

FERC approves Kenai Borough as intervenor in Alaska LNG

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All three Alaska municipalities vying for a multibillion-dollar natural gas liquefaction plant and marine terminal are now intervenors in the federal regulatory process, giving each the legal right to challenge Federal Energy Regulatory Commission (FERC) decisions on the proposed Alaska LNG project.

FERC on Sept. 11 approved the Kenai Peninsula Borough's late motion to intervene in the proceedings. The commission in February approved a late motion to intervene from the Matanuska-Susitna Borough. The city of Valdez also is an intervenor, after it filed its motion on time in May 2017.

The Alaska Gasline Development Corp. (AGDC), which is directing the state-led project, filed its application with FERC in April 2017, starting the lengthy safety and environmental review that is scheduled to reach a draft environmental impact statement in February 2019.

After considering more than two dozen possible locations in 2013, the development team for the proposed \$43 billion North Slope gas pipeline and Southcentral Alaska gas liquefaction plant settled on Nikiski in the Kenai Borough as its preferred site for the LNG plant and marine terminal. The Matanuska-Susitna Borough believes its property at Port MacKenzie would be a better location, just as Valdez has long advocated it would be the best site for the development that would cover hundreds of acres and create thousands of construction jobs and hundreds of permanent positions.

Only parties to a proceeding have the right to request a rehearing of a FERC order and to challenge a final commission order in federal court.

In its Aug. 10 motion to intervene, the Kenai Borough said it filed with FERC to protect its interests against the Matanuska-Susitna Borough's advocacy of Port MacKenzie. "Siting the Alaska LNG project within the Mat-Su Borough would be to the detriment and prejudice to the citizens and businesses of the Kenai Peninsula Borough," said the Kenai Borough's motion to FERC.

"Right now we have Valdez and Mat-Su hemming and hawing for this project, and they're intervenors," John Quick, the mayor's chief of staff, told the Kenai Borough's advisory committee on the project Aug. 6. "I think this will put us in a better position to have a bigger voice from the borough and do everything we can to make sure this project lands in Nikiski."

All three sites would provide year-round access for LNG carriers to load up for deliveries to overseas buyers. Nikiski, on the eastern shore of Cook Inlet, is about 65 air miles southwest of

Port MacKenzie at the upper end of the inlet. Valdez, in Prince William Sound about 170 miles east of Nikiski, is home to the trans-Alaska oil pipeline and its marine terminal.

Valdez for decades has advocated for construction of a gas pipeline roughly along the oil line right-of-way to an LNG project in the community that is heavily dependent on property tax revenue from the oil terminal. The Matanuska-Susitna Borough has long promoted industrial development at its financially ailing port across Knik Arm from Anchorage, and has been showing strong interest in recent years in attracting an LNG plant to the site.

Alaska LNG's preferred site in Nikiski is across the road from the state's largest oil refinery, which is next door to a dormant, small LNG plant that was operated by ConocoPhillips. The plant loaded its last export cargo in 2015 and was sold earlier this year to Andeavor which, a few months later, was purchased by Marathon Petroleum. In the same neighborhood is a large-scale fertilizer manufacturing plant that closed in 2007 due to a lack of affordable, long-term gas supply.

AGDC, which is leading the state-financed development push, reported to FERC in July that there are multiple reasons why Port MacKenzie is not the best location. Federal regulators had instructed the state team to specifically review the port location.

A week after AGDC's filing, the Matanuska-Susitna Borough told FERC it had "identified several aspects of AGDC's response with which it disagrees," and said it would file detailed information at a later date.

Though the Matanuska-Susitna Borough did not object to the Kenai Borough's late motion to intervene, it did chide the borough for taking so long to file its motion and suggested the Kenai Borough already has AGDC on its side. "In general, it appears to the Matanuska-Susitna Borough that AGDC is making every effort to support an LNG terminal location in the Kenai Peninsula Borough," the Matanuska-Susitna Borough said in its Sept. 5 filing with FERC. "It appears that the Kenai Peninsula Borough's interests with respect to that location (Nikiski) are being well represented by AGDC."

Regardless of intervenor status and filings in support of specific communities, federal law requires the FERC-led environmental impact statement to consider alternatives for the LNG plant site, pipeline route, waterway crossings, and other project decisions — all focused on finding the "least environmentally damaging practicable alternative."

An intervenor's opportunities for input during preparation of the EIS are pretty much the same as for anyone else — file comments with FERC to put issues, questions, and objections on the record. An intervenor does not gain any additional access to the EIS preparation and review.

"The Matanuska-Susitna Borough seeks only a full, fair, and honest evaluation of the actual site at Port MacKenzie," the borough said in its Sept. 5 filing with FERC.

“Ultimately, the Kenai Peninsula Borough motion highlights the importance of the commission ensuring that all interests, including the general public’s, are thoroughly considered in evaluating AGDC’s application,” the Matanuska-Susitna Borough told FERC. “This standard cannot be met until AGDC provides a thorough and accurate analysis of Port MacKenzie as an alternative location for the Alaska LNG project.”

In addition to the three competing municipalities, other intervenors in the FERC proceeding are North Slope oil and gas producers ExxonMobil, BP, and ConocoPhillips; Alyeska Pipeline Service Co., which operates the trans-Alaska oil pipeline; the Chickaloon Native Village Traditional Council (the tribe said the pipeline route “overlaps with the tribe’s traditional and customary use area”); and the Sierra Club, Center for Biological Diversity, and Northern Alaska Environmental Center.

The proposed gas pipeline would cross the oil line at multiple locations and come within 200 feet of the oil pipe at 17 locations, raising safety and security issues that Alyeska told FERC last year warrant its participation in the proceedings.

FERC’s draft EIS for the project is scheduled for release in February 2019 with a final EIS in November 2019 and a commission vote on the project application in February 2020.

While working with federal regulators, the state-led project team continues its negotiations to strike deals to buy gas from all three major North Slope producers, find customers for the LNG that the AGDC terminal would produce, and line up investors and lenders. AGDC is looking at going on the road to visit with potential investors late this year and early next year. The state corporation is working off past legislative appropriations but could need new money next year to continue with its permitting, design, commercial, and financial efforts.