

Section P1
Comment Letters

Responses to Comments on the Draft EIS

Federal Agencies

20080610-0257 FERC PDF (Unofficial) 06/06/2008



ORIGINAL

U.S. Department of Housing and Urban Development

Baltimore Office
City Crescent Building
10 South Howard Street, 5th Floor
Baltimore, MD 21201-2528

May 30, 2008

2008 JUN -6 A 9 22
FEDERAL ENERGY
REGULATORY COMMISSION
SECRETARY OF THE
COMMISSION

Ms. Kimberly D. Bose
Federal Energy Regulatory Commission
888 First Street, N.E., Room 1A
Washington, D.C. 20426

Dear Ms. Bose:

Subject: DEIS on Sparrows Point LNG & Mid-Atlantic Express Pipeline Project
(Docket Nos. CP07-62-000, CP07-63-000, CP07-64-000, and CP07-65-000)

Thank you for the opportunity to review and comment on the above DEIS. Our comments are confined to the HUD housing projects identified below. These projects are within the vicinity of the proposed LNG terminal.

<p>Turner's Station Apartments 101 Center Place Baltimore, MD 21222</p>	<p>Center Place Apartments 101 Center Place Dundalk, MD 21222</p>	<p>St. Luke's Place Apartments 2825 Lodge Farm Road Edgemere, MD 21219</p>
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Our comments are specific to the Department's Acceptable Separation Distance (ASD) standards, 24 CFR Part 51, Subpart C -- Siting of HUD-Assisted Projects Near Hazardous Operations Handling Conventional Fuels or Chemicals of an Explosive or Flammable Nature.

In accordance with the above HUD regulations the standard for thermal radiation for buildings is 10,000 BTU/ft² hr. Applying this standard results in an ASD of 1.31 miles. The above three HUD projects, at 2.7, 2.8 and 2.9 miles from the proposed LNG terminal, are in an ASD from the proposed above ground storage tanks.

The HUD standard for thermal heat flux for people is 450 BTU/ft² hr. Applying this standard results in an ASD of 4.43 miles. The above three HUD projects at 2.7, 2.8 and 2.9 miles from the proposed LNG terminal are not in an ASD. HUD permits exceptions to this standard when out-door areas at project sites are shielded from above ground storage tanks by existing intervening buildings and/or terrain. Should an LNG tank catch fire the above HUD projects at 2.7, 2.8 and 2.9 miles from the proposed LNG terminal would be shielded from the thermal radiation by the existing intervening buildings.

www.hud.gov espanol.hud.gov

FA1-1

FA1-2

FA1-3

FA1-1 Thank you for your comments and your involvement in reviewing the potential environmental impacts of the Project.

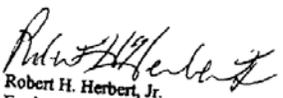
FA1-2 Section 4.12.4 *Thermal Exclusion Zone* has been updated to address this comment.

FA1-3 Please see response to comment FA1-2.

20080610-0257 FERC PDF (Unofficial) 06/06/2008

In closing, should there be any questions regarding our comments, do not hesitate directing them to me at Robert.h.herbert@hud.gov or 410-209-6546.

Sincerely,


Robert H. Herbert, Jr.
Environmental Officer

cc:
Charles Halm
James Kelly

FA2 – United States Department of the Interior, Office of the Secretary, Office of Environmental Policy and Compliance, Philadelphia, Pennsylvania, Michael T. Chezik, Regional Environmental Officer

20080616-5031 FERC PDF (Unofficial) 6/16/2008 11:24:42 AM



IN REPLY REFER TO:

United States Department of the Interior

OFFICE OF THE SECRETARY
Office of Environmental Policy and Compliance
Custom House, Room 244
200 Chestnut Street
Philadelphia, Pennsylvania 19106-2904



June 16, 2008

ER 08/444

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street N.E., Room 1A
Washington, D.C. 20426

Dear Ms. Bose:

The Department of the Interior (Department) has reviewed the Draft Environmental Impact Statement for the Sparrows Point LNG and Mid-Atlantic Express, FERC Nos. CP07-62-000, CP07-63-000, CP07-64-000, and CP07-65-000, Baltimore County, MD. The Department offers the following comments for your consideration.

GENERAL COMMENTS

The Fish and Wildlife Service will be providing separate comments and recommendations to the Commission and the applicant, pursuant to the Endangered Species Act of 1973 (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.), regarding threatened and endangered species occurring in the project area.

SPECIFIC COMMENTS

Section 4.1.1.1, LNG Terminal, page 4-4

USGS National Seismic Hazard Maps and probabilistic seismic hazard assessments are referenced in three different paragraphs on this page of the DEIS, but these products are not included in the list of references (Appendix G). It would help the reader if appropriate citations were made in the text and the publications included in the list of references.

Appendix G, References and Contacts, page G-9

The citation for Lindsay and others, 1998, contains an incorrect or outdated Internet link; the correct link is <http://pubs.usgs.gov/circ/circ1168/>

FA2-1

FA2-1

Please see letter FA7.

FA2-2

FA2-2

Section 4.1.1.1 has been updated to include citations for USGS National Seismic Hazard maps and probabilistic seismic hazard assessments. Appendix G has been updated to include these citations.

FA2-3

FA2-3

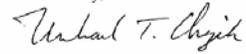
Appendix G has been updated with the correct link.

FA2 – United States Department of the Interior, Office of the Secretary, Office of Environmental Policy and Compliance, Philadelphia, Pennsylvania, Michael T. Chezik, Regional Environmental Officer

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Thank you for the opportunity to review and comment on this DEIS. If you have any questions concerning our comments, please contact Lloyd Woosley, Chief of the USGS Environmental Affairs Program, at (703) 350-8797 or at lwoosley@usgs.gov.

Sincerely,



Michael T. Chezik
Regional Environmental Officer

FA3 - United States Department of Commerce, National Oceanic and Atmospheric Administration (NOAA), National Marine Fisheries Service (NMFS), Rodney F. Weiher, Ph.D., NOAA NEPA Coordinator and Patricia A. Kurkul, Regional Administrator

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UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
PROGRAM PLANNING AND INTEGRATION
Silver Spring, Maryland 20910

Alisa M. Lykens
Gas Branch 2
Federal Energy Regulatory Commission
Washington, D.C. 20426

JUN 16 2008

Attn: Joanne Wachholder, Environmental Project Manager

Dear Ms. Lykens:

The National Oceanic and Atmospheric Administration (NOAA) is pleased to provide comments on the Draft Environmental Impact Statement (DEIS) for the Sparrows Point LNG Terminal and Pipeline Project (CP07-62-000, *et al.*), dated April 2008, from the Federal Energy Regulatory Commission (FERC), lead agency. In addition, NOAA is providing comments on the related U.S. Army Corps of Engineers Public Notice CENABOP-RMN 2007-01644, dated April 25, 2008, for the proposed AES Sparrows Point LNG, LLC Terminal and Mid-Atlantic Express LLC Pipeline (collectively referred to as AES) to run from the proposed Sparrows Point LNG Terminal to Eagle, Pennsylvania. To facilitate access and off-loading for LNG tankers, AES proposes to mechanically dredge 118 acres of subtidal bottom in the Patapsco River to a depth of 45 feet below mean low water (MLW) for an access channel, turning basin, and berthing area, and to construct a pile-supported trestle. Approximately 3.7 million cubic yards of dredge material will be temporarily stored and processed on adjacent uplands, and disposed of through beneficial re-use (e.g., abandoned mine reclamation, landfill capping), or in a landfill. The proposed 88 miles of pipeline will affect 14,002 linear feet of stream and 19.43 acres of wetlands. Some wetlands will be affected temporarily, but others will be affected permanently by converting 4.5 acres of forested nontidal wetlands to scrub/shrub and/or emergent nontidal wetlands within the pipeline right-of-way.

NOAA's National Marine Fisheries Service's (NMFS) offers the following comments and recommendations in accordance with their obligations under the Fish & Wildlife Coordination Act (FWCA) and Magnuson-Stevens Fishery Conservation and Management Act (MSA). Comments on the DEIS regarding threatened and endangered species have been included in this correspondence under the authority of the FWCA. An evaluation of the information for the purposes of the Endangered Species Act (ESA) Section 7 interagency consultation will be provided in a separate correspondence.

In licensing and regulatory matters, decisions and judgments are made based on the best scientific data available at that time. Where data is abundant, precise requirements may be in order. Where available scientific data is not comprehensive, precision is not always possible, and more projections and judgments are used. While NOAA has certain scientific data relevant to the effects of the operation of the proposed facility on marine and anadromous species and their habitats, they are not necessarily comprehensive on all matters related to the projected effects of the facility operation.

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FA3 - United States Department of Commerce, National Oceanic and Atmospheric Administration (NOAA), National Marine Fisheries Service (NMFS), Rodney F. Weiher, Ph.D., NOAA NEPA Coordinator and Patricia A. Kurkul, Regional Administrator

20080616-5092 FERC PDF (Unofficial) 6/16/2008 4:23:54 PM

NOAA appreciates the opportunity to comment at this time and looks forward to continuing to provide the FERC with assistance on the subject action. Please direct questions regarding this letter and enclosed comments to John S. Nichols of the NMFS Annapolis, Maryland Habitat Office at 410-267-5675, or John.Nichols@noaa.gov. For questions concerning threatened or endangered species, please contact Ms. Kristen Koyama at the NMFS Gloucester, MA Office at 978-281-9328 x6531 or Kristen.Koyama@Noaa.Gov.

Sincerely,


Rodney F. Weiher, Ph.D.
NOAA NEPA Coordinator
Office of Program Planning and Integration

Enclosure

20080616-5092 FERC PDF (Unofficial) 6/16/2008 4:23:54 PM



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
One Backburn Drive
Gloucester, MA 01930-2298

JUN 16 2008

Alisa M. Lykens
Gas Branch 2
Federal Energy Regulatory Commission
Washington, D.C. 20426

Attn: Joanne Wachholder, Environmental Project Manager

Dear Ms. Lykens:

The National Marine Fisheries Service (NMFS) has reviewed the draft environmental impact statement (DEIS) and essential fish habitat (EFH) assessment, dated April 2008, and U.S. Army Corps of Engineers Public Notice CENABOP-RMN 2007-01644, dated April 25, 2008, for the proposed AES Sparrows Point LNG Terminal in Baltimore County, Maryland, and the Mid-Atlantic Express LNG Pipeline to run from the proposed Sparrows Point Terminal to Eagle, Pennsylvania. To facilitate access and off-loading for LNG tankers, AES proposes to mechanically dredge 118 acres of subtidal bottom in the Patapsco River to a depth of 45 feet below mean low water (MLW) for an access channel, turning basin, and berthing area, and to construct a pile-supported trestle. Approximately 3.7 million cubic yards of dredge material will be temporarily stored and processed on adjacent uplands, and disposed of through beneficial re-use (e.g., abandoned mine reclamation, landfill capping), or in a landfill. The proposed 88 miles of pipeline will affect 14,002 linear feet of stream and 19.43 acres of wetlands. Some wetlands will be affected temporarily, but others will be affected permanently by converting 4.5 acres of forested nontidal wetlands to scrub/shrub and/or emergent nontidal wetlands within the pipeline right-of-way.

We offer the following comments and recommendations in accordance with our obligations under the Fish & Wildlife Coordination Act (FWCA) and Magnuson-Stevens Fishery Conservation and Management Act (MSA). Comments on the DEIS regarding threatened and endangered species have been included in this correspondence under the authority of the FWCA. An evaluation of the information for the purposes of the Endangered Species Act (ESA) Section 7 interagency consultation will be provided in a separate correspondence.

FISH AND WILDLIFE COORDINATION ACT

AES SPARROWS POINT LNG TERMINAL

The tidal Patapsco River, which includes the Port of Baltimore, is a major mid-Atlantic seaport and serves as Maryland's primary center for industrial activity. Intense industrial activity and urbanization has and continues to affect the quality of estuarine habitat within the harbor. From a general perspective of minimizing impacts on fishery



FA3-1



FA3-1

Comment noted.

<p>20080616-5092 FERC PDF (Unofficial) 6/16/2008 4:23:54 PM</p> <p>↑ resources in the Chesapeake Bay, the Port of Baltimore is a preferred location for this proposed terminal.</p> <p>Despite its industrial character, the Patapsco River retains fishery resource values. The tidal portion of the river serves as a conduit for migratory fish which move to and from spawning grounds and nursery habitat within the less urbanized nontidal reaches of the watershed. These species include alewife (<i>Alosa pseudoharengus</i>), blueback herring (<i>Alosa aestivalis</i>), white perch (<i>Morone americana</i>), and the catadromous American eel (<i>Anguilla rostrata</i>). The river also provides forage habitat and a forage base for marine and estuarine species such as bluefish (<i>Pomatomus saltatrix</i>), summer flounder (<i>Paralichthys dentatus</i>), and blue crab (<i>Callinectes sapidus</i>). In consideration of the sizable impacts associated with development of the terminal, measures are needed to minimize impacts on migratory fish resources, as well as secondary impacts on the adjacent waters of the Chesapeake Bay. We have summarized our recommended FWCA measures for mitigating project impacts below.</p> <p>FA3-2 Minimizing Dredging Impacts In general, subtidal areas in the middle tidal Patapsco River that are deeper than 20 feet (MLW) experience periods of hypoxia/anoxia during summer months (John Foster, Maryland Department of Natural Resources, personal communication, 1995. Cronin, 1970). The Maryland Department of Natural Resources fixed monthly water quality monitoring station in Baltimore Harbor recorded hypoxic/anoxic conditions at 40 feet (MLW) throughout the months of June, July, and August in 2007. The applicant proposes 45-foot (MLW) depths to accommodate LNG tanker access. Consequently, we anticipate that areas dredged by this action will cumulatively add to the summer anoxic/hypoxic zone of the river. The most effective way for the applicant to minimize expansion of the hypoxic/anoxic zone is to minimize the aerial extent of dredging for this project.</p> <p>FA3-3 The Mittal Steel property, discussed as an alternative site for the proposed terminal in the DEIS, does offer distinct environmental advantages over the proposed terminal site because it would significantly reduce the dredging/disposal requirements. The Mittal site is only 2,500 feet from the main shipping channel (as compared to 6,000 feet for the proposed site), and dredged material removal would be reduced from 3.7 to 1.8 million cubic yards. Reduced dredging requirements associated with the Mittal Steel site would also apply to long term maintenance needs for this project. More importantly, use of the Mittal site would lessen the project's expansion of the summer hypoxic/anoxic zone of the river. We, therefore, recommend the following alternatives analysis measure.</p> <ol style="list-style-type: none"> 1. The applicant should continue to investigate acquisition and use of the Mittal Steel property for locating the proposed tanker berthing and off-loading facility to reduce dredging/disposal requirements for this project. <p>FA3-4 ↓ Sediments that will be dredged from either the proposed Sparrows Point site or the Mittal Steel site will likely contain contaminants that could be re-mobilized into the water column of the river, and re-introduced to the local biota during and following dredging</p>	<p>FA3-2 We agree. However, the area to be dredged is fixed by the limits needed to safely move the LNG vessels, with tug assist, through the approach channel and the turning basin and to maneuver the vessels to the unloading dock. We believe the applicant has chosen the minimum dredging dimensions that would allow for safe maneuvering of the vessels. We also agree that the new deeper channel would exacerbate the situation of low dissolved oxygen in the deep channels during the summer months. See revised section 4.3.2.5 <i>LNG Terminal Construction, Dredging</i>.</p> <p>FA3-3 Since the time that the DEIS was released, ArcelorMittal reached agreement to sell the steel mill site and facilities to OAO Severstal. AES has approached OAO Severstal several times, but has not been able to engage OAO Severstal in any meaningful discussions. Section 3.2.3 has been revised to include a discussion on the Mittal Steel property.</p> <p>FA3-4 AES has agreed to incorporate your EFH conservation recommendations # 2, 3, and 4. See section 4.6.3.2 <i>LNG Terminal</i>.</p>
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and sediment transfer. We recommend that the following measures be used to minimize re-mobilization of sediment contaminants during mechanical dredging.

2. An environmental, sealed bucket should be used on the mechanical dredge(s) to reduce back-flow or leakage during sediment transfer.
3. The dredge contractor should employ an alternative spoil handling option provided in the DEIS, i.e., decant water accumulated after initial settling of spoil in hoppers should be pumped to onshore tanks for additional settling and treatment prior to discharge to tidal waters.
4. Discharged decant water should meet Maryland water quality standards, especially regarding turbidity and suspended solids.

Disposal of Dredge Material

NMFS strongly supports the applicant's proposed innovative re-use of dredged material to be generated by currently proposed and long term maintenance dredging. Should AES fail to obtain sufficient applications and/or identify specific sources for re-use of a portion or all of the re-cycled material, a logistically feasible back-up disposal plan should be in place. Use of Allied Waste Management sites in Virginia was covered briefly in the DEIS. However, we offer the following recommendations regarding a back-up disposal plan.

5. AES should develop and provide for agency review a detailed back-up disposal plan for contaminated dredge material that will be generated by proposed and long term maintenance dredging for this project. Potential use of Allied Waste sites or other landfills accepting contaminated material should be developed more fully regarding long term availability of, and transport options to, each site.
6. AES should avoid use of the Cox Creek and future Masonville Dredge Material Containment Facilities (DMCFs) as a disposal option. The latter facilities are intended for placement of contaminated material generated by dredging of Port of Baltimore channels and Maryland Port Administration affiliates channels and berthings. Pre-mature exhaustion of the capacity of the these facilities from use by AES and other non-Port affiliates will ultimately result in additional cumulative impacts on resources of the Patapsco River by pre-maturely requiring construction of new inner harbor DMCFs.

Unloading Dock Construction

During previous coordination with the applicant, NMFS expressed its concern for potential use of large diameter (i.e., exceeding 48 inches) steel piles for constructing the proposed off-loading trestle and/or other temporary or permanent pile-supported structures associated with the terminal. Power-driving of large-diameter hollow steel piles produces high energy shock waves that can kill or injure finfish in the immediate vicinity of the pile driving activity. For example, during construction of the Woodrow

FA3-5

FA3-6

FA3-5

AES has agreed to incorporate your EFH conservation recommendations #5 and 6. See section 4.6.3.2 *LNG Terminal*.

FA3-6

AES has agreed to incorporate your EFH conservation recommendation #7. See section 4.6.3.2 *LNG Terminal*.

<p>20080616-5092 FERC PDF (Unofficial) 6/16/2008 4:23:54 PM</p> <p>↑ Wilson Bridge Project in the Potomac River, high fish mortality was documented during power-driving of 66-inch bore piles within 150 feet of the operation. Measures were developed by Woodrow Wilson Bridge Project staff to mitigate shock waves, which involved use of a “can” (larger diameter pile that surrounds the pile being driven), and air bubble curtain contained within the can. The latter measure reduced shock waves immediately outside the can up to 95%. We recommend the following regarding the AES project.</p> <p>7. If hollow steel piles exceeding 48 inches in diameter are to be used for terminal construction, the applicant should develop a construction plan (as suggested in the DEIS) which includes a detailed protocol for mitigating shock waves during pile-driving operations. Such measures may include those adopted for use during the Woodrow Wilson Bridge Project construction. In this case, we recommend contacting Mike Baker, Potomac Crossing Consultants, Woodrow Wilson Bridge Project; baker@wwbgcc.com, cell phone# (202) 438-7499; for additional details on shock wave mitigation methods used for that project.</p>	
<p>FA3-7</p> <p>Ballast Water Intake Location of the proposed terminal within an existing seaport, removed from anadromous fish and oyster spawning areas, mitigates NMFS’ concerns regarding impacts from ballast water intake on fish resources. Young-of-the-year anadromous fish moving from upstream spawning grounds through the terminal area will generally be of a size, and possess swimming capability, that is adequate for avoiding ballast intake. Typical location of ballast intake apertures 25 to 30 feet below the surface will reduce juvenile fish contact with intake currents, because juvenile fish generally frequent shallow surface waters. Use of 2mm mesh screening over tanker ballast intake apertures and restricting ballast intake velocities to 0.5 feet per second (as presented in the DEIS) is a preferred, not required, method for minimizing impacts for this project.</p>	<p>FA3-7 Comment noted.</p>
<p>MID-ATLANTIC EXPRESS PIPELINE CONSTRUCTION</p> <p>Stream Crossings Several of the proposed pipeline stream crossings in Maryland will affect documented anadromous fish spawning and nursery grounds. These include: 1) Moores Run (Back River watershed); 2) White Marsh Run (double crossing); 3) Big Gunpowder Falls; 4) Deer Creek; and 5) the Susquehanna River, Conowingo Pool (O’Dell et al., 1975). The proposed crossing of Octoraro Creek in Chester and Lancaster Counties, Pennsylvania, is also a potential spawning ground for hickory shad (<i>Alosa mediocris</i>) and blueback herring.</p> <p>↓ Horizontal Directional Drilling (HDD) for placing pipelines across streams is the preferred installation method for anadromous fish spawning grounds, and in Maryland has been proposed for Moores Run, Little Gunpoweder Falls, and the Susquehanna River. Open-cut or trenching installation has been proposed for the other streams listed above. We offer the following recommendation on the issue of HDD vs. open-cut pipeline installation.</p> <p style="text-align: center;">4</p>	<p>FA3-8 We have evaluated the feasibility of crossing the streams listed in EFH conservation recommendations #8 and 9 using HDD. See section 4.3.2.5 <i>Pipeline Construction and Operation, HDD and Dry Crossings</i> and <i>FERC’s Additional Analysis</i>.</p>

<p>20080616-5092 FERC PDF (Unofficial) 6/16/2008 4:23:54 PM</p> <p>8. In addition to the streams where HDD installation is already proposed for use, HDD installation should be used for proposed pipeline crossings of White Marsh Run, Big Gunpowder Falls, and Deer Creek. In consideration of the broad-scale use of HDD for other pipeline stream crossings constructed in Maryland, impacts on spawning habitat incurred from open-cut installation are not acceptable, especially within high quality stream systems such as Deer Creek and Gunpowder Falls.</p> <p>9. HDD installation is also preferred for the Octoraro Creek crossing. However, we will defer to recommendations of the Pennsylvania Fish and Boating Commission regarding the installation method used for this crossing.</p> <p>10. Where open-cut installation is used for constructing crossings of smaller perennial and intermittent streams in Maryland, the following measures should be used for protecting potential anadromous fish activity and restoring instream and riparian habitat following completion of each crossing.</p> <ol style="list-style-type: none"> Instream bottom should be restored to pre-existing elevations and substrate type. Woody vegetation removed during construction should be restored within the stream riparian zone (i.e., 100 feet on both sides of a stream), using native species. If restoring trees is prohibitive within the pipeline right-of-way, native shrubs should be used as a preferred covering for re-vegetating stream banks. Vegetative plantings should be monitored for a minimum of five years following construction to ensure success and proper control of invasive species. If open-cut pipeline installation is used for the Stemmers Run crossing (Baltimore County), it should be restricted during the anadromous fish spawning period (February 15 – June 15). <p>Frac-outs (release of clay slurry into a waterway during an HDD operation) occurring in small anadromous fish spawning streams during the migratory/spawning season can result in significant impacts on a migratory species' run and reproductive success. We, therefore, recommend the following restriction on HDD operations.</p> <p>11. Construction of HDD stream crossings in Moores Run, White Marsh Run, Big Gunpowder Falls, Deer Creek, and Octoraro Creek should be restricted from February 15 – June 15, during the anadromous fish migratory/spawning period.</p> <p>The applicant has proposed development of a contingency plan in case of frac-outs during HDD drilling operations. Measures should also be developed for an HDD construction plan that will minimize the potential for frac-outs. We recommend the following measure.</p> <p style="text-align: center;">5</p>	<p>FA3-9 AES has agreed to incorporate your EFH conservation recommendation #10. See section 4.6.3.2 <i>Pipeline</i>.</p> <p>FA3-10 AES has agreed to incorporate your EFH conservation recommendation #11. See section 4.6.3.2 <i>Pipeline</i>.</p> <p>FA3-11 AES's HDD Monitoring and Contingency Plan (see appendix S) indicates that a final drill plan and profile drawing would be generated to accurately define the operation of the drill in order to minimize the potential for frac-outs. The profile drawing would establish the entrance and exit angles, the maximum depth of the pipe, and the minimum radius of curvature to avoid overstressing the pipe, and the length of the pull. As the drilling operation progresses, the contractor would be continuously plotting the actual pipe profile against the proposed pipe profile to ensure cover requirements and target exit points would be achieved. See section 4.3.2.5 for further details.</p>
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<p>20080616-5092 FERC PDF (Unofficial) 6/16/2008 4:23:54 PM</p> <p>12. The applicant should work with HDD contractors in developing a construction plan for stream crossings that will minimize the potential for frac-outs. Such measures may include: 1) boring to adequate depths below stream invert, especially in coastal plain streams with soft, unconsolidated sediments; and 2) controlling the boring speed.</p> <p>We support the applicant's proposal to transport water from off-site for hydrostatic testing of pipelines during construction of the Moores Run, White Marsh Run, Gunpowder Falls, Little Gunpowder Falls, Deer Creek, and Octoraro Creek crossings. During water withdrawal from the Susquehanna River for hydrostatic testing, the applicant proposes use of 2mm mesh screening on intakes and intake velocities not exceeding 0.5 feet per second to minimize the potential for impingement/entrainment of anadromous fish eggs and larvae. As an added precaution, we also recommend the following measure.</p> <p>13. Where practicable, the water withdrawals from the Susquehanna River should be avoided from April 21 through June 15, during the approximate period of Conowingo Dam fish lift operation and potential anadromous fish spawning in the Conowingo Pool.</p> <p>Wetland Crossings We recommend the following measures for restoring temporary impacts from open-cut installation through tidal and nontidal wetlands.</p> <p>14. Restoration sites should be monitored for a minimum of five years following construction to ensure success and proper control of invasive species.</p> <p>15. The applicant should develop and distribute for agency review a plan for control of invasive species in wetland restoration areas during the monitoring period.</p> <p>EFH ISSUES Your EFH assessment for this proposal was well prepared and comprehensive, covering the full suite of potential impacts from transport, off-loading, and distribution of LNG. In consideration of the rarity of managed species such as bluefish and summer flounder in the upper Chesapeake Bay tributaries, including the Patapsco River, we do not anticipate any direct impacts on these species from construction and operation of the terminal. However, we are concerned about indirect impacts from adverse effects of terminal construction and pipeline stream crossing construction on important prey species consumed by managed species in the Chesapeake Bay. These prey species include alewife, blueback herring, white perch, and yellow perch (Funderburk et al., 1991), which migrate through the tidal Patapsco River and spawn in several tributaries where pipeline stream crossings are proposed. In accordance with Section 305(b)(4)(A) of the MSA, we recommend the following.</p>	<p>FA3-12 Comment noted.</p> <p>FA3-13 AES has agreed to incorporate your EFH conservation recommendation #13. See section 4.6.3.2 <i>Pipeline</i>.</p> <p>FA3-14 In accordance with your EFH conservation recommendation #14 we have recommended in section 4.5.3 that Mid-Atlantic Express file its finalized Exotic and Invasive Species Control Plan, developed in consultation with the appropriate agencies for review and written approval by the Director of OEP prior to construction. See revised sections 4.5.3 and 4.6.3.2 <i>Pipeline</i>.</p> <p>FA3-15 In accordance with your EFH conservation recommendation #15 we have recommended in section 4.5.3 that Mid-Atlantic Express file its finalized Exotic and Invasive Species Control Plan, developed in consultation with the appropriate agencies for review and written approval by the Director of OEP prior to construction. See revised sections 4.5.3 and 4.6.3.2 <i>Pipeline</i>.</p> <p>FA3-16 Comment noted.</p> <p>FA3-17 All 15 of your EFH conservation recommendations have been addressed in section 4.6.3.2 <i>LNG Terminal</i> and 4.6.3.2 <i>Pipeline</i>. Please see responses to comments FA3-3 through FA3-15 regarding the 15 NMFS conservation recommendations.</p>
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FA3 - United States Department of Commerce, National Oceanic and Atmospheric Administration (NOAA), National Marine Fisheries Service (NMFS), Rodney F. Weiher, Ph.D., NOAA NEPA Coordinator and Patricia A. Kurkul, Regional Administrator

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	<p>↑ enter riverine environments, and are unlikely to occur within the Patapsco River where construction will occur.</p>
FA3-20	<p>The mitigation measures recommended by FERC will minimize the potential for impacts of the proposed project on listed sea turtles. In particular, the role of the endangered species observer during pile-driving and dredging activities will help ensure that the potential for interactions between these activities and sea turtles is minimized. NMFS requests that in addition to the Environmental Inspector maintaining a log of sea turtle sightings during pile-driving, a log also be kept during dredging activities. Any observations of sea turtles should be promptly reported to NMFS staff in the Northeast Regional Office. NMFS will further consider the potential for the proposed project to have adverse effects on listed sea turtles during the course of the ongoing ESA Section 7 consultation initiated by FERC by letter dated April 25, 2008.</p>
FA3-21	<p>Shortnose sturgeon The life history information presented in the DEIS is largely accurate. While the DEIS makes the statement that "shortnose sturgeon spawning in the Chesapeake Bay area typically occurs from the end of April to early May," it would be more accurate to state that shortnose sturgeon spawning in the mid-Atlantic occurs when water temperatures are between 8-15°C in the spring, as spawning of shortnose sturgeon has not yet been successfully documented in any tributary to the Chesapeake Bay. Page 4-126 states that spawning has been reported in the James and York rivers. While these rivers may have historically supported spawning populations of shortnose sturgeon, NMFS is unaware of any information which suggests that recent spawning activity has been documented in either river. If such information is available, NMFS requests that FERC provide an appropriate citation in the FEIS. To date, the only river where pre-spawning shortnose sturgeon adults have been documented is the Potomac.</p>
FA3-22	<p>The mitigation measures recommended by FERC will minimize the potential for impacts of the proposed project on shortnose sturgeon. The use of a mechanical dredge is likely to minimize the potential for entrainment of any individual shortnose sturgeon that may be present in the area to be dredged. NMFS requests that the Environmental Inspector also maintain a log of any sturgeon sightings, which should also be promptly reported to NMFS.</p>
FA3-23	<p>Page 4-126 states that "NMFS has indicated that the incidental take of shortnose sturgeon cannot be authorized." This statement should be reworked to state that if interactions with shortnose sturgeon are likely to occur, a formal consultation (pursuant to Section 7 of the ESA) resulting in the issuance of a Biological Opinion is necessary. If in the Opinion NMFS determines that the proposed project is not likely to jeopardize the continued existence of the species, then an appropriate Incidental Take Statement exempting take incidental to the proposed action can be issued. As an initial review of the proposed project suggests that interactions with shortnose sturgeon are unlikely, a formal consultation is not being pursued at this time, and no incidental take exemption is expected to be issued for this project.</p>
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FA3-20	We have incorporated your recommendations. See revised section 4.7.1.
FA3-21	See revised section 4.7.1.
FA3-22	Section 4.7.1 has been revised to reflect this information.
FA3-23	See revised section 4.7.1.

FA3 - United States Department of Commerce, National Oceanic and Atmospheric Administration (NOAA), National Marine Fisheries Service (NMFS), Rodney F. Weiher, Ph.D., NOAA NEPA Coordinator and Patricia A. Kurkul, Regional Administrator

<p>20080616-5092 FERC PDF (Unofficial) 6/16/2008 4:23:54 PM</p> <p>NMFS will further consider the potential for the proposed project to have adverse effects on listed shortnose sturgeon during the course of the ongoing ESA Section 7 consultation initiated by FERC by letter dated April 25, 2008.</p> <p>Whales FERC has adequately described the presence and distribution of endangered North Atlantic right, humpback, fin, and sperm whales in the vicinity of the proposed terminal and LNG carrier transit route. Although there is very little information about the distribution of sei whales (<i>Balaenoptera borealis</i>) near the Chesapeake Bay, in 2006 a sei whale was brought into Baltimore harbor on the bow of a large cargo ship. Therefore, NMFS recommends that FERC include sei whales in the list of whale species that could potentially be impacted by shipping operations associated with the Sparrows Point LNG terminal.</p> <p>FERC has correctly identified potential impacts on endangered whales in the DEIS, including ship strike and acoustic harassment due to LNG carrier transits. FERC has indicated that AES intends to implement speed restrictions around the entrance to Chesapeake Bay as described in NMFS' June 26, 2006 proposed rule to reduce ship strikes of North Atlantic right whales (71 FR 36299). FERC has further recommended that AES define a 30 nautical mile arc around the entrance of Chesapeake Bay as the boundary for the proposed LNG carrier speed restriction. FERC has also identified appropriate precautionary vessel operating measures such as monitoring right whale sighting information prior to entering right whale habitats and maintaining safe distances between the vessel and any protected species sighted from the ship. NMFS agrees that these mitigation measures will reduce the risk of LNG carriers transiting to and from the Sparrows Point terminal interacting with listed whales. However, NMFS would like to see a more detailed implementation plan that describes how AES will ensure that LNG carriers calling at the port are aware of the latest right whale sighting information and their responsibilities to reduce speed or take other actions. These details can be discussed further during the ongoing ESA Section 7 consultation process.</p> <p>Page 4-179 describes vessel traffic associated with construction of the port, and indicates that approximately 10 equipment vessel transits per day are anticipated, 5 originating from the Port of Baltimore and 5 originating from the Gulf States region. Further information about the vessel transits (vessel type, size, speed, routes, etc.) that will originate outside of Chesapeake Bay would help NMFS determine whether these vessels have the potential to impact listed whales and whether mitigation measures are necessary.</p> <p>Page 4-179 also describes the volume of existing vessel traffic at the Port of Baltimore. Further information about the total volume of existing vessel traffic entering Chesapeake Bay or transiting past the mouth of the Bay would help in assessing the cumulative ship strike risk presented by the additional 120-150 vessel transits per year associated with the Sparrows Point LNG terminal.</p>	<p>FA3-24 See revised section 4.7.1.</p> <p>FA3-25 Comment noted.</p> <p>FA3-26 See revised section 4.7.1.</p> <p>FA3-27 The information we have provided in section 4.9.4.2 for existing ship traffic in the Port of Baltimore (POB) is the best information we have available. We do not have ship volume numbers for vessels entering Chesapeake Bay as a whole. However, the POB is one of the busier destinations for deep draft vessels entering Chesapeake Bay, along with Newport News and Hampton Roads in Virginia. Based upon 2005 shipping data for the POB of 2,119 vessels, the incremental ship volume attributable to the Project (120 – 150 vessels per year) would amount to 5 to 7% of the current shipping traffic to POB. Based on this information, the incremental increase of vessels entering Chesapeake Bay due to the Project would be some percentage smaller than 5%.</p>
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Technical Assistance regarding Candidate Species

Atlantic Sturgeon

The DEIS should note that a Status Review Report was recently completed for Atlantic sturgeon and NMFS is currently reviewing the status of this species to determine if a listing action under the ESA is appropriate. Atlantic sturgeon are considered by NMFS to be a Candidate Species. FERC should note that if the species is proposed for listing, the conference provisions of Section 7 become applicable (see 50 CFR §402.10) and the consultation requirement becomes applicable should the species be listed.

The information regarding Atlantic sturgeon is accurate and the measures designed to minimize impacts of the project on shortnose sturgeon will also serve to minimize impacts of the proposed project on Atlantic sturgeon. NMFS requests that any observations or interactions with Atlantic sturgeon be recorded and the information provided to NMFS.

CONCLUSIONS

In summary, NMFS recommends that the applicant: 1) continue investigation of the Mittal Steel site as an alternative location for the proposed LNG tanker berthing and off-loading facility to reduce dredging/disposal requirements for the project; 2) use measures for minimizing re-mobilizing of sediment contaminants during dredging; 3) develop a detailed back-up dredge material disposal plan; and 4) employ HDD, time-of-year restrictions, and stream restoration measures to minimize impacts on migratory fish and spawning/nursery habitat. We look forward to your response to our EFH conservation recommendations and Fish & Wildlife Coordination Act recommendations on this project. Should you have any questions about this matter, please contact John S. Nichols at our Annapolis, Maryland, Habitat Office at 410-267-5675, or John.Nichols@NOAA.GOV. For issues concerning threatened or endangered species, please contact Ms. Julie Crocker at our Gloucester, MA Office at 978-281-9328 x 6530 or Julie.Crocker@Noaa.Gov.

Sincerely,


Patricia A. Kurkul
Regional Administrator

cc: Joe DeVia, Baltimore District Corps of Engineers, Regulatory Branch
Rick Ayella, Maryland Department of the Environment, Tidal Wetland Division
Elder Ghigiarelli, Maryland Department of the Environment, Coastal Zone Management Program
Kevin Magerr, EPA, NEPA Program, Region III Office, Philadelphia

FA3-28

FA3-28

We have incorporated your recommended action. See revised sections 4.7.1 and 4.7.2.

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LITERATURE CITED

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Funderburk, Steven L., S.J. Jordan, J.A. Mihursky, and D. Riley. 1991. Habitat requirements for Chesapeake Bay living resources. 2nd ed. Living Resources Subcommittee. Chesapeake Bay Program.

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<p>20080624-0224 FERC PDF (Unofficial) 06/23/2008</p>  <p>DEPARTMENT OF THE ARMY BALTIMORE DISTRICT, U.S. ARMY CORPS OF ENGINEERS P.O. BOX 1716 BALTIMORE, MD 21203-1716</p> <p>REPLY TO ATTENTION OF Operations Division</p> <p>Ms. Kimberly D. Bose, Secretary Federal Energy Regulatory Commission 888 First Street, N.E., Room 1A Washington, DC 20426</p> <p>Dear Ms. Bose:</p> <p>This is in response to the Federal Energy Regulatory Commission's (FERC) April 25, 2008 draft Environmental Impact Statement for the proposed AES Sparrows Point LNG and Mid-Atlantic Express Pipeline Project, Docket Nos. CP07-62-000, CP07-63-000, CP07-64-000, CP07-65-000, and the request for comments.</p> <p>The U.S. Army Corps of Engineers, Baltimore District (Corps), as a cooperating agency in the preparation of the draft environmental impact statement (DEIS) for the project, is pleased to provide the following comments on the DEIS. In this regard, we look forward to working with your agency as the final document is developed to ensure that the information presented in the NEPA document is adequate to fulfill the requirements of Corps regulations, the Clean Water Act Section 404(b)(1) Guidelines, and the Corps public interest review process.</p> <p>The Corps has the following comments on the DEIS:</p> <ol style="list-style-type: none"> 1. Alternatives Analysis: The Clean Water Act Section 404(b) (1) Guidelines contain the substantive environmental criteria used by the Corps in evaluating discharges of dredged or fill material into waters of the U.S. A fundamental precept of the regulatory program is that impacts to waters of the US, including jurisdictional wetlands, will be avoided and minimized where it is practicable to do so. Under Section 404, only the least environmentally damaging practicable alternative can receive Department of the Army authorization. Note that an alternative is practicable if it is available and capable of being done after taking into consideration cost, logistics, and existing technology in light of overall project purposes. <p>The Corps is concerned that the Mittal Steel site alternative has been eliminated from further consideration by FERC without clear justification. The Corps concerns are heightened by the fact that this site may have less adverse environmental impacts when compared to the proposed project. The DEIS describes that the Mittal Steel site would require approximately 1.8 million cubic yards of dredging (i.e., approximately half the dredging volume compared to the proposed LNG terminal site). Further, the Mittal Steel site is located 1.9 miles from residential areas. However, FERC states in the DEIS that the Mittal Steel site "does not offer significant environmental advantage over the proposed Project." Based on currently available information, the Corps does not concur</p>	<p>FILED SECRETARY OF THE COMMISSION</p> <p>JUN 16 2008 7008 JUN 23 P 2:13</p> <p>FEDERAL ENERGY REGULATORY COMMISSION</p> <p>ORIGINAL</p> <p>FA4-1a Comment noted. The FEIS is a NEPA document. NEPA does not require that the FEIS recommend the least environmentally damaging practicable alternative, which is a COE requirement. NEPA requires that the "agency's preferred alternative" is the alternative which the agency believes would fulfill its statutory mission and responsibilities, giving consideration to economic, environmental, technical and other factors. The concept of the "agency's preferred alternative" is different from the "environmentally preferable alternative".</p> <p>FA4-1b Section 3.2.3 contains an updated discussion on the Mittal Steel site alternative.</p>
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20080624-0224 FERC PDF (Unofficial) 06/23/2008

FA4-1c

with this conclusion and we have determined that the Mittal Steel site has been prematurely eliminated without appropriate documentation.

The DEIS describes that AES reported that they could not acquire the Mittal Steel site because of outstanding antitrust issues involving Mittal and the US Department of Justice. However, no documentation has been submitted to support this finding. In addition, the Corps understands that the Mittal Steel site is now under new ownership. Therefore, the practicability of the Mittal Steel site must be further investigated and reported in the final Environmental Impact Statement (EIS). Notwithstanding this, the DEIS further describes that the Mittal Steel site "is reportedly under consideration for dredged material placement." This would lead the Corps to believe that the site is available for further consideration. Therefore, in order for the final EIS to satisfy the Corps's Clean Water Act Section 404 permit review requirements, the Corps requests that the Mittal Steel alternative be brought forward into the final EIS and comprehensively evaluated, including providing adequate documentation which demonstrates, based on written documentation from the new owner, the practicability of use of this site for the LNG terminal.

FA4-2

2. Dredging and Disposal Location: The proposed project will result in dredging approximately 3.7 million cubic yards of dredged material from the Patapsco River. The Corps is concerned that although recycling/innovative reuse of the dredge material is proposed, no specific end users have been identified. The DEIS states that if no end users are identified, the material will be disposed in a landfill in Virginia. The final EIS must include appropriate documentation showing that the landfill has the capacity and will, in fact, accept the approximate 3.7 million cubic yards of dredged material. Prior to release of the final EIS, the dredge material disposal location must be specified in the final EIS. As outlined on page 4-55 of the DEIS, the Corps strongly supports FERC's requirements that, prior to the end of the DEIS comment period, the applicant submit a Dredged Material Placement Plan that addresses such issues as: where the processed dredged material (PDM) is going for ultimate disposal and a contingency plan for the PDM after it is processed should there be no buyers. This information must be included in the final EIS.

FA4-3

3. Contaminated Dredge Material Disposal Location: The final EIS should also include an assessment from US Environmental Protection Agency (EPA) regarding the appropriateness of disposing of the dredged material by innovative reuse/recycling (e.g., mines, landfill capping, road fill, etc.) or disposal in a sanitary landfill. The Corps recognizes that the dredge sediments contain various levels of chemical constituents. The final EIS should include an EPA analysis concerning the acceptability of reuse/recycling of the dredged material and disposal in a landfill and the proposed testing of the PDM to ensure the material is suitable for the final uses and/or disposal location(s). If a specific disposal location(s) is identified, documentation or proof of acceptance by the disposal facility must also be included in the final EIS.

FA4-4

4. Compliance with other Federal Statutes: The final EIS should not be released until FERC, as the lead Federal agency for the proposed project, demonstrates and documents compliance with other Federal statutes such as the Endangered Species Act, the National Historic Preservation Act, and the Magnuson-Stevens Fishery Conservation and

FA4-1c

Please see response to comment FA4-1b.

FA4-2

See section 2.3.1.3 *Dredged Material Handling/Disposal* for additional information on how AES would test material for compatibility with various categories of end-users. AES has also provided the tests by which they would be graded for delivering PDM to established landfills in Virginia (see Accession No. 20080903-4004 Text of Response GEN8 and Attachment GEN8). In order to establish new markets for innovative uses of PDM, a facility has to be able to run tests on specific material; it is unreasonable to expect that the facility would have a final list of end-users before they have permission to dredge the material and to build the Dredge Material Recycling Facility.

FA4-3

Comment noted.

FA4-4

FERC, in its standard procedures for licensing pipelines, has to condition the Certificate to include compliance with these acts after release of the FEIS, but before authorizing the applicant with a "Notice to Proceed." Since many properties are not accessible to the applicant prior to receiving a Certificate, the final biological surveys to comply with the Endangered Species Act and the final cultural surveys to comply with the National Historic Preservation Act would be completed after the FEIS is released, but prior to construction. FERC handles these issues by imposing conditions on the Certificate – conditions that must be met prior to FERC's issuance of authorization to begin construction.

20080624-0224 FERC PDF (Unofficial) 06/23/2008

Management Act, as amended by the Sustainable Fisheries Act of 1996 (Public Law 04-267) [essential fish habitat (EFH) assessment]. Based on the mitigative measures proposed in Section 5 of the DEIS, the Corps is concerned that compliance with certain Federal statutes will likely not be demonstrated prior to release of the final FEIS.

FA4-5

5. Supplemental NEPA Documentation: Recognizing the substantial additional information required to be submitted for agency review as described in Section 5 of the DEIS, the Corps is concerned that the public will not have the opportunity to review and comment on this additional information prior to release of the final EIS. Therefore, the Corps recommends that FERC strongly consider the preparation of a supplemental EIS, (limited to addressing the information requirements described in Section 5 of the DEIS) to allow the public the opportunity to review and comment on the additional information for the proposed project prior to preparation of the final EIS for the project.

FA4-6

6. Avoidance/Minimization of Aquatic Impacts: The DEIS describes that the applicant anticipates using trenchless construction techniques (e.g., horizontal directional drilling (HDD)), at Back River, Little Gunpowder Falls, and the Susquehanna River. The Corps requires that the applicant evaluate the practicability of performing trenchless construction (e.g., HDD) at the following crossings: Back River, Gunpowder Falls (including wetlands adjacent to the River), Little Gunpowder Falls (including wetlands adjacent to the River), White Marsh Run, Winters Run, Deer Creek, and Octoraro Creek. HDD should also be evaluated in the vicinity of 949WA1, 949SA2, and 949SA3, as these areas are potential bog turtle habitat. All HDD crossing construction methods and plans should be evaluated and included in the final EIS. Pending the completion of future field reviews by the Corps, including the 16.5 miles of proposed pipeline route that was not surveyed by the applicant, and based on public comments and consultation/recommendations from the Federal and State resource agencies (the Corps comment period extends to June 26, 2008), the Corps may require additional avoidance and minimization measures for the proposed project. In this regard, we will continue coordinate with FERC and the applicant concerning any additional avoidance/minimization requirements as part of the Clean Water Act Section 404 permit review process.

FA4-7

7. Impacts from off-site access roads (not within the current right of way) must be appropriately quantified and addressed in the final EIS.

FA4-8

8. Wetland and stream mitigation plans must be developed by the applicant, submitted to the Corps for review and approval, and included in the final EIS.

FA4-9

9. For all stream and river crossings (with the exception of the required HDD crossings), the crossings must be accomplished "in the dry" by use of approved stream diversion techniques. All types of waterway crossings and applicable drawings must be evaluated and included in the final EIS.

FA4-10

10. The DEIS describes that maintenance dredging will occur every six years, generating an estimated 500,000 cubic yards every six years. The final EIS should identify/clarify that sediment testing of the maintenance dredged material will be required.

FA4-5

FERC has made all of the AES responses to DEIS conditions available to the public through the Docket. Additionally, FERC staff have met with members of the public regarding many of the pipeline route issues that were still unresolved at the writing of the DEIS.

While the vast majority of impacts have been identified and necessary mitigation has been described, additional post-authorization plans and studies would serve to refine the mitigation to address site-specific circumstances prior to construction, once the applicant can gain access to certain land parcels to complete the surveys.

FA4-6

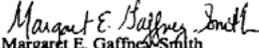
Mid-Atlantic Express evaluated using HDD at each of these streams and wetlands. Mid-Atlantic Express's evaluations may be found on the Docket under Accession No. 20080903-4004. Additionally, FERC conducted an additional analysis. See section 4.3.2.5 *HDD and Dry Crossings* and *FERC's Additional Analysis*. Appendix I, table I contains a list of all waterbodies crossed and the crossing method. Section 4.4.2.1 *Unique or Sensitive Wetlands* identifies all NTWSSC that would be crossed by HDD.

FA4-7

Table C-2 in appendix C lists the proposed access roads that would be used during construction of the pipeline. Access roads are depicted on figures B1 through B32 in appendix B.

FA4 – Department of the Army, Baltimore District, U.S. Army Corps of Engineers, Margaret E. Gaffney-Smith, Chief, Regulatory Branch

FA4-11

<p>20080624-0224 FERC PDF (Unofficial) 06/23/2008</p> <p>11. The FERC must ensure that the US Coast Guard's Waterway Suitability Assessment is finalized and included in the final EIS.</p> <p>We look forward to working with your agency as a supplemental EIS (as appropriate) and final EIS is developed, and the review of the project proceeds. Should you have any questions concerning this matter, please contact me at (410) 962-3670 or Mr. Joseph DaVia at 410-962-4252.</p> <p>Sincerely,</p> <p> Margaret E. Gaffney-Smith Chief, Regulatory Branch</p> <p>Copy Furnished:</p> <p>Ms. Joanne Wachholder, FERC Mr. Michael Green, Philadelphia District Mr. Jeff Lorenz, Office of Counsel Mr. Kevin Magerr, EPA, Philadelphia, Pennsylvania Mr. John Nichols, NMFS, Oxford, Maryland Mr. Andy Moser, FWS, Annapolis, Maryland Mr. Elder Ghigiarelli, MDE, Baltimore, Maryland Mr. Chris Diez, AES Sparrows Point LNG</p> <p>- 4 -</p>	<p>FA4-8 At the release of this FEIS, AES and Mid-Atlantic Express have not submitted stream mitigation plans to the FERC. AES has submitted an Aquatic Resources Mitigation Plan (see appendix Q), and is in the process of reviewing this plan with the COE and with state agencies. These stream mitigation plans must be submitted and accepted by the COE and state approving agencies, as appropriate.</p> <p>FA4-9 "Dry crossings" could be accomplished by crossing streams with no flow; by trenching in the dry after the streambed has been dried by means of dam and pump method, or by flume method; or by trenchless methods (i.e., HDD or horizontal bore). Drawings of typical waterbody crossings were provided in AES's ECP included in the FEIS as appendix T.</p> <p>FA4-10 Comment noted. Section 2.6.1 has been updated to clarify that sediment testing of maintenance dredged material would be required.</p> <p>FA4-11 As stated in section 4.12.5.5, the Coast Guard has determined in its WSR that the Chesapeake Bay would be suitable for LNG traffic if measures were implemented to responsibly manage navigation, safety, and security risks. Unless the required measures to ensure safe and secure operations were in place and serving their intended purpose, neither the Commission nor the Coast Guard would allow operation of the proposed facility. The WSR is included in appendix J of the FEIS.</p>
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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

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COMMISSION

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FEDERAL ENERGY
REGULATORY COMMISSION

June 18, 2008

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First St., NE, Room 1A
Washington, D.C. 20426

Re: Draft Environmental Impact Statement (DEIS) for the Sparrows Point
LNG Terminal and Pipeline Project (Reference Docket Nos. CP07-62-
000, CP07-63-000, CP07-64-000, and CP07-65-000), CEQ # 20080162

Dear Ms. Bose:

In accordance with Section 102(2)(C) of the National Environmental Policy Act (NEPA), 42 U.S.C. § 4332(2)(C), Section 309 of the Clean Air Act, 42 U.S.C. § 7609, and the Council on Environmental Quality (CEQ) regulations, 40 CFR Parts 1500-1508, the United States Environmental Protection Agency (EPA) has reviewed the Draft Environmental Impact Statement (DEIS) for the Sparrows Point Liquefied Natural Gas (LNG) Terminal and Pipeline Project.

The demand for energy in the U.S. continues to grow. According to the Energy Information Administration energy consumption is predicted to increase nationally at an average of 1.1 percent per year until 2030. Natural gas is the cleanest of all the fossil fuels. Its use is an important source of energy for reducing pollution resulting in a significant reduction in emissions of criteria air pollutants when compared with other fossil fuels and producing virtually no ash. The Sparrows Point LNG Terminal and Pipeline Project is a response to the country's growing need for a cleaner energy source.

The proposed Sparrows Point Facility would involve the construction of a 1.5 billion cubic feet per day LNG terminal and the construction of an 88 mile, 30-inch-diameter pipeline from Sparrows Point, Maryland to Eagle, Pennsylvania. The proposed terminal is to be located on the existing Sparrows Point Industrial Complex at Sparrows Point, Maryland. The project would also require the dredging of a 44 feet deep and 650 feet wide channel (approximately 3.7 million cubic yards of dredge material) to allow access to a dual berth terminal. AES anticipates that the terminal would handle 2 to 3 ships per week upon completion in 2010.

EPA is concerned that the DEIS does not contain sufficient information to fully assess the potential environmental impacts of the proposed action. A number of these information gaps have been specifically identified in the DEIS and the Federal Energy Regulatory Commission (FERC), the lead Agency, has proposed "mitigation measures"

FA5-1

Additional information has been incorporated since issuance of the DEIS. We have disclosed the potential impacts associated with the Project, as it was proposed by the applicants. If certain project components appear to result in significant environmental impacts, we have imposed mitigation measures to lessen said impacts. Also, see response to comment FA4-5.

FA5-1

<p>to address those data gaps. (See Section 5.2 FERC Staff's Recommended Mitigation of the DEIS). The mitigation measures would be included as specific conditions of the FERC Order should the Commission authorize the project. Some of these mitigation measures would require the applicant to submit the necessary information prior to the end of the DEIS comment period. We believe that the information required by the mitigation measures is relevant to the Commission's decision regarding the application and is needed to fully assess the environmental impact of this project. EPA recommends that this information be included in the Final EIS. We also recommend that the Final EIS provide additional information to support FERC's determination that the Mittal Steel alternative terminal site location does not offer an environmental advantage over the preferred alternative.</p> <p>Aside from the lack of information discussed above, EPA still has environmental concerns regarding the dredging aspects of this project. As reported in the DEIS, approximately 3.7 million cubic yards of contaminated dredged material will have to be removed from the Patapsco River. We are concerned over the potential adverse water quality impacts that would occur during the dredging operation, as well as impacts from the disposal operations. We are especially concerned that the DEIS does not identify a market for the dredged material or facilities willing to accept it, nor does the DEIS explain the on-site treatment process that will treat the dredged material to make it acceptable for beneficial reuse. These deficiencies should also be corrected in the Final EIS.</p> <p>Under EPA's system for rating Environmental Impact Statements we are rating the environmental impacts associated with this project as Environmental Concerns (EC) as outlined above and further supported in the attached comments. Due to the lack of information available in the DEIS, we are rating the adequacy of the document as a "2", insufficient information. The rating system provides a basis upon which EPA makes recommendations to the lead agency for improving the DEIS. A summary of the rating criteria is enclosed.</p> <p>EPA appreciates the opportunity to submit comments on the DEIS for the Sparrows Point project and would be pleased to discuss any of the comments and suggestions presented in this letter and attachments. My staff is ready to continue to participate on the cooperating agency team to provide additional input, as necessary, to assist FERC in the completion of the NEPA analysis for the project. Please feel free to contact me or Kevin Magerr at 215 814 5724, if you wish to discuss these comments further.</p> <p>Sincerely,  William J. Hoffman, Associate Director Office of Environmental Programs</p> <p>Enclosure</p> <p>2</p>	<p>FA5-2 See response to comment FA4-5. It is impractical, and sometimes impossible, to complete all studies and develop the plans necessary to successfully mitigate potential aspects of a natural gas project prior to the issuance of a Commission order specifying to the extent possible the scope of its authorization. In addition, many of the post-authorization conditions requiring site-specific plans and surveys are necessary because the applicant cannot gain access to certain land parcels to complete the surveys without the use of eminent domain. Lastly, the conditions we have recommended would enable the Commission to ensure compliance with all statutory and regulatory requirements and verify that the required mitigation measures are implemented at the appropriate points in the Project.</p> <p>FA5-3 Section 3.2.3 contains an updated discussion of the Mittal Steel site alternative.</p> <p>FA5-4 See revised sections 2.3.1.3, 4.3.2.4 and 4.3.2.5, which contain new information on dredging aspects. Since the release of the DEIS, AES has committed to using an environmental bucket to dredge all of the soft, surface sediments, amounting to approximately 810,000 CY or 22% of the dredging total. This commitment is reflected in the appropriate sections mentioned above.</p>
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FA5 – United States Environmental Protection Agency, Region III, William J. Hoffman, Associate Director, Office of Environmental Programs

<p>Attachment A: Detailed Comments on the Sparrows Point LNG Terminal and Pipeline Project (CEQ #20080162)</p> <p>The U.S. Environmental Protection Agency, Region III, is unable to fully assess the referenced environmental impacts based upon the information provided in the above noted DEIS. We recommend that the information discussed below be included in the Final EIS.</p> <p>1. Dredging Issues</p> <p>(a) Material Management and Handling</p> <p>In order for LNG ships to berth at the proposed Sparrows Point Terminal, the existing approach channel will need to be widened and deepened and a turning basin will need to be created. The DEIS estimated that 3.7 million cubic yards of contaminated dredged material will have to be removed from the Patapsco River.</p> <p>The applicant (AES) has proposed to use an innovative reuse method of handling dredged material placement. AES would achieve reuse by processing the dredged material at an onsite Dredge Material Recycling Facility (DMRF). AES anticipates that approximately 5,500 tons of processed dredged material (PDM) will be shipped off-site daily. The duration of the PDM operation is expected to take two years. While AES has identified potential uses for the PDM in the DEIS, it has not identified a market for PDM or any facilities willing to accept the PDM (2-25, 3.28 appendix D). Further, the DEIS does not explain the DMRF treatment process that would be used to treat the contaminated dredged material for reuse or the potential environmental impacts from the treatment process (materials used by or waste generated from the treatment process) or the environmental impacts from the construction of the DMRF.</p> <p>While EPA supports innovative reuse of dredged material, an evaluation is difficult due to lack of information about the treatment process. The Final EIS should include sufficient information to describe the PDM treatment process, and should indicate where and how the PDM will be used. In addition, the by-products from the DMRF should also be quantified and properly disposed. We recommend that the Dredged Material Placement Plan referenced as proposed mitigation measure # 43 and described on page 4-55 be included in the Final EIS (FEIS) as well as the impacts from the facility.</p> <p>(b) Storm Water Permitting - Construction of the Dredged Material Recycling Facility (DMRF)</p> <p>Because the DMRF would be constructed where the soil potentially could be contaminated, EPA recommends an individual NPDES permit for the storm water discharge associated with construction activity be processed rather than a general permit.</p>	<p>FA5-5 AES has provided a Consolidated Dredge Plan (see appendix D of the FEIS), which addresses the treatment or processing of dredged material and the tests that would be applied to qualify the PDM for various end uses. Also see section 2.3.1.3 <i>Dredged Material Handling/Disposal</i> for a summary of the chemical tests that would be performed on the PDM to qualify for a given end use.</p> <p>FA5-6 Comment noted.</p> <p>FA5-7 While AES has not identified the final market for the PDM, it has delineated how the recycling facility would qualify PDM for various end uses, and AES has delineated how the PDM would be qualified to be landfilled as a final end point, if innovative uses are not practical. See the Consolidated Dredge Plan (appendix D of the FEIS) and section 2.3.1.3.</p> <p>FA5-8 See section 2.3.1.3.</p> <p>FA5-9 See section 2.3.1.3.</p> <p>FA5-10 The Consolidated Dredge Plan is included in the FEIS as appendix D.</p> <p>FA5-11 Comment noted. FERC would defer to EPA and MDE on how the NPDES permits are handled for the LNG terminal and the DMRF.</p>
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<p>FA5-12</p>	<p>(c) Pugmill processing system</p> <p>The first step in the processing system is to screen out large oversized material. The dredging management plan does not indicate where this oversized material will be ultimately disposed. We recommend that the FEIS provide detailed information regarding the disposal of this oversized material.</p>	<p>FA5-12</p> <p>The Dredging Management Plan has been replaced with the Consolidated Dredge Plan (CDP) which is located in appendix D of the FEIS. The CDP states oversized material would be separated and transferred to a concrete debris storage bunker. Separated debris would be recycled or disposed of at a permitted facility. Pappy's Landfill, 1020 Oak Avenue, Joppa, MD 21085 is identified in the CDP as a specific landfill that could be used to dispose of the oversized material/debris.</p>
<p>FA5-13</p>	<p>(d) Dredging Method</p> <p>In the DEIS, FERC requests comments from the agencies on the appropriate dredging method that should be used for the approach channel and turning basin for the proposed terminal.</p> <p>EPA recommends that the dredging be conducted using an environmental bucket, as described in the DEIS. The environmental bucket would be equipped with vents, gasket, cover, and an alarm system to avoid overfilling. We recommend that the operational procedures include lowering the bucket to target depth at a control rate to avoid overfilling, closing the bucket (alarm confirms overlap closure), raising the bucket to a water level just below the vents to allow water drainage, moving the partially submerged bucket to a defined location near the receiving container, lifting the bucket from the water and swinging it over the receiving container, opening the bucket to discharge sediment into the work scow.</p>	<p>FA5-13</p> <p>Please see response to comment FA5-4.</p>
<p>FA5-14</p>	<p>(e) Maintenance Dredging</p> <p>The DEIS reports that the approach channel and turning basin would require approximately 500,000 cubic yards of maintenance dredging every six years (Pg 4-55). Similar to the initial approach channel and turning basin dredging, the DEIS does not detail how this material will be treated and managed. EPA recommends that additional information be provided in the FEIS on the treatment and management of this material.</p> <p>2. Wetlands</p> <p>Based on the DEIS, 16.7 miles, or approximately 20% of the pipeline length, have not been field surveyed to delineate wetlands due to access issues (Pg 4-65). Based on the wetlands that have been surveyed, 19.43 acres would be temporarily impacted and 4.46 acres of forested wetlands would be permanently impacted. (Pg 4-70). We recommend that the FEIS include a discussion of the wetlands impacts for the entire pipeline length and a proposed conceptual wetland mitigation plan.</p>	<p>FA5-14</p> <p>Within the COE 404 permit, AES would be required to retest the dredge material for contaminants for each maintenance dredging cycle. The allowable disposal of this material, whether through treatment by the DMRF, or through other disposal, would be required to comply with COE permit conditions.</p>
<p>FA5-15</p>	<p>3. Nontidal Wetlands of Special State Concern (NTWSSC)</p> <p>As stated in the DEIS, Maryland defines Nontidal Wetlands of Special State Concern (NTWSSC) as wetlands with rare, threatened, or endangered species or unique habitat. The Maryland Department of the Environment provides special protection measures for these valued resources. The proposed pipeline would cross a NTWSSC at MP 22.23 on the north Bank of</p>	<p>FA5-15</p> <p>The acres of wetland impacted temporarily and permanently (both in the DEIS and in this FEIS) includes the wetland impacts for the entire pipeline length. The portions of the pipeline that have not been field surveyed have included a wetlands assessment from NWI maps, USGS topographic maps, remote sensing data and desktop analysis (see section 4.4.2). We consider the wetlands totals to be conservatively high. As with all linear projects, the final acreage would be determined when AES receives permission to survey the entire line.</p>

FA5 – United States Environmental Protection Agency, Region III, William J. Hoffman, Associate Director, Office of Environmental Programs

<p>FA5-16</p> <p>Little Gunpowder Falls. Another NTWSSC is adjacent to (within 130 feet) of the pipeline right-of way at MP 46.45 to 46.63. We recommend that the FEIS evaluate potential impacts of the pipeline construction and operation on these NTWSSC and include any appropriate protective measures to avoid, minimize, and mitigate impacts.</p>	<p>FA5-16</p> <p>Potential impacts to threatened and endangered species associated with the NTWSSC wetlands (see section 4.7.2) at MP 22.23 would be minimized by the use of HDD as described in section 4.4.2.1. A second NTWSSC runs parallel to the pipeline right-of-way from MP 46.45 to 46.63 at a distance of approximately 130 feet to the northwest. Preliminary field assessments of these two wetlands have been conducted by the COE and MDE in May 2008. The agencies had no comment on the NTWSSC at MP 22.23, but the MDE indicated that they would inquire to the Maryland Natural Heritage Program as to why the wetland at MP 46.45 (located within an existing maintained right-of-way) is classified as a NTWSSC. Potential impacts to both of these wetlands would be evaluated by these agencies which may include the recommendation of mitigative measures.</p>
<p>FA5-17</p> <p>4. Potential Soil Contamination</p> <p>The DEIS reports that there is evidence of soil contamination at the proposed terminal and along the pipeline route (ES-3, Pg 4-13). To minimize the potential impacts of these soils, AES has prepared a Potentially-Contaminated Soil Management Plan. Part of the purpose of this plan is to address issues necessary to protect the workers at the site and the public from construction involving potentially contaminated soils. We recommend that FERC include the Potentially-Contaminated Soil Management Plan in the FEIS.</p>	
<p>FA5-18</p> <p>5. Environmental Construction Plan (ECP)</p> <p>The ECP is intended to assist the applicant by identifying baseline mitigation measures for minimizing the extent and duration of the project-related disturbance for erosion, wetlands, and waterbodies. The ECP is referenced numerous times within the DEIS; we recommend that the ECP be included in the FEIS.</p>	
<p>FA5-19</p> <p>6. Waterbody Crossing</p> <p>The proposed pipeline route would cross 177 waterbodies in Maryland and Pennsylvania (Pg 5-4). Mid-Atlantic Express LLC proposes to cross the Susquehanna and Back Rivers by Horizontal Directional Drilling (HDD). Because of their ecologically sensitive nature, EPA also recommends the use of HDD for the Deer Creek, Gun Powder Falls, and Octoraro Creek crossings.</p>	<p>FA5-17</p> <p>Comment noted. In section 4.2.1.1, we recommend AES file an amended “Potentially-Contaminated Soils Management Plan” with the Secretary. As noted, the amended plan should be developed in consultation with the appropriate agencies and address the specific items and details listed in our recommendation.</p>
<p>FA5-20</p> <p>7. Aquatic Resource Mitigation Plan (ARMP)</p> <p>FERC has recommended that an ARMP be developed to minimize impacts to aquatic resources associated with the channel dredging and terminal and pipeline construction. We recommend that the ARMP be included in the FEIS.</p>	
<p>FA5-21</p> <p>8. Air Quality</p> <p>(a) General Conformity</p> <p>We note that the DEIS does not include information related to general conformity, other than general applicability. Without further detail on the emissions inventory and the emissions from the activities subject to general conformity, or with potential mitigation measures necessary to achieve conformity, it is difficult to comment on conformity at this time.</p>	<p>FA5-18</p> <p>Comment noted. We have included the ECP in the FEIS as appendix T.</p> <p>FA5-19</p> <p>Comment noted. See the revised feasibility assessments of using HDD technique at these stream crossings in section 4.3.2.5.</p> <p>FA5-20</p> <p>The ARMP is included in the FEIS as appendix Q.</p>

FA5-22	<p>(b) PM_{2.5} Compliance</p> <p>We recommend that the FEIS include a discussion on how the project will comply with EPA's May 16, 2008, final rule governing the implementation of the New Source Review (NSR) program for particulate matter less than 2.5 micrometers in diameter (PM_{2.5}), 73 Fed. Reg. 28321, as well as the Agency's April 25, 2007 PM_{2.5} final non-NSR provisions of the PM_{2.5} NAAQS implementation rule, 40 CFR Part 51, Subpart Z.</p>	FA5-21	A draft General Conformity Determination for the Project was issued for public comment on October 2, 2008. The comment period for the draft General Conformity Determination closed on November 3, 2008. Section 4.11.1.5 has been updated to include information from the draft General Conformity Determination and discusses comments received.
FA5-23	<p>(c) Fugitive Dust Control Plan</p> <p>We recommend that the Fugitive Dust Control Plan be reviewed by MDE/EPA as part of any construction permit application.</p>	FA5-22	A discussion of EPA's PM _{2.5} NSR implementation rule and the Project's compliance with these requirements is provided in section 4.11.1.3.
	<p>9. Threatened & Endangered Species</p> <p>The bog turtle is a federally-listed threatened species, a state-listed threatened species in Maryland, and a state-listed endangered species in Pennsylvania. In Pennsylvania, bog turtles are most commonly found in the Southeastern part of the state. Portions of the proposed pipeline and associated aboveground facilities in both Maryland and Pennsylvania would be located within the range of bog turtle habitat and the proposed pipeline route would cross drainage areas containing known bog turtle habitat (Page 4-128 of the DEIS).</p> <p>The DEIS reported that a Phase I and II bog turtle survey was conducted at potential sites along the proposed pipeline alignment pursuant to United States Fish and Wildlife Service, Pennsylvania Fish and Boat Commission and the Maryland Department of Natural Resources requirements. It was also reported in the DEIS that two bog turtle sightings occurred at two locations. Three additional sites identified as potential bog turtle habitat were not surveyed because of access issues. While the information regarding the bog turtle was reported in the DEIS, Mid-Atlantic Express has not submitted a final report. EPA recommends that the assessment be completed before project pipeline design is finalized.</p>	FA5-23	The air construction permit application is not under FERC's jurisdiction. MDE and/or EPA may require this individually under their own authority.
FA5-24	<p>10. Major Permits, Approvals, and Consultations for the Sparrows Point Project (Table 1.3-1)</p> <p>The table should include: State (Maryland & Pennsylvania), and Federal CWA Section 402 NPDES (Storm Water and Wastewater) Permitting. We also recommend that the FEIS include a discussion on the applicability of the Resource Conservation & Recovery Act (RCRA) as it may apply to the storage and processing of contaminated dredged material.</p>	FA5-24	In section 4.7.1, we recommend that prior to the start of construction AES complete its bog turtle surveys during the 2009 bog turtle survey season at all previously unsurveyed sites and file the results of these surveys with the Secretary. We also recommend that AES consult with FWS, MDNR, and PFBC to develop a bog turtle management plan that includes agency recommendations and mitigation measures. The final project design would take into account the results of the bog turtle surveys; therefore the plan would not be finalized until the bog turtle surveys are completed.
FA5-25	<p>11. Additional Temporary Workplaces (ATW)</p> <p>We recommend that ATWs associated with pipeline work be sited in a way to avoid sensitive areas related to waterbody crossings.</p>	FA5-25	See revised table 1.3-1 and the revised text in section 4.3.2.5 <i>Dredging</i> .
FA5-26			

<p>FA5-27</p>	<p>12. AES Environmental Inspectors and Environmental Inspectors working under the Third Party Environmental Compliance Monitoring and Reporting Program</p> <p>EPA recommends that the AES environmental inspectors and environmental inspectors working under the Third Party Environmental Compliance Monitoring and Reporting Program be trained in erosion and sediment control as well as wetland mitigation and monitoring.</p>	<p>FA5-26 This is already a facet of the Project. FERC examines all ATWs to make sure the ATWs are not unnecessarily located in a wetland or riparian area.</p>
<p>FA5-28</p>	<p>13. Environmental Justice Analysis</p> <p>We recommend that the FEIS provide additional analysis of potential environmental justice concerns, including a comprehensive review of the areas and communities that may be adversely impacted by the proposed project. We recommend that the additional analysis re-evaluate the DEIS's identification and assessment of areas with potential environmental justice concerns that may be impacted by the project. For example, while one community, Turner Station, is identified in the DEIS, other communities, such as Dundalk and Edgemere, may also be considered to be communities with potential environmental justice concerns. We also recommend that the FEIS use more recent census data (a number of more recent acceptable data updates and estimates are available through the census and the State of Maryland).</p>	<p>FA5-27 Comment noted. This is a part of training and selection of Third Party monitors. Environmental Inspectors are trained to our standards in all appropriate environmental monitoring to ensure compliance with environmental permits associated with construction of the Project.</p>
<p>FA5-29</p>	<p>We also recommend that the FEIS clarify the extent to which communities of potential environmental justice concern may be adjacent to the 88-mile length of the proposed pipeline. Based on the brief information provided in the DEIS, it is not clear if consideration was given to any communities adjacent to the proposed pipeline.</p>	<p>FA5-28 See revisions to section 4.9.7.</p>
<p>FA5-30</p>	<p>We also recommend that the FEIS more clearly outline the steps that were taken to ensure comprehensive involvement of the at-risk communities in the project area. It is not clear whether any meetings were held in the community that was identified as the closest neighbor to the project (i.e., Turner Station) or whether project documents and information were disseminated to community leaders. We also recommend that the FEIS more clearly outline why public comments reported that the proposed project would "discriminate" against the African American community at Turner Station (pg. 4-184) and whether there are any appropriate and relevant mitigation measures to be considered.</p>	<p>FA5-29 Table 4.9.7-1 has been revised to include 2006 estimated median household income.</p>
<p>FA5-31</p>	<p>14. Marine Vessel Emissions</p> <p>It is estimated that the terminal will receive between 120-150 LNG vessels annually. These delivery vessels may emit large amounts of fine particle pollution. Studies of air emissions produced by some of the large ports in the U.S. indicate that the combined emissions from the vessels, cargo handling equipment, and transport vehicles associated with port operations can equal or exceed the air emissions from a mid-sized power plant or petroleum refinery.</p>	<p>FA5-30 We performed an Environmental Justice analysis and identified the Turner Station area located approximately 1.1 miles from the LNG terminal site. With respect to the pipeline route, environmental impacts associated with proposed pipeline construction would be temporary and would affect all sensitive receptors equally; no single environmental justice area or community would be disproportionately affected. No long-term detrimental impacts would occur. Therefore, the proposed pipeline would not result in disproportionately adverse human health or environmental effects on minority or low-income communities or Native American programs.</p>
<p>FA5-32</p>	<p>EPA suggests that FERC develop strategies to reduce emissions from the LNG delivery vessels and other marine engines (e.g., tugboats) associated with the operation of this proposed facility. Specifically, EPA suggests that FERC consider the following:</p>	

FA5-33	<ul style="list-style-type: none"> The feasibility of limiting delivery vessels to significantly cleaner fuels (e.g., lower sulfur fuels and/or natural gas) when in transit next to land. We understand that LNG carriers are powered with steam turbines that can be fed from boilers fired by “boil-off” gas, as well as with heavy fuel oil. Since the international sulfur limit for fuel oil used in ships is 45,000 ppm, this fuel oil can emit large amounts of particle pollution when used. Using cleaner fuels during local transit would help reduce community exposure to particle emissions from ships. 	FA5-31	Turner Station is a community within the greater Dundalk community. AES and Mid-Atlantic Express hosted two open houses in Dundalk. We received public comments on Turner Station from the African American Environmental Association (OC2 and OC3) and those of the Turner Station Development Corporation (OC9 and OC14). Please see our responses to those comments. Also see sections 4.9.7, 1.4 and 1.5.
FA5-34	<ul style="list-style-type: none"> Providing electric power for ships berthed at the shipping terminal so the ships will not run their boilers or diesel engines while docked. This practice is already used in other regions of the country. 	FA5-32	As part of the draft General Conformity determination, the applicant has been required to demonstrate conformity using real mitigation measures including SCR, low sulfur fuels, and diesel particulate filters. The applicant has also proposed for three tugs to be used in LNG terminal related ship assist operations be equipped with EPA Tier 2 standards at a minimum and fueled with ultra-low sulfur diesel fuel (0.0015% sulfur). See also responses to FA5-33, 34, 35.
FA5-35	<ul style="list-style-type: none"> Creating an “eco-speed” zone for the speed of the ships coming into port that is the optimal speed to reduce emissions. The California Air Resources Board and the Port of Los Angeles and the Port of Long Beach have successfully utilized this strategy. The Port of Seattle is also exploring this eco-speed strategy. 	FA5-33	The LNG ships are not U.S. flagged ships and therefore, are not under FERC’s jurisdiction. However, as part of the draft General Conformity determination, the applicant has committed to all LNG ships using a maximum of 1.5% sulfur fuel while operating in U.S. waters.
FA5-36	<ul style="list-style-type: none"> The feasibility of retrofitting harbor craft such as tugboats to reduce emissions with engine retrofits designed to emit less pollution. New vessels purchased to support the LNG facility should be required to feature these retrofits and use cleaner fuels. 	FA5-34	AES analyzed the potential for cold-ironing LNG ships while at berth at the Terminal site in its April 5, 2007 response to a similar issue raised by the State of Maryland and included in FERC’s March 23, 2007 Data Request. This option was not considered feasible for safety and economic reasons.
FA5-37	<p>15. Exotic and Invasive Species Control Plan</p> <p>The Exotic and Invasive Species Control Plan should at a minimum comply with the Presidential Executive Order 13112 of February 3, 1999. The plan should include the following exotic and invasive control measures: prevent introduction, detect and respond rapidly to control population, monitor population and provide for the restoration of native species.</p>		
FA5-38	<p>16. Onshore LNG Terminal Alternative Analysis</p> <p>FERC has determined that the preferred onshore LNG terminal would be the Sparrows Point site based the following siting criteria:</p> <ul style="list-style-type: none"> Available property of appropriate size Distance to populated areas Amount of dredging required Distance to potential interconnections with interstate pipeline systems where sufficient take-away capacity exists to limit the need to expand existing systems Amount of wetlands to be impacted by the construction of the terminal or associated approach channel, turning basin, and docking areas Potential for impacts to threatened or endangered species or their critical habitat <p>FERC considered eight sites (including Sparrows Point) in their analysis. EPA recommends that the FEIS provide additional analysis regarding the environmental advantages/disadvantages of the Sparrows Point site as compared to the Mittal Steel site. Given the fact that the Sparrows Point site would require almost twice the amount of material to be dredged than the Mittal Steel</p>		

FA5 – United States Environmental Protection Agency, Region III, William J. Hoffman, Associate Director, Office of Environmental Programs

<p>↑ site, we believe use of the Sparrows Point may have more adverse environmental impacts. Moreover, we recommend that FERC re-evaluate the feasibility of AES acquiring the Mittal Steel site in light of recent developments regarding property ownership and provide that re-evaluation in the FEIS.</p> <p style="text-align: center;">7</p>	<p>FA5-35 The Coast Guard’s Captain of the Port has the authority to impose speed restrictions, not the FERC.</p> <p>FA5-36 Please see response to comment FA5-32.</p> <p>FA5-37 Appendix O includes AES’s Draft Exotic and Invasive Species Control Plan. The measures you describe are included in this plan. Any additional measures requested by reviewing agencies would be included in a final plan.</p> <p>FA5-38 Please see response to comment FA5-3.</p>
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National Environmental Policy Act (NEPA)



You are here: [EPA Home](#) [Compliance and Enforcement](#) [National Environmental Policy Act \(NEPA\)](#) [EPA Comments on Environmental Impact Statements \(EISs\)](#) [EIS Rating System Criteria](#)

Environmental Impact Statement (EIS) Rating System Criteria

EPA has developed a set of criteria for rating draft EISs. The rating system provides a basis upon which EPA makes recommendations to the lead agency for improving the draft EIS.

- [Rating the Environmental Impact of the Action](#)
- [Rating the Adequacy of the Draft Environmental Impact Statement \(EIS\)](#)

RATING THE ENVIRONMENTAL IMPACT OF THE ACTION

- **LO (Lack of Objections)** The review has not identified any potential environmental impacts requiring substantive changes to the preferred alternative. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposed action.
- **EC (Environmental Concerns)** The review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact.
- **EO (Environmental Objections)** The review has identified significant environmental impacts that should be avoided in order to adequately protect the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). The basis for environmental Objections can include situations:
 1. *Where an action might violate or be inconsistent with achievement or maintenance of a national environmental standard;*
 2. *Where the Federal agency violates its own substantive environmental requirements that relate to EPA's areas of jurisdiction or expertise;*
 3. *Where there is a violation of an EPA policy declaration;*
 4. *Where there are no applicable standards or where applicable standards will not be violated but there is potential for significant environmental degradation that could be corrected by project modification or other feasible alternatives; or*
 5. *Where proceeding with the proposed action would set a precedent for future actions that collectively could result in significant environmental impacts.*
- **EU (Environmentally Unsatisfactory)** The review has identified adverse environmental impacts that are of sufficient magnitude that EPA believes the proposed action must not proceed as proposed. The basis for an environmentally unsatisfactory determination consists of identification of environmentally objectionable impacts as defined above and one or more of the following conditions:
 1. *The potential violation of or inconsistency with a national environmental standard is substantive and/or will occur on a long-term basis;*

2. *There are no applicable standards but the severity, duration, or geographical scope of the impacts associated with the proposed action warrant special attention; or*
3. *The potential environmental impacts resulting from the proposed action are of national importance because of the threat to national environmental resources or to environmental policies.*

RATING THE ADEQUACY OF THE DRAFT ENVIRONMENTAL IMPACT STATEMENT (EIS)

1. **(Adequate)** The draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.
2. **(Insufficient Information)** The draft EIS does not contain sufficient information to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the proposal. The identified additional information, data, analyses, or discussion should be included in the final EIS.
3. **(Inadequate)** The draft EIS does not adequately assess the potentially significant environmental impacts of the proposal, or the reviewer has identified new, reasonably available, alternatives, that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. The identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. This rating indicates EPA's belief that the draft EIS does not meet the purposes of NEPA and/or the Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS.

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FEDERAL ENERGY
REGULATORY COMMISSION

U.S. Department of Housing and Urban Development

Maryland State Office
City Crescent Building
10 South Howard Street, 5th Floor
Baltimore, MD 21201-2528

July 3, 2008

Ms. Kimberly D. Bose
Federal Energy Regulatory Commission
888 First Street, N.E., Room 1A
Washington, D.C. 20426

ORIGINAL

Dear Ms. Bose:

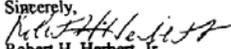
Subject: DEIS on Sparrows Point LNG & Mid-Atlantic Express Pipeline Project
(Docket Nos. CP07-62-000, CP07-63-000, CP07-64-000, and CP07-65-000)

With this letter we are amending our comments of May 30, 2008.

Based on a better understanding of LNG properties and the diking of the LNG storage tanks we recalculated the Acceptable Separation Distances (ASDs) for the HUD assisted housing projects in the vicinity of the proposed LNG facility. Previously we classified the LNG storage tanks as stationary aboveground hazardous gas containers. For purposes of ASD calculations we understand the LNG storage tanks should have been classified as stationary (diked) aboveground hazardous liquid containers. Given this, for thermal radiation, the ASDs changed from 1.31 and 4.43 miles to 661 feet/0.1252 mile and 2840.48 feet/0.5380 mile for buildings and people. At 2.7, 2.8 and 2.9 miles from the proposed LNG facility, the HUD assisted housing projects listed below are located at an ASD from the proposed LNG facility.

Turner's Station Apartments 101 Center Place Baltimore, MD 21222	Center Place Apartments 101 Center Place Dundalk, MD 21222	St. Luke's Place Apartments 2825 Lodge Farm Road Edgemere, MD 21219
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In closing, should there be any questions regarding our comments, do not hesitate directing them to me at Robert.h.herbert@hud.gov or 410-209-6546.

Sincerely,

Robert H. Herbert, Jr.
Environmental Officer

cc:
Charles Halm
James Kelly
Nelson Rivera

<http://www.hud.gov/local/bal/balhome.html>

FA6-1

FA6-1

Section 4.12.4 has been updated to address this comment.

FA6-2

FA6-2

Section 4.12.4 has been updated to address this comment.

FA6-3

FA6-3

Section 4.12.4 has been updated to address this comment.

20080709-0062 FERC PDF (Unofficial) 07/07/2008



U.S. Department of Housing and Urban Development

Baltimore Office
City Crescent Building
10 South Howard Street, 5th Floor
Baltimore, MD 21201-2528

May 30, 2008

Ms. Kimberly D. Bose
Federal Energy Regulatory Commission
888 First Street, N.E., Room 1A
Washington, D.C. 20426

Dear Ms. Bose:

Subject: DEIS on Sparrows Point LNG & Mid-Atlantic Express Pipeline Project
(Docket Nos. CP07-62-000, CP07-63-000, CP07-64-000, and CP07-65-000)

Thank you for the opportunity to review and comment on the above DEIS. Our comments are confined to the HUD housing projects identified below. These projects are within the vicinity of the proposed LNG terminal.

Turner's Station Apartments 101 Center Place Baltimore, MD 21222	Center Place Apartments 101 Center Place Dundalk, MD 21222	St. Luke's Place Apartments 2825 Lodge Farm Road Edgemere, MD 21219
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Our comments are specific to the Department's Acceptable Separation Distance (ASD) standards, 24 CFR Part 51, Subpart C -- Siting of HUD-Assisted Projects Near Hazardous Operations Handling Conventional Fuels or Chemicals of an Explosive or Flammable Nature.

In accordance with the above HUD regulations the standard for thermal radiation for buildings is 10,000 BTU/ft² hr. Applying this standard results in an ASD of 1.31 miles. The above three HUD projects, at 2.7, 2.8 and 2.9 miles from the proposed LNG terminal, are in an ASD from the proposed above ground storage tanks.

The HUD standard for thermal heat flux for people is 450 BTU/ft² hr. Applying this standard results in an ASD of 4.43 miles. The above three HUD projects at 2.7, 2.8 and 2.9 miles from the proposed LNG terminal are not in an ASD. HUD permits exceptions to this standard when out-door areas at project sites are shielded from above ground storage tanks by existing intervening buildings and/or terrain. Should an LNG tank catch fire the above HUD projects at 2.7, 2.8 and 2.9 miles from the proposed LNG terminal would be shielded from the thermal radiation by the existing intervening buildings.

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FA6-4

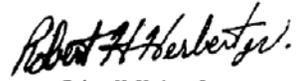
FA6-4

Please see response to comments FA6-1 through FA6-3 and letter FA1.

20080709-0062 FERC PDF (Unofficial) 07/07/2008

In closing, should there be any questions regarding our comments, do not hesitate directing them to me at Robert.h.herbert@hud.gov or 410-209-6546.

Sincerely,



Robert H. Herbert, Jr.
Environmental Officer

cc:
Charles Halm
James Kelly

<p>20080812 14:03:08 FPG: RFP (Unit: Fiscal) 08/12/2008 AUG-12-2008 TOE 02:45 PM PAFO FAX NO. 8142340748 P. 02</p> <div data-bbox="226 332 340 446"></div> <div data-bbox="394 349 850 381"><p>United States Department of the Interior</p></div> <div data-bbox="462 397 787 487"><p>FISH AND WILDLIFE SERVICE Pennsylvania Field Office 315 South Allen Street, Suite 322 State College, Pennsylvania 16801-4850</p></div> <div data-bbox="913 316 1008 430"></div> <p>August 12, 2008</p> <p>Kimberley D. Bose Secretary Federal Energy Regulatory Commission 888 First Street, NE Washington, DC 20426</p> <p>RE: Sparrows Point LNG Terminal and Pipeline Project USFWS Project #2008-1240</p> <p>Dear Ms. Bose:</p> <p>The Fish and Wildlife Service has reviewed the above-referenced Draft Environmental Impact Statement (DEIS) dated April 2008, for the Sparrows Point LNG Terminal and Pipeline Project, located in Baltimore, Harford, and Cecil Counties, Maryland and Lancaster and Chester Counties, Pennsylvania. Mid-Atlantic Express, L.L.C., proposes to construct an 88-mile long, 30-inch diameter interstate natural gas pipeline. The following comments are provided pursuant to the Endangered Species Act of 1973 (87 Stat. 884, as amended; 16 U.S.C. 1531 <i>et seq.</i>) to ensure the protection of endangered and threatened species.</p> <p>The proposed project is located within the range of three federally listed species under Service jurisdiction, of including the endangered Indiana bat (<i>Myotis sodalis</i>), endangered Maryland Darter (<i>Etheostoma sellare</i>) and threatened bog turtle (<i>Clemmys (Glyptemys) muhlenbergii</i>). The Indiana bat and bog turtle are found in Pennsylvania and Maryland, while the Maryland Darter occurs in Maryland. In addition, the project is within the range of the logperch (<i>Percina caprodes</i>), which is a federal species of concern, but not yet a candidate species for federal listing.</p> <p><u>Indiana Bat</u></p> <p>Subsequent to our letter of May 31, 2006, new information has become available regarding the distribution of Indiana bats in Maryland and Pennsylvania. Indiana bat maternity colonies have recently been documented in Carroll County, Maryland, and in Adams, Berks, Greene and York Counties, Pennsylvania. Consequently, based on a significant change in available information regarding the species summer distribution, as well as the large amount of forest clearing proposed for this project (approximately 460 acres), the potential presence of Indiana bats in the project area is now of increased concern.</p>	<p>FA7-1 See revised section 4.7.2 for logperch and revised section 4.7.1 for Indiana bat, Maryland darter and bog turtle.</p> <p>FA7-2 We have incorporated your comments. See revised section 4.7.1 of the FEIS.</p>
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FA7 – United States Department of the Interior, Fish and Wildlife Service (FWS), Pennsylvania Field Office, David Densmore, Supervisor

<p>20080812 10:10 FAX NO. 8142340748 P. 0: AUG-12-2008 TUE 02:45 PM PAFO</p>	
<p>Indiana bats hibernate in caves and abandoned mines during the winter months (November through March), and use a variety of upland, wetland and riparian habitats during the spring, summer and fall. Indiana bats usually roost in dead or living trees with exfoliating bark, crevices or cavities, especially those with sun exposure to the trunk. Female Indiana bats form nursery colonies under the exfoliating bark of dead or living trees, such as shagbark hickory, black birch, red oak, white oak, and sugar maple, in upland or riparian areas.</p> <p>Land-clearing, especially of forested areas, may adversely affect Indiana bats by killing, injuring or harassing roosting bats, and by removing or reducing the quality of foraging and roosting habitat. Due to the anticipated impacts of the project on forest habitat, a bat survey of the project area should be conducted between May 15 and August 15 by a qualified, Fish and Wildlife Service-approved biologist (see enclosed list) using the enclosed <i>Indiana Bat Mist Netting Guidelines</i>. For linear projects such as pipelines, we recommend one mist-net site per linear kilometer of project alignment. A preliminary survey design should be submitted to the Service for review and concurrence, and upon completion survey results should be also be submitted to the Service.</p>	<p>FA7-3 See revised section 4.7.1 of the FEIS.</p>
<p>In addition, if any natural caves or abandoned mines occur within the project area, it is possible that Indiana bats or other bat species may be using them during hibernation or potentially as summer roost sites. Entrances to these potential hibernacula could be intentionally or inadvertently closed or destroyed during activities such as land clearing, grading, fill disposal, or road construction. If bats are present within a cave or abandoned mine when this occurs, they will become trapped inside and perish. Even if bats are not present during the closure, they may be adversely affected when they return to their hibernaculum in the fall and find it closed. This will force them to expend energy looking for another suitable hibernaculum during a time when it is crucial that they store up sufficient fat reserves for hibernation. Bats are at an increased risk of mortality when they enter hibernation with insufficient fat reserves, or are unable to locate a cave/mine with the suite of conditions (e.g., temperature, humidity, air flow) necessary for successful hibernation.</p>	<p>FA7-4 See revised section 4.7.1 of the FEIS.</p>
<p>To determine whether this project will affect any potential Indiana bat hibernacula, the project area should be surveyed for cave and mine openings. All openings should be accurately mapped using a GPS unit. If potentially unstable mines (e.g., abandoned coal mines) occur in the project area, the openings of these mines should be evaluated using the enclosed <i>Protocol for Assessing Abandoned Mines/Caves for Bat Surveys</i>. The Pennsylvania Game Commission has developed this protocol to determine whether abandoned mines may serve as potentially suitable bat habitat. Following this initial mine opening assessment, a qualified bat surveyor (see enclosed list) should survey each potentially suitable opening, as well as the area in the immediate vicinity of these openings. Surveys should be carried out in accordance with the enclosed survey protocol. Please submit a copy of the survey results to the Service and the Pennsylvania Game Commission for review and concurrence.</p>	<p>FA7-5 See revised section 4.7.1 of the FEIS.</p>

<p>20080812 14:29:08 FAX NO. 8142340748 P. 04</p> <p>20080812 14:29:08 FAX NO. 8142340748 P. 04</p> <p>FA7-6 If any caves or stable hard rock mines (e.g., limestone mines) occur in the project area, they should be surveyed for hibernating bats during the winter. Interior winter hibernacula surveys should be coordinated with the Pennsylvania Game Commission. Survey results should be submitted to the Service for review and concurrence. If caves or hard rock mines cannot be safely entered, their openings should be surveyed as described above.</p> <p>FA7-7 Should Indiana bats be found during any survey, further consultation with the Service will be necessary, including the submission of detailed project plans, and an analysis of alternatives to avoid and minimize adverse effects.</p> <p>FA7-8 <u>Maryland Darter (4.7.1.4)</u> The Maryland darter remains a federally listed, endangered species, since the Service does not consider this species to be extinct. However, additional studies are needed to evaluate its continued survival. We concur that adverse impacts on this species can be avoided by use of appropriate best management practices (BMPs) at the Deer Creek pipeline crossing.</p> <p>FA7-9 <u>Bog Turtle (4.7.1.5)</u> The DEIS states that bog turtle surveys were to be completed by 2008. It is our understanding that, based on conversations with Mike Torocco of Herpetological Associates, the bog turtle surveyor for this project, Phase 1 and Phase 2 surveys were conducted in 2007 and 2008. However, the Service has not yet received any survey reports for this project. We also understand that trapping was recommended for one of the project-area wetlands, but only a visual (Phase 2) survey was conducted. Consequently, this wetland may have to be resurveyed in 2009. Until we and the appropriate State natural resource agencies have reviewed these reports, we have no way of determining their adequacy. Therefore, we cannot concur with the conclusion in the DEIS that the project is not likely to adversely affect the bog turtle.</p> <p>FA7-10 It was reported in the DEIS that two of the wetlands surveyed contain bog turtles. It states, "With the adoption of the bog turtle management plan developed in consultation with FWS, we believe that the Project is not likely to adversely affect the bog turtle". On May 27, 2008, we received the <i>Draft Bog Turtle Management Plan Consultation</i> from Haley & Aldrich, Inc. The proposed plan "includes the utilization of several best management practices (BMPs) designed to minimize the impacts of pipeline construction on individual turtles and their habitat. No construction activity will occur in wetlands that are known to contain bog turtles during the reproductive season from June 1 through September 30." Pre-construction surveys and silt fencing are also proposed, and timber mats will be deployed in the wetland during construction to minimize soil disturbance.</p> <p>Implementation of the above BMPs may not avoid direct and indirect adverse effects to bog turtles when they are present in a wetland that will be affected by pipeline construction. The potential effects would have to be evaluated on a site-by-site basis following field investigations and further consultation with the Service. Consequently, we cannot concur that implementation of the proposed bog turtle management plan supports a "not likely to adversely affect" determination.</p>	<p>FA7-6 See revised section 4.7.1 of the FEIS.</p> <p>FA7-7 See revised section 4.7.1 of the FEIS.</p> <p>FA7-8 See revised section 4.7.1 of the FEIS.</p> <p>FA7-9 We have incorporated your comments. See revised section 4.7.1 of the FEIS.</p> <p>FA7-10 Section 4.7.1 of the FEIS has been updated to include a discussion on FWS' position relative to a determination on impacts to the bog turtle. We have determined that the proposed pipeline may affect the federally listed bog turtle. We will continue to work with the applicants and FWS to supplement this BA as necessary for updating findings and determination of effect, as Mid-Atlantic Express continues to verify the presence and/or absence of this specie. In section 4.7.1 we recommend, Mid-Atlantic Express complete bog turtle survey reports including any Phase II surveys performed during the 2009 bog turtle survey season (April 15 to June 15), surveys at all previously unsurveyed sites with potential bog turtle habitat, and surveys at any sites where FWS recommends resurveying; and a bog turtle management plan developed in consultation with FWS, MDNR, and PFBC that includes agency recommended mitigation measures. We are also recommending that no construction occur until consultation with the FWS and NMFS has been completed. Further, we have recommended Route Variations 13 and 14 (see section 3.3.3).</p>
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FA7 – United States Department of the Interior, Fish and Wildlife Service (FWS), Pennsylvania Field Office, David Densmore, Supervisor

<p>20080812 10:28:10 FAX NO. 8142340748 P. 05 HUG-12-2008 TUE 02:45 PM PAFO</p> <p><u>Logperch (4.7.3.3)</u></p> <p>Recent genetic work indicates that the logperch population in tributaries to the Susquehanna River represents a separate species. (This work is described in: Near, Tom J. and M.F. Bernard. 2004. RAPID ALLOPATRIC SPECIATION IN LOGPERCH DARTERS (PERCIDAE: PERCINA) Evolution, Vol. 58, pp. 2798-2808). Although this species currently has no Federal protection under the Endangered Species Act, it is a potential candidate for future Federal listing because of its limited range and significant threats.</p> <p><u>Conclusions and Recommendations (5.1.7)</u></p> <p>To be in compliance with section 7 of the Endangered Species Act, the Service is asked to consider that this DEIS be used as a biological assessment. At this time, the DEIS does not contain sufficient information to support a not likely to adversely affect determination with respect to the bog turtle and the Indiana bat. The above-recommended surveys and effects analyses, and further consultation with the Service, will be necessary before we can reach any determinations regarding effects on these federally listed species.</p> <p>If you have any questions regarding this matter, please contact Bonnie Dershem of my staff at 814-234-4090.</p> <p>Sincerely,  David Densmore Supervisor</p> <p>cc: COE - ESI - Readers file ES file ES:PAFO:bad:cke:08/07/08 P:\FROFFICE\Drafts\Drafts 2008\2008-1240_sparrows_point_eis.doc</p>	<p>FA7-11 See revised section 4.7.2 of the FEIS.</p> <p>FA7-12 See revised section 4.7.1 for bog turtle and Indiana bat.</p>
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<p>20080814-0113 FERC PDF (Unofficial) 08/12/2008</p> <div style="display: flex; justify-content: space-between;"><div data-bbox="262 276 378 397"></div><div data-bbox="499 300 850 365"><p>DEPARTMENT OF THE ARMY BALTIMORE DISTRICT, U.S. ARMY CORPS OF ENGINEERS P.O. BOX 1715 BALTIMORE, MD 21203-1715</p></div><div data-bbox="850 243 1039 503"><p>ORIGINAL</p><p>FILED SECRETARY OF THE COMMISSION</p><p>2008 AUG 12 P 2:52</p><p>FEDERAL ENERGY REGULATORY COMMISSION</p></div></div> <p>REPLY TO ATTENTION OF</p> <p>Operations Division</p> <p>Ms. Kimberly D. Bose, Secretary Federal Energy Regulatory Commission 888 First Street, N.E., Room 1A Washington, DC 20426</p> <p>Dear Ms. Bose:</p> <p>This is in response to the Federal Energy Regulatory Commission's (FERC) April 25, 2008 draft Environmental Impact Statement (DEIS) for the proposed AES Sparrows Point LNG and Mid-Atlantic Express Pipeline Project, Docket Nos. CP07-62-000, CP07-63-000, CP07-64-000 and CP07-65-000.</p> <p>The U.S. Army Corps of Engineers, Baltimore District (Corps), as a cooperating agency in the preparation of the DEIS for the project, is pleased to provide additional comments and recommendations which supplement our June 16, 2008 letter (copy enclosed), to allow FERC to further develop the final document to ensure that the information presented in the NEPA document is adequate to fulfill the requirements of Corps regulations, the Clean Water Act Section 404(b)(1) Guidelines and the Corps public interest review process.</p> <p>First, prior to release of the FEIS, the Corps requests that FERC complete the following consultations and coordination efforts prior to release of the FEIS: Section 106 of the National Historic Preservation Act, including as appropriate, development and implementation of any Memorandum of Agreement; Endangered Species Act; Essential Fish Habitat coordination; State Forest Conservation Plans; Marine Spill Prevention, Containment, and Control Plan; State Water Quality Certifications; and State Coastal Zone Consistency determinations. We request that all memoranda and special conditions resulting from completion of these coordination efforts be provided to the Corps.</p> <p>The Corps requests that an unbound set of 8 1/2-inches by 11-inch top view, profile and cross-section plans with dimensions and all proposed work noted on the plan sheets as well as the pertinent information below:</p> <p>I. LNG Terminal</p> <ul style="list-style-type: none">a. General location and layout of the work at the terminal.b. The existing shoreline alignment and the proposed bulkhead alignment, including distances landward or channelward of the	<p>FA8-1</p> <p>Thank you for your additional comments on the DEIS. We forwarded your concerns to the applicants on August 12, 2008 and requested that they provide the requested information directly to the COE in order for you to complete your permit review. Also, see responses to FA4 regarding your June 16, 2008 letter.</p>
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0080814-0113 FERC PDF (Unofficial) 08/12/2008

- 2 -

existing approximate mean high water (MHW) shoreline and/or existing erosion control structures.

- i. Quantify the square foot area and cubic yards of upland earth excavated for construction of the proposed bulkhead and identify disposal method and site for the excess material.
 - c. Dimensions of the existing barge pier and plans for reinforcement of the structure, including the size and type of replacement pilings and the method of work and materials for reinforcement of pilings such as the concrete encasement of pier pilings.
 - i. Dimensions of any structures that would extend over the water temporarily or permanently and the elevation of these structures above the approximate MHW level.
 - ii. Dimensions and location of any structures, curtains or netting to minimize potential aquatic species impacts due to pile driving work.
 - d. The location of restricted or exclusion zone buoys.
 - c. Length and width of the proposed dredging channel and turning basin.
 - i. The bottom width and top width of the dredge area.
 - ii. The minimum and maximum depth change between existing and proposed dredge depths.
 - iii. The method of work for dredging, including the management of turbidity and the potential release of contaminants into the water column.
 - Initial processing and secondary disposal site(s) for the material to be dredged.
 - Written acceptance and confirmation of capacity of the initial dredged material processing site and secondary disposal site(s) for the material to be dredged.
2. Natural Gas Pipeline
- a. The selected pipeline route on 11-inch by 17-inch plan sheets.
 - i. Letters of permission from the owners and easement holders of the proposed shared utility and roadway right-of-way corridors along the route.
 - ii. Location and boundaries of delineated wetlands and streams.
 - iii. Location of wetland conversion areas.
 - b. Typical method of work plans for stream and wetland crossings and buffer areas.
 - i. Typical drawings of the pipeline construction and operation ROWs and activities.

.0080814-0113 FERC PDF (Unofficial) 08/12/2008

- 3 -

- ii. Typical drawings for stream bank stabilization work, if necessary.
 - c. Plans for each horizontal directional drill (HDD) crossing
 - i. Pipeline path.
 - Waterway depths at the proposed crossing.
 - Proposed pipe depth below bottom substrate.
 - Length of time for in-water work.
 - Bathymetric surveys of each waterway crossed. 1,000 feet upstream and downstream for tidal waters and 200 feet upstream and downstream for non-tidal waters, across the entire width of the waterways.
 - ii. Entry and exit locations, including distances from the wetland boundary, ordinary high water mark (OHWM) and/or MHW shorelines.
 - iii. Contingency plan for inadvertent surface return discharges (frac-outs) or substrate heaves.
 - Post HDD work depth surveys in tidal waters
 - Stop-work, containment and clean up plan for wetlands and waterways.
 - Restoration and monitoring plan for wetlands and waterways.
 - d. Wetland Conversion.
 - i. Identify areas of wetland conversion.
 - ii. Written method of work for wetland conversion, including vegetation removal, type of equipment used and earth moving, if any. Method of work for maintenance of right-of ways; including permanent field signage to mark wetlands for maintenance crews.
 - iii. Profile of vegetation re-growth allowed across the operational ROW.
 - Monitoring and restoration plan for converted wetlands.
 - e. Marsh mats
 - i. Type of mats proposed for use.
 - ii. Length and width of mats.
 - iii. Potential total area of marsh mat use for the project.
 - f. Access roads with jurisdictional impacts.
 - i. Dimensions of impact.
 - ii. Type of road.
 - iii. Temporary road time frame.
3. Final Mitigation Plan
- a. Proposed mitigation methods.
 - b. Proposed mitigation site (s) and approximate distance from project area to mitigation site.

20080814-0113 FERC PDF (Unofficial) 08/12/2008

- 4 -

- i. Wetland creation.
 - Planting and grading plans.
 - Hydrologic inputs and maintenance of hydrology.
 - Monitoring and restoration plan.
- ii. Mitigation Bank.
 - Area of credits purchased within mitigation bank.
 - Mitigation bank monitoring and restoration plan for credit areas.
- c. Distinction between the wetland and stream mitigation plan, forest mitigation plan and forest interior dwelling bird (FIDS) habitat mitigation plan.

The Corps requests that the following information be provided:

1. A wetland delineation for 16.5 miles along pipeline route that was not previously surveyed and/or a plan for performing a delineation. Further, provide a revised delineation and drawings which incorporate the revisions made during the May 2008 field visits of the pipeline alignment.
2. Identify any Wild and Scenic Rivers along the project route.
3. Written documentation that permission for the co-location of the natural gas pipeline within the right-of-ways with Baltimore Gas and Electric, Columbia Gas and the Maryland State Highway Administration has been granted.
4. Vessel information including the ship navigation needs to get to the site; maximum draft when full; length and width of ships; and the potential for the largest industry ships now under construction to access the site at the current proposed dredge depths.
5. Indicate the areas of shallow bedrock where blasting work may occur for waterway and wetland crossings; provide a containment plan for the material and restoration plan.
6. An updated alternatives analysis for the terminal location relative to any other sites in the Sparrows Point vicinity and including the potential to extend pier facilities channelward to reduce the amount of dredging. The response should include a statement regarding impacts to ship and recreational boat traffic for all options studied in the updated alternatives analysis.
7. A right-of-way work plan for wetland areas within and near bog turtle habitat, including efforts taken to avoid or minimize potential direct and indirect impact to bog turtle wetland habitats and a strategy for pre-and post construction bog turtle surveys.
8. An exotic and invasive species control plan for wetlands along the pipeline route.

9. A plan to manage potential impacts to aquatic species during pile driving work at the terminal site, including the use of curtains or containment structures.

The Corps requests that the following be addressed:

1. Explain the historic use of the terminal site uplands and waterway, including site contamination of the water column and waterway bottom substrates and how dredging could potentially re-introduce contaminants into water column, distance of expected turbidity, and management of water quality during the dredging operations.
2. Explain the method of dredging, including but not limited to, measures to minimize release of dredged material, turbidity and re-suspension of contaminated sediments as well as the potential extent of waterway area impacts beyond the footprint of the proposed dredging.
3. Explain the potential aquatic species turbidity impacts and shock wave impacts due to driving large diameter steel piles for dock construction and provide a construction plan that would minimize these impacts, as well as quantify the difference due to implementation of these potential methods such as, but not limited to, silt or bubble curtains and netting.

The Corps requests that the following questions be answered:

1. Are there any brownfields at the proposed terminal site?
2. Will the transmission lines from the power plant run over or under tidal waters?
3. Will any pre-cast concrete elements be installed into the water for pier rehabilitation work?

The Corps recommends the following to minimize impacts:

1. Impacts from future maintenance of the pipeline ROW should be minimized. Within 50 feet parallel to the stream on both sides, the width of permanently maintained operations ROW should be reduced to 10 feet in the single pipeline sections and 35 feet in the shared section along the currently existing pipeline corridor. Adjacent to the 10-foot maintained area should be an additional 10 feet on both sides where maintenance clearing should be limited to selective hand-cutting of trees that are greater than 15 feet in height. In this area, all other vegetation should be allowed to naturally regenerate and no maintenance clearing should occur except that deemed essential for the safety and security of the pipeline and personnel. The remaining permanent ROW should be allowed to regenerate except that deemed essential for the safety and security of the pipeline and personnel.

2. In wetlands along the pipeline route in the shared section along the existing pipeline corridor, the width of the permanently maintained ROW should be 35 feet and the vegetation kept in herbaceous cover. Adjacent to the 10-foot maintained area should be an additional 10 feet on both sides where maintenance clearing should be limited to hand removal of trees. The outer edges should be allowed to naturally regenerate and should not be included in the re-clearing maintenance activities. Also, 10 feet at the outer edge of the existing pipeline ROW should be allowed to naturally regenerate as part of the proposed mitigation for permanent wetland impacts.
3. The following crossings should be constructed using trenchless construction methods: Susquehanna River, Back River, Gunpowder Falls, Little Gunpowder Falls, White Marsh Run, Winters Run, Deer Creek and Octoraro Creek, as well as all wetlands adjacent to these waterways. Trenchless construction should also be conducted in the vicinity of 949WA1, 949SA2 and 949SA3, as these areas are potential bog turtle habitat.
4. At the HDD sites, no clearing should be done in wetlands, except for a 10-foot maintenance ROW over the pipeline. Wetlands to be crossed by HDD should be selectively cleared by hand to install a cable to track the pipeline or for hydrostatic test water between the entry and exit points of each HDD crossing.
5. Native species stabilization and restoration plantings should be used for all wetland areas to be cleared.
6. Pre-and post work bathymetric surveys 1,000 feet upstream and downstream in tidal waterways and 200 feet upstream and downstream in non-tidal waterways, across the entire width of the waterway for waterways crossed by HDD method must be conducted.
7. That the serial extent of dredging be reduced to the minimum necessary to accommodate the proposed shipping traffic to reduce the potential summer hypoxic/anoxic zones in the waterway.
8. Pre-dredge, during work and 30-day post dredge water quality studies upstream and downstream of the area to be dredged across the entire width of the waterway must be conducted.

The Corps request a comprehensive work description for the entire project. The following missing information should be included for the final selected alternative project location and route:

20080814-0113 FERC PDF (Unofficial) 08/12/2008

- 7 -

1. Location:

Terminal in the Patapsco River and Bear Creek at Sparrows Point, Baltimore County, Maryland.

Pipeline: Baltimore, Harford and Cecil Counties in Maryland; and Lancaster and Chester Counties in Pennsylvania.

In tidal and nontidal Waters of the U.S., including unnamed tributaries and wetlands abutting _____ (list all tidal and nontidal waterways and named swamps crossed by the proposed pipeline).

2. Work Description:

To upgrade the existing ship unloading facility by rehabilitating the decking; concrete encasing and/or splicing the existing pier piles; and repairing the concrete caps.

To remove existing slip structures; excavate a total of _____ square feet of uplands for construction of approximately _____ linear feet of bulkhead to extend an average of _____ feet, with a maximum of _____ feet channelward than existing bulkhead and _____ feet channelward of the approximate mean high water shoreline in order to straighten out the shoreline, with approximately _____ cubic yards of compacted granular fill; and to deposit approximately _____ cubic yards of earth at _____ upland disposal site.

To dredge by mechanical clamshell or environmental bucket method a _____-foot by _____-foot approach channel and an approximate _____-diameter length turning basin, which is an approximate _____ acre area, to -45.0 feet MLW resulting in approximately _____ million cubic yards of dredged material to be deposited at an upland PDM site for processing and then either upland disposal or re-used in upland locations.

The PDM temporary storage site is located _____
The name and address of the primary dredged material disposal site is _____

Within a 50-foot right of way (ROW), to construct and operate approximately 87.6 miles of 30-inch diameter steel pipeline with a cathodic protection system, of which approximately _____ miles parallel an existing 30-inch pipeline, installing by 1) conventional boring; 2) trenching using dam and pump, flume pipe, and cofferdam stream diversion methods; and 3) horizontal directional drill (HDD) method. The work includes temporary construction impacts to _____ acres of emergent, scrub/shrub, and forested nontidal wetlands, of which approximately _____ square feet, _____ acres, is due to the use of marsh mats, and permanent impacts by conversion of _____ acres of forested nontidal wetlands to

- 8 -

scrub/shrub and emergent wetlands in _____ (number) wetland areas. The work also includes _____ (number of non-HDD) nontidal stream crossings with an approximate maximum crossing width of _____ feet and an approximate maximum crossing length of _____ feet, totaling approximately _____ square feet. _____ acres of streambed impact, along _____ (total length) linear feet of stream sections; and HDD crossings of the following waterways and wetlands: 1) _____ Creek _____ linear feet and a minimum of _____ feet below the creek bottom substrate - state for all HDD crossings ; 4) _____ Swamp and _____ Swamp Run _____ linear feet and a minimum of _____ feet below the wetland bottom substrate and _____ feet below the stream bottom substrate.

Excess fill material and drilling substrates will be deposited at an existing upland (non-wetland) disposal site at _____.

In order for the Corps to more fully consider the recommendations of the Corps, Federal, State and local resource agencies and members of the public; to assess the cumulative impact of the total project; and to expedite our evaluation, a response regarding the above is necessary for us to continue with the evaluation of the proposal.

We look forward to working with your agency as a supplemental EIS, as appropriate, and FEIS is developed, and review of the project proceeds. Should you have any questions concerning this matter, please contact me at (410) 962-4252 or Mrs. Kathy Anderson at (410) 962-5690.

Sincerely,

for Kathy Anderson
Joseph P. DaVia
Chief, Maryland Section Northern

Enclosure

Copy Furnished:

- ✓ Ms. Joanne Wachholder, FERC
- Mr. Michael Green, Philadelphia District
- Mr. Jeff Lorenz, Office of Counsel
- Mr. Kevin Magerr, EPA, Philadelphia, Pennsylvania
- Mr. John Nichols, NMFS, Oxford, Maryland
- Mr. Andy Moser, FWS, Annapolis, Maryland
- Mr. Elder Ghigiarelli, MDE, Baltimore, Maryland
- Mr. Chris Diez, AES Sparrows Point I.NG

0080814-0113 FERC PDF (Unofficial) 08/12/2008



REPLY TO
ATTENTION OF

Operations Division

DEPARTMENT OF THE ARMY
BALTIMORE DISTRICT, U.S. ARMY CORPS OF ENGINEERS
P.O. BOX 1715
BALTIMORE, MD 21203-1715

JUN 16 2008

FILED
SECRETARY OF THE
COMMISSION
2008 AUG 12 P 2:52
FEDERAL ENERGY
REGULATORY COMMISSION

Ms. Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E., Room 1A
Washington, DC 20426

Dear Ms. Bose:

This is in response to the Federal Energy Regulatory Commission's (FERC) April 25, 2008 draft Environmental Impact Statement for the proposed AES Sparrows Point LNG and Mid-Atlantic Express Pipeline Project, Docket Nos. CP07-62-000, CP07-63-000, CP07-64-000, CP07-65-000, and the request for comments.

The U.S. Army Corps of Engineers, Baltimore District (Corps), as a cooperating agency in the preparation of the draft environmental impact statement (DEIS) for the project, is pleased to provide the following comments on the DEIS. In this regard, we look forward to working with your agency as the final document is developed to ensure that the information presented in the NEPA document is adequate to fulfill the requirements of Corps regulations, the Clean Water Act Section 404(b)(1) Guidelines, and the Corps public interest review process.

The Corps has the following comments on the DEIS:

- 1 Alternatives Analysis: The Clean Water Act Section 404(b) (1) Guidelines contain the substantive environmental criteria used by the Corps in evaluating discharges of dredged or fill material into waters of the U.S. A fundamental precept of the regulatory program is that impacts to waters of the US, including jurisdictional wetlands, will be avoided and minimized where it is practicable to do so. Under Section 404, only the least environmentally damaging practicable alternative can receive Department of the Army authorization. Note that an alternative is practicable if it is available and capable of being done after taking into consideration cost, logistics, and existing technology in light of overall project purposes.

The Corps is concerned that the Mittal Steel site alternative has been eliminated from further consideration by FERC without clear justification. The Corps concerns are heightened by the fact that this site may have less adverse environmental impacts when compared to the proposed project. The DEIS describes that the Mittal Steel site would require approximately 1.8 million cubic yards of dredging (i.e., approximately half the dredging volume compared to the proposed LNG terminal site). Further, the Mittal Steel site is located 1.9 miles from residential areas. However, FERC states in the DEIS that the Mittal Steel site "does not offer significant environmental advantage over the proposed Project." Based on currently available information, the Corps does not concur

20080814-0113 FERC PDF (Unofficial) 08/12/2008

with this conclusion and we have determined that the Mittal Steel site has been prematurely eliminated without appropriate documentation.

The DEIS describes that AES reported that they could not acquire the Mittal Steel site because of outstanding antitrust issues involving Mittal and the US Department of Justice. However, no documentation has been submitted to support this finding. In addition, the Corps understands that the Mittal Steel site is now under new ownership. Therefore, the practicability of the Mittal Steel site must be further investigated and reported in the final Environmental Impact Statement (EIS). Notwithstanding this, the DEIS further describes that the Mittal Steel site "is reportedly under consideration for dredged material placement." This would lead the Corps to believe that the site is available for further consideration. Therefore, in order for the final EIS to satisfy the Corps's Clean Water Act Section 404 permit review requirements, the Corps requests that the Mittal Steel alternative be brought forward into the final EIS and comprehensively evaluated, including providing adequate documentation which demonstrates, based on written documentation from the new owner, the practicability of use of this site for the LNG terminal.

2. **Dredging and Disposal Location:** The proposed project will result in dredging approximately 3.7 million cubic yards of dredged material from the Patapsco River. The Corps is concerned that although recycling/innovative reuse of the dredge material is proposed, no specific end users have been identified. The DEIS states that if no end users are identified, the material will be disposed in a landfill in Virginia. The final EIS must include appropriate documentation showing that the landfill has the capacity and will, in fact, accept the approximate 3.7 million cubic yards of dredged material. Prior to release of the final EIS, the dredge material disposal location must be specified in the final EIS. As outlined on page 4-55 of the DEIS, the Corps strongly supports FERC's requirements that, prior to the end of the DEIS comment period, the applicant submit a Dredged Material Placement Plan that addresses such issues as: where the processed dredged material (PDM) is going for ultimate disposal and a contingency plan for the PDM after it is processed should there be no buyers. This information must be included in the final EIS.
3. **Contaminated Dredge Material Disposal Location:** The final EIS should also include an assessment from US Environmental Protection Agency (EPA) regarding the appropriateness of disposing of the dredged material by innovative reuse/recycling (e.g., mines, landfill capping, road fill, etc.) or disposal in a sanitary landfill. The Corps recognizes that the dredge sediments contain various levels of chemical constituents. The final EIS should include an EPA analysis concerning the acceptability of reuse/recycling of the dredged material and disposal in a landfill and the proposed testing of the PDM to ensure the material is suitable for the final uses and/or disposal location(s). If a specific disposal location(s) is identified, documentation or proof of acceptance by the disposal facility must also be included in the final EIS.
4. **Compliance with other Federal Statutes:** The final EIS should not be released until FERC, as the lead Federal agency for the proposed project, demonstrates and documents compliance with other Federal statutes such as the Endangered Species Act, the National Historic Preservation Act, and the Magnuson-Stevens Fishery Conservation and

0080814-0113 FERC PDF (Unofficial) 08/12/2008

Management Act, as amended by the Sustainable Fisheries Act of 1996 (Public Law 04-267) [essential fish habitat (EFH) assessment]. Based on the mitigative measures proposed in Section 5 of the DEIS, the Corps is concerned that compliance with certain Federal statutes will likely not be demonstrated prior to release of the final FEIS.

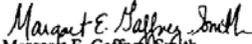
5. Supplemental NEPA Documentation: Recognizing the substantial additional information required to be submitted for agency review as described in Section 5 of the DEIS, the Corps is concerned that the public will not have the opportunity to review and comment on this additional information prior to release of the final EIS. Therefore, the Corps recommends that FERC strongly consider the preparation of a supplemental EIS, (limited to addressing the information requirements described in Section 5 of the DEIS) to allow the public the opportunity to review and comment on the additional information for the proposed project prior to preparation of the final EIS for the project.
6. Avoidance/Minimization of Aquatic Impacts: The DEIS describes that the applicant anticipates using trenchless construction techniques (e.g., horizontal directional drilling (HDD)), at Back River, Little Gunpowder Falls, and the Susquehanna River. The Corps requires that the applicant evaluate the practicability of performing trenchless construction (e.g., HDD) at the following crossings: Back River, Gunpowder Falls (including wetlands adjacent to the River), Little Gunpowder Falls (including wetlands adjacent to the River), White Marsh Run, Winters Run, Deer Creek, and Octoraro Creek. HDD should also be evaluated in the vicinity of 949WA1, 949SA2, and 949SA3, as these areas are potential bog turtle habitat. All HDD crossing construction methods and plans should be evaluated and included in the final EIS. Pending the completion of future field reviews by the Corps, including the 16.5 miles of proposed pipeline route that was not surveyed by the applicant, and based on public comments and consultation/recommendations from the Federal and State resource agencies (the Corps comment period extends to June 26, 2008), the Corps may require additional avoidance and minimization measures for the proposed project. In this regard, we will continue coordinate with FERC and the applicant concerning any additional avoidance/minimization requirements as part of the Clean Water Act Section 404 permit review process.
7. Impacts from off-site access roads (not within the current right of way) must be appropriately quantified and addressed in the final EIS.
8. Wetland and stream mitigation plans must be developed by the applicant, submitted to the Corps for review and approval, and included in the final EIS.
9. For all stream and river crossings (with the exception of the required HDD crossings), the crossings must be accomplished "in the dry" by use of approved stream diversion techniques. All types of waterway crossings and applicable drawings must be evaluated and included in the final EIS.
10. The DEIS describes that maintenance dredging will occur every six years, generating an estimated 500,000 cubic yards every six years. The final EIS should identify/clarify that sediment testing of the maintenance dredged material will be required.

0080814-0113 FERC PDF (Unofficial) 08/12/2008

11. The FERC must ensure that the US Coast Guard's Waterway Suitability Assessment is finalized and included in the final EIS.

We look forward to working with your agency as a supplemental EIS (as appropriate) and final EIS is developed, and the review of the project proceeds. Should you have any questions concerning this matter, please contact me at (410) 962-3670 or Mr. Joseph DaVia at 410-962-4252.

Sincerely,


Margaret E. Gaffney Smith
Chief, Regulatory Branch

Copy Furnished

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