

Kenai Borough files with FERC to defend Nikiski as LNG project site

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A third municipal government promoting its community as the best site for the proposed Alaska LNG terminal has petitioned federal regulators to grant it intervenor status, which allows a party to challenge in court the Federal Energy Regulatory Commission's (FERC) final order on a project application.

The Kenai Peninsula Borough on Aug. 10 filed a motion with FERC, asking acceptance of its late request to intervene in the proceedings.

The state-led project development team's preferred site for the LNG terminal is Nikiski, an unincorporated community in the borough. In its motion, the Kenai Borough said it wanted to get more involved in the proceedings because the Matanuska-Susitna Borough has filed with FERC to advocate for its own Port MacKenzie property 65 air miles to the northeast of Nikiski as a better location.

The Matanuska-Susitna Borough earlier this year filed as an intervenor, joining the city of Valdez that last year filed to advocate for its community as a better site than Nikiski. All three local governments are vying for the jobs and investment that would accompany construction and operation of the gas liquefaction plant, storage tanks and marine export terminal.

"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.

"The administration believes non-intervention would weaken the borough's position and ability to advocate for the borough's best interests on this project," said a resolution approved by the Kenai Peninsula Borough Assembly on Aug. 7. The resolution directed the mayor and attorney to file with FERC.

The Matanuska-Susitna Borough has long promoted industrial development at its money-losing port across Knik Arm from Anchorage.

"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 public advisory committee on the project Aug. 6. "If we're not at the table, we're not at the table. So 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."

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

Regardless of any 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, 807-mile pipeline route, waterway crossings and other project decisions as it determines the “least environmentally damaging practicable alternative.”

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

Not all intervenors are promoting a specific site for the Alaska LNG plant. Other intervenors include environmental groups opposed to the project, North Slope oil and gas producers with an interest in the development, and Alyeska Pipeline Service Co., which operates the trans-Alaska oil pipeline. The proposed North Slope natural gas pipeline to Nikiski — or Port MacKenzie or Valdez — would run parallel and cross paths with the oil line for much of the north-to-south route starting in Prudhoe Bay.

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 issues that Alyeska told FERC last year warrant its participation in the proceedings.

The project applicant, the Alaska Gasline Development Corp. (AGDC), has defended Nikiski, on the east side of Cook Inlet, as the best site for proposed multibillion-dollar liquefaction plant and marine terminal. The original selection was made in 2013 by North Slope oil and gas producers ExxonMobil, BP and ConocoPhillips. The companies turned over management of the development to the state in late 2016.

FERC’s draft EIS for the project is scheduled for release in March 2019, with a final EIS in December 2019 and a commission vote on the project application in March 2020. In addition to the FERC review, AGDC is working to strike deals to buy gas from the North Slope producers, find customers for the LNG, and line up investors and lenders for the project estimated at \$43 billion.

The deadline to file for intervenor status was May 22, 2017, about a month after AGDC filed its project application with FERC. The Kenai Borough did not file at the time. The borough explained in its Aug. 10 motion that the Matanuska-Susitna Borough’s continuing effort to advocate for Port MacKenzie over Nikiski prompted the Kenai Borough to now enter the fray.

The state-led project team on July 13 filed a detailed response with FERC, answering multiple questions from regulators on Port MacKenzie’s suitability as an alternative to Nikiski. AGDC cited “significant issues” favoring Nikiski over Port MacKenzie, including:

- Port MacKenzie’s location within Cook Inlet’s most protected beluga whale critical habitat area.
- Conflicts with other actual and proposed uses of the port.
- The need to move the port’s access road and proposed railroad extension away from the LNG plant site.
- Wind, current, and sea-ice conditions that would hamper winter operations at the port site.
- The extreme tidal range at Port MacKenzie.
- Additional dredging that would be required to widen the shipping channel through the Knik Arm Shoal to allow safe two-way ship traffic through the area.

The Matanuska-Susitna Borough responded a week later that it had “identified several aspects of AGDC’s response with which it disagrees,” and would file detailed information by Sept. 1. It’s that pending Sept. 1 filing that prompted the Kenai Peninsula Borough to want to step up its involvement and file a late motion to intervene, according to its Aug. 10 filing with FERC.

Considering that FERC in January accepted a late motion to intervene from the Matanuska-Susitna Borough (though eight months past the deadline), the Kenai Borough told FERC “it would be unjust, unreasonable and unduly discriminatory” of regulators not to accept Kenai’s late motion (filed 15 months after the deadline). Kenai Borough residents “will be prejudiced without the right to participate in this proceeding with the same party status as the Mat-Su Borough,” according to Kenai’s filing.

“This proceeding remains at a relatively early stage,” the Kenai Borough said in its filing, which comes 16 months after AGDC filed its application with FERC, seven months before the draft EIS is scheduled for release, and 16 months before the final EIS due date.

On its website FERC explains that it may accept motions to intervene if the party can show good cause, if the addition would not delay the proceedings, and if it would not prejudice or put a burden on other parties. The instruction also notes: “Interested parties are not entitled to hold back awaiting the outcome of the proceeding, or to intervene when events take a turn not to their liking.”

In its May 2017 filing, Valdez said it would be a lower-risk, lower-cost option than Nikiski, with less “environmental degradation.” In addition, the city told FERC that bringing the project to Valdez would ensure that “its citizens and businesses have access to inexpensive natural gas.” Valdez, about 170 air miles east of Nikiski, is on Prince William Sound, and is the location of the Alyeska oil terminal.

In its review, the producer-led project team considered Valdez, Nikiski, the Matanuska-Susitna port area, and about two dozen other potential LNG plant sites in Cook Inlet and Prince William Sound.