERC) Draft Environmental Impact Statement (Draft EIS) for the Ingleside Energy Center, LLC, and San Patricio Pipeline, LLC, Liquefied Natural Gas (LNG) Terminal and Pipeline Project (Docket Nos. CP05-13-000, CP05-11-000, CP05-12-000, CP05-14-000) in Nueces and San Patricio Counties, Texas. The proposed project consists of construction of: (1) a marine terminal including a ship maneuvering area and a protected berth for LNG ships; (2) four 16-inch diameter stainless steel unloading arms; (3) two storage tanks for LNG; (4) six sendout pumps; (5) eight shell and tube vaporizers; (6) a boil-off gas and vapor removal system; (7) two flare systems; (8) various support buildings; (9) relocation of an existing loading dock; (10) 26.4 miles of 26-inch natural gas pipeline; (11) eight metering stations; and (12) a pig launcher and receiver facility with one mainline valve.

The purpose of the project is to provide facilities necessary to import, store, and vaporize LNG and deliver natural gas via interstate and intrastate pipelines. The preferred alternative project site for the LNG terminal is located next to the existing Occidental Chemical manufacturing complex plant on the north shoreline of Corpus Christi Bay. The proposed pipeline route would be constructed and operated in San Patricio County, Texas. In this regard, we offer the following comments to assist you as you develop the final document.

General Comments

The construction of the proposed LNG project would affect approximately 489.7 acres of land and water. Construction of the LNG terminal would require approximately 74 acres of uplands and 40 acres of offshore area in Corpus Christi Bay. Construction of the proposed pipeline would disturb approximately 375.7 acres including the pipeline route, temporary workspaces, and access roads. After construction, operation of the entire project would require approximately 275.7 acres. Approximately 3,084,700 cubic yards of sediment would be dredged for creation of the marine terminal and maneuvering area and disposed of in Placement Area 13 (owned by the

A3 United States Department of the Interior, Office of the Secretary, Office of Environmental Policy and Protection

Port of Corpus Christi) or on nearby property owned by Alcoa, Inc. The existing Occidental Chemical's loading dock will be relocated about 2,000 feet to the northwest to accommodate the construction of the proposed LNG terminal. An additional 550,300 cubic yards of material will be dredged during the relocation of the dock. According to the Draft EIS, construction of the proposed terminal would impact 1.07 acres of seagrass beds, 3.08 acres of tidal flats, and 1.32 acres of coastal marsh.

Throughout the document, construction and operation impacts are discussed separately. We believe that it is not clear as to whether some figures are additive or exclusive, and this should be clarified early in the document. The temporary impacts--whether due to construction or operation activities--should be clearly distinguished from permanent impacts throughout the document. We recommend that impacts, both temporary and permanent, be clearly presented in tabular form as to specific habitat type impacted.

A3-1

We believe the Draft EIS should more fully address impacts to adjacent wetlands and seagrass beds from increased ship traffic in La Quinta Channel, due to propeller wash of sediments or increased wakes along the entire channel. These areas should be included in the monitoring plans proposed by Ingleside Energy and a mitigation plan should be developed and coordinated with the natural resource agencies if any future impacts occur.

A3-2

The Draft EIS states that palustrine emergent wetlands would be impacted by the proposed pipeline; however, the amount of palustrine wetlands that will be impacted by the proposed project is not consistent within the document. The amount of shrubland and grassland habitat that would be temporarily and permanently disturbed by the proposed project is not stated in the Draft EIS, and we recommend that these figures be included.

A3-3

We recommend that throughout the document the amount of smooth cordgrass and the amount of black mangroves impacted by the proposed project should be listed separately and not collectively as "coastal marsh."

A3-4

Cheniere Energy and Vista del Sol have proposed similar projects along La Quinta Channel. A preliminary mitigation plan was included by FERC in both Draft EISs for each of those projects. The DOI is concerned that Ingleside Energy has not coordinated their proposed mitigation with the resource agencies prior to publication of the Draft EIS. Mitigation plans may have additional environmental consequences or may affect threatened or endangered species. In order to fully evaluate a project's impact to the environment, mitigation should be specifically addressed in the Draft EIS. The DOI recommends that Ingleside Energy and FERC coordinate a mitigation plan, as well as appropriate monitoring plans, with the resources agency prior to the issuance of the Final Environmental Impact Statement (Final EIS).

A3-5

Specific Comments

Executive Summary, Project Impacts, page ES-3

The amount of palustrine wetlands that will be impacted by the proposed project is stated to be 0.02 acres, but in Table 4.13-1 it is listed as being 0.2 acres. This inconsistency needs to be corrected.

A3-6

A3 Continued, page 2 of 5

A3-1 We describe impact in the EIS as "construction impact" and "operational impact". Construction impact includes the total area affected during Project construction, while operational impact includes just the area affected by operation of the Project. The area of operational impact is generally considered permanent impact. In most instances the area of construction impact is greater than operational impact, and the difference is described as "temporary impact". Therefore, construction impacts and operational impacts are not additive. Construction and operational impacts for the proposed LNG terminal and pipeline are presented in tables 2.3.1-1 and 2.3.2-1. Construction and operational impact to wildlife habitats are presented in table 4.5.3-1.

A3-2 The potential for wave energy generated by vessel movements to erode shorelines and adjacent marsh and seagrass habitats is discussed in section 4.2.3.

Although ship traffic can contribute to shoreline erosion, it is not always possible to distinguish the erosion of shorelines and shoreline habitats caused by ship traffic from erosion caused by natural processes. Even when shoreline erosion is attributable to ship traffic, it is difficult to quantify the impacts associated with a single channel user. As such, we believe this is an issue best addressed through a channel-wide program that includes all of the channel users and stakeholders. Ingleside San Patricio indicated that it would be willing to participate in such a program.

In addition, Ingleside San Patricio filed with the Commission a Draft Wetland Mitigation Plan. The Final Wetland Mitigation Plan for the Project will be determined by the U.S. Army Corps of Engineers (COE) during its review of Ingleside San Patricio's section 404/10 permit application.

A3 Continued, page 2 of 5

- A3-3 We note that the amount of palustrine emergent wetlands shown in table 4.13.1 of the draft EIS was 0.2 acre. This table has been revised in this EIS to show that 0.03 acre of palustrine emergent wetlands would be affected by the Project. As discussed in sections 4.4.2 and 4.7.1.2 of this EIS, construction of the Project would affect about 113.9 acres of open land which consist of grassland and scrub/shrub habitat. Of this amount, 42.3 acres of open land habitat would be permanently affected by operation. The remaining 71.6 acres would be restored and allowed to return to their previous condition and use.
- A3-4 Ingleside San Patricio indicated in its *Comments of Ingleside Energy Center LLC and San Patricio Pipeline LLC on Draft Environmental Impact Statement*, that only five to six small black mangrove trees were identified during field surveys. About 1.36 acres of coastal marsh habitat would be affected by the Project. The dominant vegetative species in this habitat is smooth cordgrass Section 4.4.1 has been revised accordingly.
- A3-5 Section 4.4.1 of the EIS has been revised to include a discussion on the development of Ingleside San Patricio's mitigation plan. Ingleside San Patricio consulted with federal and state agencies about its mitigation plan. On March 30, 2005, Ingleside San Patricio met with the FWS, TPWD, COE, and FERC to review wetland mitigation proposals, resulting in a Draft Wetland Mitigation Plan that was filed with the Commission on May 18, 2005 and is included as appendix E in this EIS. Ingleside San Patricio proposes to provide funding for the purchase of two tracts of land adjacent to Nueces Bay near the City of Portland. This land is comprised of coastal emergent marsh and tidal flat. We have recommended that Ingleside San Patricio continue its consultation with certain federal and state agencies to further develop its Final Wetland Mitigation Plan. In addition, we have recommended that Ingleside San Patricio not begin construction until the Commission completes consultation with the FWS and NOAA Fisheries regarding impacts to federally listed species.

A3 Continued, page 2 of 5

A3-6 We note that the amount of palustrine emergent wetlands shown in table 4.13.1 of the draft EIS was 0.2 acre. This table has been revised in this EIS to show that 0.03 acre of palustrine emergent wetlands would be affected by the Project.

Table 1.3-1

Under the column heading "Agency and Regulation/Permit/Approval" the full name of the agencies or their respective acronyms should be used consistently within the table.

A3-7

2.4.1.2 Marine Terminal Basin Dredging and Dredged Material Placement Areas

The maximum depth instead of the minimum depth of the proposed basin should be specified. Information concerning available capacity of the proposed dredge material placement areas and the cubic yards of dredge material that is anticipated to be placed in the same location by other current or proposed projects should be included in this section.

A3-8

4.5.3.6 Potential Project Impacts on Terrestrial Wildlife, page 4-38

The U.S. Fish and Wildlife Service (FWS) recommends that "April 15 and August 1" in the last sentence on that page be changed to "March and August." This relates to the period of exclusion of vegetation maintenance activities to limit impacts to nesting migratory birds.

A3-9

4.12.3. Storage and Retention Systems, pages 4-106-4-111

Figures H-1 thru H-6 are not numbered consistently with the other Figures throughout the document. All figures in this section should be renumbered, in order, from Figure 4.12-1 through Figure 4.12-8.

A3-10

4.13 Cumulative Impacts, pages 4-149-4-158

This section is incomplete. A discussion of the ongoing Texas Department of Transportation activities at the Port Aransas ferry terminal, as well as the proposed LNG graving docks along the La Quinta Channel, should be included in the cumulative impacts analysis.

A3-11

Table 4.13-1

Column entries should be added to the table that reflect: (1) the amount of preserved habitat; and (2) the amount of otherwise undisturbed habitat that is anticipated to remain along the La Quinta Channel. The "UNK's" listed in the table should be updated according to information available in the current Draft EIS or Final EIS for the proposed projects. For the Corpus Christi Ship Channel Improvement Project, the value of 935 acres of shallow water habitat to be created for mitigation is incorrect and should be changed to 55 acres. The remaining 880 acres of the 935 acres stated in the Draft EIS are actually designated as beneficial use sites for dredge disposal and not as mitigation for project impacts to natural resources. Some impacts listed for Ingleside Energy Center, LLC, LNG Project are inconsistent with the amounts stated in the rest of the document and the discrepancies need to be corrected.

A3-12

Federally Listed Species Concerns

With regards to federally listed threatened or endangered species, the FWS has the following comments and recommendations:

A3-7 Table 1.3-1 has been revised accordingly.

A3-8 The marine terminal basin would be dredged to a minimum depth of 43 feet below mean low tide (MLT) and a maximum depth of 44 below MLT. Sections 2.2.1.1 and 2.4.1.2 have been revised. Section 3.5 provides information on the available capacity of the proposed and alternate dredge material placement areas. Information on estimated dredged material volumes for current and proposed projects in Corpus Christi Bay is provided in section 4.13 of this EIS.

A3-9 Ingleside San Patricio committed to following our Procedures, which prohibit routine vegetation maintenance between April 15 and August 1 of any year. However, to further limit impacts to migratory birds, Ingleside San Patricio has agreed to extend this period from March 1 to August 31.

A3-10 LNG storage tanks come in a variety of categories that are described in Annex H of the European Standard for LNG facilities (EN 1473) as well as other publications. We used the alphanumeric system described in Annex H to discuss and show the variety of LNG storage tank categories.

A3-11 The cumulative impacts analysis in section 4.13 of this EIS has been revised accordingly.

A3-12 Table 4.13-1 has been updated with information that is available and relevant.

On pages 4-39, the Draft EIS indicates that on June 3, 2004, a determination that the project would have no impact on threatened and endangered species had been made and concurrence requested from the FWS. The Draft EIS also indicates that in a letter dated June 17, 2004, the FWS "acknowledged the determination that the proposed project would have no effect on federally listed species, and stated that no further action is required from the Service." As written, the statements are easily taken out of context and can be misleading to the reader. On February 2, 2004, the FWS provided the LNG consultants with a list of threatened and endangered species that could occur in San Patricio County. On March 29, 2004, the FWS provided further technical assistance on how to make a determination of "effect." On June 8, 2004, the FWS received the June 3, 2004, determination of "no effect." The FWS reviewed the pipeline route across upland agricultural sites, the upland LNG terminal site and assessment of effects. The FWS does not provide concurrence on "no effect" determinations. The FWS's letter was to inform FERC that the FWS had received the information, their assessment and notification of a "no effect" determination, and that FERC had complied with section 7(a)(2) of the Endangered Species Act (ESA) by making their determination of effect and that no further contact was needed.

A3-13

Subsequently, new information was provided during interagency team meetings that the LNG project would not only involve the upland site but would also require dredging for a ship maneuvering area and large dredge disposal sites. In a letter dated November 3, 2004, the FWS provided FERC and the LNG consultants with documented occurrences of federally endangered manatees in Corpus Christi Bay and La Quinta Channel during June-August 2004. In a letter dated January 10, 2005, the FWS recommended that FERC incorporate measures to avoid impacts to the manatee into the Draft EIS for the Ingleside Energy project. The Draft EIS reflects those recommendations and FERC has since determined that the project is "not likely to adversely affect" the manatee. A "may affect, but not likely to adversely affect" determination does require the concurrence of the FWS. However, because a wetland and seagrass mitigation plan for this project has not been developed, and components of that plan could potentially affect endangered species, the FWS is not able to provide that concurrence at this time. The FWS recommends section 4 of the Draft EIS be updated to reflect subsequent information and correspondence (between the FWS and FERC) that led to the final FERC determinations for the species located within the project area. The FERC should submit a wetland and seagrass mitigation plan to the FWS for assessment of its potential to impact federally listed species prior to the issuance of the Final EIS. Informal consultation under section 7 of the ESA should be continued with the FWS.

Summary

The DOI believes that the Draft EIS could better address several important issues involving the reduction of impacts and protection of fish and wildlife resources. There are cumulative impacts occurring due to industrial and commercial developments. There are three LNG facilities and pipelines proposed for this area alone. In addition, several graving docks for fabrication of offshore LNG projects are proposed for the vicinity. The intent of the National Environmental Policy Act is to evaluate environmental consequences to all components of the environment, for example all habitat types. Conservation features should be incorporated into the project plans to significantly reduce the level of environmental impacts. The Final EIS should contain a completed mitigation plan that adequately compensates for the cumulative loss of coastal habitats found at the proposed project facility and along the pipeline. We believe these issues should be addressed before the Final EIS is approved or FERC project authorization is granted.

A3-14

A3-13 Section 4.6 of this EIS has been revised to indicate that the June 17, 2004 letter was meant to be a notification informing the Commission that FWS had received Ingleside San Patricio's determination of "no effect" and that the Commission had complied with Section 7 (a) (2) of the ESA. The revision further clarifies that informal consultation was reinitiated based on new information provided to the Commission and FWS concurrence on the Commission's determination has not been received. We based our finding of the Project to "not likely to adversely affect" the West Indian manatee on its infrequent occurrence in the Corpus Christi Bay area, comments received by the FWS on January 10, 2005, and recommendation therein for the Commission to include additional measures to protect manatee should they be encountered. Also, see response to comment A3-5.

A3-14 Comment noted. See response to comment A3-5.

If you have any questions regarding fish and wildlife resources in the continuing planning process, please contact Allan Strand, Field Supervisor, or Dr. Larisa Ford, FWS, Corpus Christi Ecological Services Field Office, at 361-994-9005.

Thank you for the opportunity to comment on this project proposal.

Sincerely,



Stephen R. Spencer
Regional Environmental Officer



DEPARTMENT OF THE ARMY
 GALVESTON DISTRICT, CORPS OF ENGINEERS
 P. O. BOX 1229
 GALVESTON, TEXAS 77553-1229

A4

REPLY TO
 ATTENTION:

April 14, 2005

Evaluation Section

SUBJECT: Ingleside Energy Center LNG Terminal and Pipeline Project –Comments of
 Draft Environmental Impact Statement

Federal Energy Regulatory Commission
 Attn: Shannon Dunn
 888 First Street, NE
 Washington, D.C. 20426-0002

Dear Ms. Dunn:

This letter is in reference to the Draft Environmental Impact Statement (DEIS) for the
 Ingleside Energy Center LNG Terminal and Pipeline Project (FERC Docket No. PF04-9-
 000375.300(x)), Corps of Engineers, Galveston District, Regulatory Branch (Corps) has
 completed its review of this DEIS. We have the following comments:

a. Executive Summary (ES), Page 7 – Major Conclusions: FERC
 concludes in the first sentence of this paragraph that "with the use of
 Ingleside San Patricio's proposed mitigation and adoption of our
 recommended mitigation measures, construction and operation of the
 proposed facilities would have limited adverse environmental impact".
 However, to date, no "mitigation plan" for impacts to the aquatic
 environment have been submitted to our office for review. In fact, when
 questioned regarding this type of mitigation, the applicant has stated that it
 will work with the Corps, State and Federal agencies to develop an
 adequate plan. At this point in the process, how can FERC reach the
 conclusion in the DEIS that environmental impacts will be minimal?

A4-1

A4-1 See response to comment A3-5.

b. LNG System Alternatives Discussion ES-6, Paragraph 4 - In the ES,
 "Alternatives Considered" paragraph the following is stated: "None of the
 existing facilities has the capacity or space to add the capacity proposed in
 this project." In Section 3.2.1.3, Page 3-5, Freeport LNG Terminal
 Paragraph: A statement is made that "all of Freeport's capacity is
 subscribed through binding agreements with customers", and as a result,
 "Freeport could not handle the additional volumes proposed for the
 Ingleside Energy Center LNG Project". However, Freeport LNG has
 recently informed the Corps and has had meetings with the FERC
 regarding a new expansion to their recently authorized facility. The
 expansion entails another LNG offloading dock, additional vaporization

A4-2

A4-2 We are currently not reviewing any proposed expansion at the
 Freeport LNG terminal. Should the Freeport LNG Terminal have
 additional capacity, it does not provide access to the interstate
 natural gas market. It is designed to only serve the Texas intrastate
 market. Furthermore, being located about 188 miles northeast of the
 Corpus Christi area, it is unclear how this terminal could provide
 natural gas to Ingleside San Patricio's affiliates, other large energy-
 consuming industries, and the existing intrastate and interstate
 natural gas pipelines in the Corpus Christi area without greater
 environmental impacts at the Freeport LNG Terminal site and a
 pipeline right-of-way that would extend from the Freeport LNG
 terminal to Sinton, Texas.

equipment and another storage tank. Freeport LNG has stated in the Corps that it is currently negotiating with various customers to ensure that the expansion's capacity is full subscribed. This indicates that the Freeport facility may be able to handle the LNG volumes that would be produced by the Ingleside Energy Center LNG Project.

A4-2

c. Proposed Onshore LNG Terminals Under Review, Table 3.2.1.5-1, Section 3.2.1.5, Page 3-6: Gulf Energy L.L.C. is represented in the table as being located in Jackson County, Louisiana. However, the subsequent text for that project states that the project is in Pascagoula, Mississippi.

A4-3

A4-3 Table 3.2.1.5-1 has been revised to show that the Gulf LNG Energy L.L.C. project would be in Jackson County, Mississippi.

d. Water Resources, Surface Water, Marine Water, Section 4.3.2.1, Page 4-15: Paragraph 3 states that the State Section 401 Clean Water Act - Water Quality Certification would be issued by the Texas Commission on Environmental Quality. However, for LNG projects in the State of Texas, the Railroad Commission of Texas will issue this certification.

A4-4

A4-4 Section 4.3.2.1 of this EIS has been revised accordingly.

e. Vegetation – Wetlands and Submerged Aquatic Vegetation, Section 4.4.1, Page 4-21: Paragraph one, second sentence states that "The proposed Project would affect both coastal and freshwater wetlands, general classified as estuarine and palustrine". The word "general" should probably be "generally".

A4-5

A4-5 Section 4.4.1 of this EIS has been revised accordingly.

f. Vegetation – Wetlands and Submerged Aquatic Vegetation, Section 4.4.1: The term "affected" is used broadly when talking about project impacts to different types of vegetated communities. It would be more informative to discuss what "type" of affect that a certain project element would have on the resource. The type of "affect" could have a large bearing on the level of mitigation required to offset the impact.

A4-6

A4-6 See response to comment A3-1. Details on the type of affect, construction versus operation are discussed throughout section 4.4.1 and are shown in table 4.4.1-1.

g. Section 4.4.1, Page 4-21: Paragraph 4 states that "of the 1.07 acre of submerged aquatic seagrass beds that would be affected, about 0.54-acre would be affected by the LNG terminal facilities and about 0.53-acre would be permanently converted to open water..." Would the 0.54-acre be affected by shading from structures, totally removed by dredging or filled for other project components?

A4-7

A4-7 The 0.54 acre of submerged aquatic seagrass beds would be permanently removed by dredging and shoreline construction for the LNG terminal facilities.

h. Table 4.4.1-1, Page 4-24 should include the 0.53-acre of impacts to seagrasses that will occur as a result of the relocation of the existing dock.

A4-8

A4-8 Table 4.4.1-1 has been revised accordingly.

l. Section 4.6, Threatened, Endangered, and Other Special Status Species Page 4-39: FERC states in Paragraph 3 that it has already received a letter from Fish and Wildlife Services (FWS) concurring with the FERC determination that the proposed project would have "no effect" on Federally listed species. The FWS response also states that no further action is required from FWS. However, Paragraph 4 requests that FWS and National Marine Fisheries Service consider the draft EIS as the FERC Biological Assessment for consultation purposes. Page 4-52, Paragraph 2 states that consultation with FWS has not yet been completed. With respect to consultation with FWS, it appears that consultation has already concluded. The last sentence of page 4-39 appears to be missing a word...possibly "comments" or "response"?

A4-9

A4-9 Consultation with the FWS is ongoing. Section 4.6 of this EIS has been revised accordingly. See response to comment A3-13.

j. Section 4.11.1.4, Page 4-86 – Air Quality Impacts and Mitigation: This section does not separate out emissions from dredging versus other construction activities associated with the marine terminal. During the evaluation of the Freeport LNG project, the Corps was told by Texas Commission on Environmental Quality that it, not FERC, was responsible for making an air quality compliance determination for water based construction, primarily dredging activities.

A4-10

A4-10 The information provided in section 4.11.1.4 and table 4.11.1.4-1 under LNG Marine Terminal includes construction equipment including dredging equipment. We note that the Freeport LNG Project is in a non-attainment area and is required to undergo a Conformity Analysis of operation, secondary construction, and mobile source emissions. Since the Corpus Christi area is in attainment Ingleside San Patricio is not required to undergo this type of analysis. In addition, the Texas Commission of Environmental Quality issued an air permit on April 15, 2005 for the Ingleside Energy Center LNG Project.

k. Section 4.13.9, Page 4-158, Cumulative Impacts – Conclusions about Cumulative Impacts: The Corps study referenced in this paragraph is the Corpus Christi Ship Channel Improvement Project. This paragraph implies that the conclusions of the Corps study apply to the cumulative impacts of all projects and topics discussed in this EIS. It is unlikely that this study addressed the LNG projects discussed herein.

A4-11

A4-11 Comment noted. Section 4.13.9 of the draft EIS, *Conclusions about Cumulative Impacts*, is now section 4.13.10, which has been revised accordingly.

Throughout the DEIS, FERC states that certain types of information, such as final cultural resource surveys, aquatic resource mitigation plans etc. ... must be submitted and approved prior to the start of work. The Cumulative Impacts Analysis states that impacts to vegetated components of Essential Fish Habitat will be addressed through compensatory mitigation during the Section 404 permitting effort. These requirements will likely appear as conditions to a license, if approved. However, pursuant to Executive Order 13212, dated May 15, 2003 - Actions to Expedite Energy-Related Projects, and Regulatory Standard Operating Procedures for Processing Liquefied Natural Gas Projects, dated November 29, 2004, the Corps is making every effort to evaluate the Department of the Army permit application for this project, concurrently with the development and finalization of the FERC EIS. This EIS would also constitute our NEPA document. Our goal is to reach a permit decision at approximately the same time that FERC reaches its licensing decision. However, to require that such information be

A4-12

A4-12 Comment noted. See response to comment A3-5.

-4-

submitted after a license decision is made would preclude the Corps ability to complete its decision process on time. The Corps decision would then be delayed until that time which all required information is received and evaluated.

A4-12

Thank you for the opportunity to comment on this DEIS. If you have any comments or questions regarding this letter, please contact Janet Thomas Botello at 409-766-3095.

Sincerely,



Jeff Kaufman
Chief, Evaluation Section



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE

Southeast Regional Office
9721 Executive Center Drive N.
St. Petersburg, Florida 33702

A5

April 12, 2005

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FEDERAL ENERGY
REGULATORY COMMISSION

Magalie R. Salas, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E., Room 1A
Washington, D.C. 20426

ORIGINAL

Dear Secretary Salas:

The Southeast Regional Office, Habitat Conservation Division of NOAA's National Marine Fisheries Service (NMFS) has reviewed the "Draft Environmental Impact Statement INGLETSIDE ENERGY CENTER LNG TERMINAL AND PIPELINE PROJECT" (FERC/EIS- 0177D, Docket Nos. CP05-11-000, CP05-12-000, CP05-13-000, CP05-14-000), dated February 2004. Ingleside Energy Center LLC and San Patricio Pipeline LLC, subsidiaries of Occidental Chemical, propose to construct a liquefied natural gas (LNG) import terminal, storage facility, and associated pipelines adjacent to the LaQuinta Ship Channel in Corpus Christi Bay near Ingleside, Texas.

Overall, we find that the draft environmental impact statement (DEIS) adequately considers alternatives and describes potential adverse impacts to living marine resources and their habitats. We offer the following comments to improve the content of the DEIS and address NMFS' responsibilities under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*).

4.0 ENVIRONMENTAL ANALYSIS

4.4 VEGETATION

4.4.1 Wetlands and Submerged Aquatic Vegetation

Pages 4-25 and 26. This discussion centers on the need for the applicant to continue coordination with federal and state agencies to develop an appropriate mitigation plan to compensate for the permanent impacts of nearly five acres of emergent wetlands, tidal flats, and submerged aquatic vegetation. Because mitigation options still are being considered, we recommend that the applicant be required to fully develop an Aquatic Resources Mitigation Plan prior to publishing the final environmental impact statement (FEIS).

A5-1

A5 United States Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service

A5-1 See response to comment A3-5.

APPENDIX B ESSENTIAL FISH HABITAT ASSESSMENT

In a letter dated June 3, 2004, NMFS advised the Federal Energy Regulatory Commission (FERC) that the proposed project site includes and is adjacent to areas that have been identified by the Gulf of Mexico Fishery Management Council (GMFMC) as essential fish habitat (EFH) for postlarval, juvenile, and adult red drum (*Sciaenops ocellatus*); adult and subadult Spanish



mackerel (*Scomberomorus maculatus*); and juvenile and subadult white (*Litopenaeus setiferus*), brown (*Farfantepenaeus aztecus*), and pink shrimp (*F. duorarum*). The estuarine water column, unvegetated benthic habitats, seagrasses, and intertidal wetlands are categories of EFH that could be impacted by the proposed project. The designations by the GMFMC in its EFH amendment, as approved by NOAA Fisheries, were specified pursuant to the requirements of the Magnuson-Stevens Act and implementing regulations. Following our early EFH coordination, NMFS has continued to work with the applicants and their representatives to develop an acceptable mitigation plan that would compensate for adverse impacts to EFH and associated managed species.

On appendix page B-2 of the DEIS, the FERC requests that NMFS consider the DEIS as notification of initiation of EFH consultation. This method of consultation is acceptable to NMFS. Consequently, we have reviewed the EFH assessment provided in the DEIS. Generally, we find that the DEIS and EFH assessment adequately describe EFH and dependent fishery resources and the potential adverse project impacts affecting EFH. Based on our review of the EFH assessment, the Magnuson-Stevens Act implementing regulations require that NMFS provide EFH conservation recommendations for any federal agency action or permit that may result in adverse impacts to EFH. Therefore, to ensure the conservation of EFH and associated fishery resources, final action on the proposed LNG facility should require the following:

EFH Conservation Recommendation

Any license issued should require the licensee to offset adverse project impacts to EFH by developing and implementing a wetlands and submerged aquatic vegetation mitigation plan that would adequately compensate for lost functions and values to 4.9 acres of EFH. The mitigation plan should be fully implemented and deemed successful prior to initiation of operation of the LNG facility.

Please be advised that Section 305(b)(4)(B) of the Magnuson-Stevens Act and NMFS' implementing regulation at 50 CFR Section 600.920(c) require FERC, as the federal action agency, to provide a written response to EFH conservation recommendations within 30 days of receipt. Your response must include a description of measures to be required to avoid, mitigate, or offset the adverse impacts of the activity. If your response is inconsistent with our EFH conservation recommendation, you must provide a substantive discussion justifying the reasons for not implementing this recommendation. If it is not possible to provide a substantive response within 30 days, the FERC should provide an interim response to NMFS, to be followed by the detailed response at least 10 days prior to final approval of the action.

Other Issues

The proposed project area may be within the known distribution limits of federally listed species that are under the purview of NMFS. In accordance with the Endangered Species Act of 1973, as amended, it is the responsibility of FERC to identify actions that may affect endangered or threatened species or that may destroy or adversely modify designated critical habitat. Determinations involving protected species under NMFS jurisdiction should be reported to our Protected Resources Division (PRD) at the letterhead address. If it is determined that the

A5-2

A5-2 Comment noted. Please see response to comment A3-5.

A5-3

A5-3 Pursuant to section 7 of the Endangered Species Act, the FERC has conducted informal consultations with NOAA Fisheries, Protected Resources Division. We have concluded that endangered and threatened species under NOAA Fisheries' jurisdiction would not likely be adversely affected by construction or operation of the Ingleside Energy Center LNG Project. The Protected Resources Division has not yet commented on our determination.

activities may adversely affect any species listed as endangered or threatened and under PRD purview, then formal consultation must be initiated.

A5-3

Thank you for the opportunity to provide comments on environmental issues concerning the proposed licensing of the Ingleside Energy Center LNG Terminal and Pipeline Project. If we may be of further assistance, please contact Mr. Rusty Swafford in our Galveston, Texas, office at (409) 766-3699. For information concerning threatened and endangered species please contact Mr. Eric Hawk at (727) 570-5312.

Sincerely,



Miles M. Croon
Assistant Regional Administrator
Habitat Conservation Division

cc: SER3
SER 46 - Swafford
SER 46 - Thompson
SER 46 - Hartman
SER 46 - Fuhsamen
SER - Keys
GMFMC - Rester
F/HC - Schmitt
PPI - Kokkinakis

*

2

A5 Continued, page 3 of 3

ORIGINAL

A6



April 19, 2005

Ms. Magalie R. Salas, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E., Room 1A
Washington, D.C. 20426

Re: Ingleside Energy Center, LLC and San Patricio Pipeline, LLC.
Docket Nos. CP05-13-000, CP05-11-000, CP05-42-000 and CP05-14-000

Dear Ms. Salas:

Texas Parks and Wildlife Department (TPWD) staff has reviewed the February 2005 Draft Environmental Impact Statement (DEIS) for the Ingleside Energy Center, L.L.C., and San Patricio Pipeline, L.L.C. (collectively referred to as Ingleside San Patricio, Ingleside Energy Center LNG Terminal and Pipeline Project (Ingleside Energy Center LNG Project)). The proposed liquefied natural gas (LNG) import terminal would be constructed adjacent to the existing Occidental Chemical manufacturing complex on the northeastern shoreline of Corpus Christi Bay along the La Quinta Channel, west of Ingleside, in Nueces and San Patricio Counties, Texas. The proposed pipeline would extend from the LNG terminal to a natural gas pipeline interconnects north of Sinton, in San Patricio County, Texas. Texas Parks and Wildlife Department staff offers the following comments and recommendations concerning the DEIS:

Executive Summary

Major Conclusions:

This section states that, with the use of Ingleside San Patricio's proposed mitigation and adoption of the Federal Energy Regulatory Commission (FERC) staff-recommended mitigation measures, FERC staff concludes that construction and operation of the proposed facilities would have limited adverse environmental impact. Texas Parks and Wildlife Department staff has participated in interagency meetings with the applicant concerning potential mitigation alternatives, however no proposed mitigation plan is presented in the DEIS for review.

A6-1

A6-1 See response to comment A3-5.

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Table 1.3-1 Major Permits, Approvals, and Consultations for the Ingleside Energy Center LNG Project

Texas Parks and Wildlife Department is a state natural resource agency that also reviews and provides comments on U.S. Army Corps of Engineers (section 10 and Section 404) permits through the Fish and Wildlife Coordination Act.

A6-2

A6-2 Table 1.3-1 has been revised accordingly.

Section 2.0 DESCRIPTION OF THE PROPOSED ACTION

Section 2.4 CONSTRUCTION PROCEDURES

Section 2.4.1 LNG Terminal Facilities

Section 2.4.1.2 Marine Terminal Basin Dredging and Dredged Material Placement Areas

About 1,365,300 cubic yards of material would be dredged for the maneuvering area and about 1,719,400 cubic yards of material would be removed for the LNG ship berth. Ingleside San Patricio has identified two potential dredge material placement areas (DMPAs) where it would deposit dredged materials, the Port of Corpus Christi Authority DMPA No. 13 or Alcoa's bauxite residue tailing ponds. Texas Parks and Wildlife Department staff recommends that Ingleside San Patricio consider placing the dredge material in the Alcoa bauxite residue tailing ponds since it would provide important environmental benefits for the geographical area.

A6-3

A6-3 This EIS has been revised to indicate that Ingleside San Patricio's preferred DMPA would be at Alcoa's tailing ponds.

Section 2.4.2 Pipeline and Associated Aboveground Facilities

Section 2.4.2.1 General Pipeline Construction Techniques

Clearing and Grading

Ingleside San Patricio proposes to clear all vegetation within the construction right-of-way (ROW). Although most of the pipeline route will be located in disturbed uplands such as agricultural fields, a portion of the pipeline route (e.g., between milepost (MP) 21.00 and 24.00) traverses an area that contains live oaks (*Quercus virginiana*) and other woody species in addition to the scrubshrub species identified in the Draft Environmental Impact Statement (DEIS). Department staff recommends avoiding the removal of large trees (greater than 12 inches diameter breast height, dbh) that may occur within the boundaries of the construction ROW. The final EIS should include a mitigation plan for permanent impacts to mature trees (12 to 25 inch dbh) and

A6-4

A6-4 Section 4.4.2 of this EIS has been revised to include a recommendation that Ingleside San Patricio attempt to avoid the removal of trees along the pipeline right-of-way with a diameter at breast height greater than 12 inches. If such trees must be removed, Ingleside San Patricio should prepare a mitigation plan, in consultation with the TPWD, and file the plan with the FERC prior to construction.

Ms. Magalie Salas
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old timber (>25 inch dbh). Typically in the region of the project, Department staff recommends a replacement ratio of three trees with at least a 2-inch diameter for each mature tree lost and 10 trees for each tree lost that qualifies as old timber. A6-4

No information was provided regarding the proposed construction procedures and locations for the temporary bridges and culverts to be installed at creek crossings. The locations and anticipated impacts associated with the construction of the temporary structures should be included in the final EIS. Impacts should be quantified and post-construction restoration plans should also be included in the final EIS. A6-5

Section 2.4.2.2 Special Pipeline Construction Techniques

Department staff concurs with scheduling pipeline construction during winter months. While the schedule was proposed to accommodate agricultural interests, construction of the pipelines outside the March to August bird nesting season will also minimize potential impacts to nesting birds. A6-6

Section 4.0 ENVIRONMENTAL ANALYSIS

Section 4.3 WATER RESOURCES

Section 4.3.2 Surface Water

Section 4.3.2.1 Marine Water

This section cites conclusions from a Corps of Engineers study on the relative contribution of dredging and wind in resuspending sediments. The study was conducted in Laguna Madre which is described in this section as being located just north of Corpus Christi Bay. The Laguna Madre is actually located south of Corpus Christi Bay. A6-7

Section 4.4 VEGETATION

Section 4.4.1 Wetlands and Submerged Aquatic Vegetation

The second paragraph describes the near-shore habitats that would be affected by the LNG terminal including 1.32 acres of estuarine emergent marsh and 3.08 acres of tidal flat. Potential impacts to seagrasses are described in the sixth and seventh paragraphs and include direct impacts to 1.07 acres of submerged aquatic vegetation from construction of the LNG terminal facilities and the A6-8

A6-5 Ingleside San Patricio would construct temporary bridges and culverts within the construction right-of-way and restore disturbed areas in accordance with our Procedures. The FERC's Procedures are available for viewing on the FERC Internet website at www.ferc.gov.

A6-6 Thank you for our comment.

A6-7 Section 4.3.2.1 has been revised accordingly.

A6-8 Ingleside San Patricio would comply with any Project-specific recommendations or requirements to minimize suspension of sediments that are attached to dredging permits issued by the COE. Ingleside San Patricio would use turbidity curtains during construction. The Commission also notes that the TPWD reviews and provides comments on COE Section 10 and Section 404 permits through the Fish and Wildlife Coordination Act of 1934. In addition, in section 4.4.1, we have recommended that Ingleside San Patricio conduct post-construction surveys of seagrass beds adjacent to the areas that would be dredged and file a report that compares the results of the pre- and post-construction seagrass surveys with the Secretary. If secondary impacts to these areas are observed, we have recommended that Ingleside San Patricio consult with resource and regulatory agencies to develop additional mitigation measures as necessary.

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relocation of Occidental Chemical's existing loading dock. Adjacent seagrass beds could potentially be affected by turbidity created by dredging activity. Texas Parks and Wildlife Department staff also believes that turbidity could be created and thus affect adjacent seagrass beds during the relocation of Occidental Chemical's existing loading dock, particularly during installation of the support pilings. Therefore, TPWD staff recommends the use of turbidity curtains to protect adjacent seagrass beds during the dredging and loading dock relocation activities.

A6-8

The fourteenth paragraph indicates that the loss of estuarine wetlands and submerged aquatic wetlands as a result of the construction of the terminal and the relocation of Occidental Chemical's existing loading dock would require compensatory mitigation. The specific type and amount of compensatory mitigation would be determined by the Corps of Engineers during the Section 404 permit process and in coordination with the Corps of Engineers, U.S. Fish and Wildlife Service, Texas Parks and Wildlife Department, Texas General Land Office, National Marine Fisheries Service, and the Coastal Bend Bays & Estuaries Program. Texas Parks and Wildlife Department staff has reviewed Corps of Engineer's permit application number 23630, dated March 11, 2005 which requests authorization for construction, operation, and maintenance of structures and equipment necessary for Occidental Chemical Corporation's proposed LNG terminal facility (Ingleside Energy Center) and pipeline. No mitigation is proposed in for the proposed wetland and seagrass impacts in the permit application. Texas Parks and Wildlife Department staff did participate in an interagency meeting on March 30, 2005 at the Occidental Chemical facility to discuss mitigation options. Several potential mitigation ideas were presented and discussed, including habitat restoration and wetland preservation projects in Corpus Christi and Nueces Bays. Therefore, TPWD staff recommends that a mitigation plan be developed to compensate for the proposed impacts to estuarine marsh, tidal flats and seagrasses.

A6-9

A6-9 See response to comment A3-5.

Section 4.4.2 Upland Vegetation

The proposed pipeline would require approximately 375 acres of which 257 acres are described as agricultural land and 118 acres of grassland and scrub/shrub habitats described collectively as "open land" in the DEIS. The final EIS should include descriptions of all of the specific vegetation communities (cover type) and quantify the area that will be affected by the project. Descriptions should include dominant plant species, estimated height, and canopy coverage. Quantifying impacts by specific habitat type will facilitate the evaluation of appropriate mitigation alternatives.

A6-10

A6-10 Section 4.4.2 provides a description of vegetative cover types that would be affected by the proposed Project. Acreages that would be affected are described in sections 4.5.3 and 4.7.

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The species of mesquite common to the area is *Prosopis glandulosa*.
The specific epithet for huisache is *smallii* (syn. *Acacia farnesiana*).
The species locally known as blackbrush is *Acacia rigidula* rather than
Coleogyne ramosissima which occurs west of Colorado and Arizona.
The species of prickly pear common to the area is *Opuntia engelmannii* (syn. *O.*
indefinita).

AG-11

A6-11 This final EIS has been revised accordingly.

Common species in the area between MP 2000 and MP 2050, adjacent to the
existing pipeline corridor, include sugarberry (*Celtis laevigata*) and live oak
(*Quercus virginiana*) var. The final EIS should include these species in
descriptions of vegetation in the project corridor.

AG-12

A6-12 We have revised section 4.4.2 to include a recommendation that
Ingleside San Patricio consult with the TPWD and the NRCS to
develop a seed mix that includes native grass species, and file the
final seed mix specifications with the Secretary, prior to
construction of the pipeline.

No specific species were included in the seed mixtures proposed for post-
construction revegetation. TPWD strongly encourages the use of locally native
species and forbs in revegetation efforts.

Section 4.5 WILDLIFE AND AQUATIC RESOURCES

Section 4.5.3 Terrestrial Wildlife

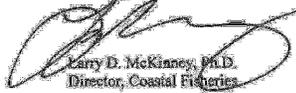
In addition to the resident and migrant birds listed in the DEIS, over 200
additional species migrate along the lower Texas Gulf Coast annually including
several Federally and State listed threatened and endangered species. Many of
these species will use available vegetation as fallout areas during migration. In
addition to avoiding birds during the nesting season, contractors should be
made aware of the potential to encounter birds in the project area during
migration and should be instructed to avoid adversely impacting them.

AG-13

A6-13 All contractors would receive environmental training prior to
working on the LNG terminal or pipeline. See section 2.6 of
the EIS.

If we can be of further assistance, please do not hesitate to call Bob Spain in
Austin at 512-389-4633 or Kay Jenkins in Corpus Christi at 361-823-3243.

Sincerely,



Larry D. McKinney, Ph.D.
Director, Coastal Fisheries

LDM:KJ:JRM:sh

cc: Jarrett, Woodrow, Coastal Fisheries Coastal Conservation Program
Kathy Boydston, Wildlife Division