



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

Region 6

**1445 Ross Avenue, Suite 1200
Dallas, TX 75202-2733**

September 4, 2012

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

Subject: Scoping Request on the Notice of Intent to Prepare an Environmental Impact Statement (EIS) for the Planned Cameron Pipeline Expansion Project and Cameron LNG Liquefaction Project, Cameron and Calcasieu Parishes

Dear Ms. Bose,

The Region 6 office of the U.S. Environmental Protection Agency (EPA) has reviewed the August 13, 2012 Notice of Intent (NOI) to prepare an EIS for the Planned Cameron Pipeline Expansion Project and Cameron LNG Liquefaction Project, Cameron and Calcasieu Parishes. Our comments are provided pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508) and Section 309 of the Clean Air Act.

To assist in the scoping process for this project, we have identified several issues for your attention in the preparation of the EIS and enclosed detailed scoping comments for your consideration. EPA is most concerned about the following issues: alternatives development, impacts to water and biological resources, invasive species management, habitat protection, air quality, indirect and cumulative impacts, climate change, environmental justice, and mitigation.

EPA appreciates the opportunity to review and provide comments on the proposed project. Please send one hard copy of the draft EIS and four CDs to this office when completed and submitted for public comment. When you are ready to file the draft EIS with EPA, you may now electronically file it by using our *e-NEPA Electronic Filing* website <http://www.epa.gov/compliance/nepa/submiteis/index.html>. If you have any questions or concerns, please contact John MacFarlane of my staff at macfarlane.john@epa.gov or 214-665-7491 for assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Rhonda Smith", written over a horizontal line.

Rhonda Smith
Chief, Office of Planning
and Coordination

Enclosure

**DETAILED SCOPING COMMENTS
FOR THE NOTICE OF INTENT (NOI)
FOR THE FEDERAL ENERGY REGULATORY COMMISSION (FERC)
TO PREPARE AN ENVIRONMENTAL IMPACT STATEMENT (EIS)
FOR THE PROPOSED
CAMERON LNG LIQUEFACTION PROJECT
CAMERON AND CALCASIEU PARISHES**

Proposed Project

In compliance with the National Environmental Policy Act of 1969 (NEPA), as amended, the Federal Energy and Regulatory Commission (FERC) intends to prepare an Environmental Impact Statement (EIS) analyzing the impacts of the proposed Cameron Pipeline Expansion Project and Cameron LNG Liquefaction Project, Cameron and Calcasieu Parishes. This EIS will be used by the FERC in its decision making process to determine whether the project is in the public interest. The FERC will serve as the lead Federal agency under the NEPA process and is responsible for the preparation of the EIS.

Statement of Purpose and Need

The EIS should clearly identify the underlying purpose and need to which the FERC is responding in proposing the alternatives¹. The purpose of the proposed action is typically the specific objectives of the activity, while the need for the proposed action may be to eliminate a broader underlying problem or take advantage of an opportunity.

Alternatives Analysis

NEPA requires evaluation of reasonable alternatives, including those that may not be within the jurisdiction of the lead agency². A robust range of alternatives will include options for avoiding significant environmental impacts. The EIS should "rigorously explore and objectively evaluate all reasonable alternatives"³ by developing a defined screening process. The screening process should rate each alternative against a set of pre-determined criteria. Each alternative should then be analyzed for its level of impact on a resource, e.g. no effect, negligible effect, minor effect, major effect, significant effect. Only that alternative that effectively meets or best meets all of the screening criteria should be recommended as the preferred alternative. The EIS should provide a clear discussion of the reasons for the elimination of alternatives which are not evaluated in detail.

Affected Environment

This section should provide information on the existing resources and condition of the natural and built environment. It is a description of baseline conditions. These baseline conditions provide the context for evaluating environmental consequences and should include historical cumulative effects to the extent feasible.

¹ 40 CFR 1502.13

² 40 CFR Section 1502.14(c)

³ 40 CFR 1502.14(a)

Environmental Consequences

A majority of EISs contain a well-written section on the affected or existing environment. However, where most EISs fall short is the discussion of the environmental consequences of the proposed project. An analysis should follow an equation. First, what is the action? In this example, the action is filling wetlands. Second, what is the intensity or extent of impacts? In this example, the extent of proposed impacts is five acres. Third, is that significant? The EIS must answer that question and prove that the action of filling five acres of wetlands is not significant by giving reasons. If the action is significant, then the EIS must contain appropriate mitigation measures.

Water Resources

Water Supply and Water Quality

Public drinking water supplies and/or their source areas often exist in many watersheds. Source water is water from streams, rivers, lakes, springs, and aquifers that is used as a supply of drinking water. Source water areas are delineated and mapped by the state for each federally-regulated public water system. The 1996 amendments to the Safe Drinking Water Act require federal agencies to protect sources of drinking water for communities. The EIS should address the potential effects of project discharges, if any, on surface water quality. Specific discharges should be identified and potential effects of discharges on designated beneficial uses of affected waters should be analyzed.

Stormwater

The EIS should describe the original (natural) drainage patterns in the project locale, as well as the drainage patterns of the area during project operations. Also, the EIS should identify whether any components of the proposed project are within a 50 or 100-year floodplain. The EIS should note that, under the Clean Water Act (CWA), any construction project disturbing a land area of one or more acres requires a construction stormwater discharge permit.

Waters of the United States

The project applicant should coordinate with the U.S. Army Corps of Engineers (USACE) to determine if the proposed project requires a Section 404 permit under the CWA. Section 404 regulates the discharge of dredged or fill material into waters of the United States, including wetlands and other *special aquatic sites*. The EPA recommends the FERC include a jurisdictional delineation for all waters of the U.S., including ephemeral drainages, in accordance with the 1987 *Corps of Engineers Wetlands Delineation Manual* and the December 2006 *Atlantic and Gulf Coast Region Interim Regional Supplement to the Corps of Engineers Wetland Delineation Manual*. A jurisdictional delineation will confirm the presence or absence of waters of the U.S. in the project area and help determine whether or not the proposed project would require a Section 404 permit. If a permit is required, the EPA will review the project for compliance with *Federal Guidelines for Specification of Disposal Sites for Dredged or Fill Materials* (40 CFR 230), promulgated pursuant to Section 404(b)(1) of the CWA.

The impacts of dredging ship berths to accommodate LNG tankers, as well as any wetland impacts associated with pipeline construction and operation, should be analyzed. The

EIS should demonstrate planning efforts to avoid, minimize, and compensate for wetland losses associated with the dredging, dredged material disposal, and other construction and operation activities. The EIS should also include an analysis of the potential for contaminated sediments to adversely impact the aquatic environment during construction and operation of the terminal.

Wetlands

Cameron's Resource Report 2, Water Use and Quality estimated wetland impacts to be 146 acres. It goes on to discuss an inter-agency meeting with the USACE and the Louisiana Department of Natural Resources, Coastal Management Division to discuss the proposed project's impact on these wetlands and discuss mitigation for the project. EPA encourages continued coordination with the USACE during construction of the terminal, wetland creation/restoration work, and monitoring.

Navigability

The project applicant should coordinate with the U.S. Coast Guard to determine if the proposed project requires a USCG permit for construction in a navigable waterway.

Impaired Waters

The CWA requires States to develop a list of impaired waters that do not meet water quality standards, establish priority rankings, and develop action plans, called Total Maximum Daily Loads (TMDL), to improve water quality. The EIS should provide information on CWA Section 303(d) impaired waters in the project area, if any, and efforts to develop and revise TMDLs. The EIS should describe existing restoration and enhancement efforts for those waters, and any mitigation measures that will be implemented to avoid further degradation of impaired waters.

Project Specific Locations (PSL)

PSLs outside the ROW that would be established to support construction of the roadway such as borrow and disposal sites, staging and storage areas, and concrete and aggregate plants, must be identified as direct impacts. The EIS should strive to locate PSLs so they avoid environmentally sensitive areas. Ideally, PSLs should be located in previously disturbed, upland areas.

Biological Resources, Habitat and Wildlife

The EIS should identify all petitioned and listed threatened and endangered species and critical habitat that might occur within the project area. The EIS should identify and quantify which species or critical habitat might be directly, indirectly, or cumulatively affected by each alternative and mitigate impacts to these species. EPA recommends that the FERC consult with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service (NMFS). The FERC should consult with NMFS to identify and determine any impacts to Essential Fish Habitat due to dock construction. We also recommend that the FERC coordinate with the Louisiana Department of Wildlife and Fisheries (LDWF) to ensure that current and consistent surveying, monitoring, and reporting protocols are applied in protection and mitigation efforts.

Invasive Species

Executive Order 13112, *Invasive Species* (February 3, 1999), mandates that federal agencies take actions to prevent the introduction of invasive species, provide for their control, and minimize the economic, ecological, and human health impacts that invasive species cause. Executive Order 13112 also calls for the restoration of native plants and tree species. If the proposed project will entail new landscaping, the EIS should describe how the project will meet the requirements of Executive Order 13112.

In addition, we encourage alternative management practices that limit herbicide use (as a last resort), focusing instead on other methods to limit invasive species vegetation and decrease fire risk. Possible alternatives include mowing and weed control fabric, which may need a layer of soil to prevent degradation due to ultraviolet light.

Air Quality

The EIS should provide a detailed discussion of ambient air conditions (baseline or existing conditions), National Ambient Air Quality Standards, criteria pollutant nonattainment areas, and potential air quality impacts of the proposed project (including cumulative and indirect impacts). Such an evaluation is necessary to assure compliance with State and Federal air quality regulations, and to disclose the potential impacts from temporary or cumulative degradation of air quality. The EIS should describe and estimate air emissions from potential construction and maintenance activities, as well as proposed mitigation measures to minimize those emissions.

Greenhouse Gases (GHG)

Under the Mandatory Reporting of GHG rule, suppliers of natural gas and natural gas liquids (NGLs) must report the emissions that would result from the complete combustion or oxidation of the products that they place in commerce. Suppliers of natural gas and NGLs are required to collect data on their products; calculate the GHG emissions associated with these products; and follow the specified procedures for ensuring data quality, amending missing data, and meeting recordkeeping and reporting requirements. Natural gas fractionators should also note other potential source categories that are required to report emissions under the proposed rule.

Reporting is required by facilities that emit GHGs $\geq 25,000$ metric tons (mt) of carbon dioxide equivalent (CO₂e) per year. For reference, a threshold of 25,000 mt CO₂e/year is approximately equal to 170,000 standard cubic feet (scf)/day vented methane, 65 100-HP engines operating at full load, or one 900 standard cubic feet per minute (scfm) flare. Please see EPA's GHG Reporting Program website for more information: <http://www.epa.gov/climatechange/emissions/ghgrulemaking.html>.

Climate Change

Scientific evidence supports the concern that continued increases in greenhouse gas emissions resulting from human activities will contribute to climate change. Global warming is caused by emissions of carbon dioxide and other heat-trapping gases. On December 7, 2009, the EPA determined that emissions of GHGs contribute to air pollution that "endangers public health

and welfare” within the meaning of the Clean Air Act. Higher temperatures and increased winter rainfall will be accompanied by a reduction in snow pack, earlier snowmelts, and increased runoff. Some of the impacts, such as reduced groundwater discharge, and more frequent and severe drought conditions, may impact the proposed projects. The EIS should consider how climate change could potentially influence the proposed project, specifically within sensitive areas, and assess how the projected impacts could be exacerbated by climate change.

Hazardous Materials/Hazardous Waste/Solid Waste

The EIS should address potential direct, indirect, and cumulative impacts of hazardous waste from construction and operation of the proposed project. The document should identify projected hazardous waste types and volumes, and expected storage, disposal, and management plans. It should identify any hazardous materials sites within the project’s study area and evaluate if those sites would impact the project in any way.

Coordination with Tribal Governments

Executive Order 13175, *Consultation and Coordination with Indian Tribal Governments* (November 6, 2000), was issued in order to establish regular and meaningful consultation and collaboration with tribal officials in the development of federal policies that have tribal implications, and to strengthen the United States government-to-government relationships with Indian tribes. If applicable, the EIS should describe the process and outcome of government-to-government consultation between the FERC and with any and each of the tribal governments within the project area, issues that were raised (if any), and how those issues were addressed in the selection of the proposed alternative.

National Historic Preservation Act

Consultation for tribal cultural resources is required under Section 106 of the National Historic Preservation Act (NHPA). Historic properties under the NHPA are properties that are included in the National Register of Historic Places or that meet the criteria for the National Register. Section 106 of the NHPA requires a federal agency, upon determining that activities under its control could affect historic properties, consult with the appropriate State Historic Preservation Officer (SHPO)/Tribal Historic Preservation Officer (THPO). Under NEPA, any impacts to tribal, cultural, or other treaty resources must be discussed and mitigated. Section 106 of the NHPA requires that Federal agencies consider the effects of their actions on cultural resources, following regulation in 36 CFR 800.

Environmental Justice and Impacted Communities

Executive Order 12898, *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (February 11, 1994) and the Interagency Memorandum of Understanding on Environmental Justice (August 4, 2011) directs federal agencies to identify and address disproportionately high and adverse human health or environmental effects on minority and low-income populations, allowing those populations a meaningful opportunity to participate in the decision-making process. Guidance⁴ by CEQ

⁴ Environmental Justice Guidance under the National Environmental Policy Act, Appendix A (Guidance for Federal Agencies on Key Terms in Executive Order 12898), CEQ, December 10, 1997.

clarifies the terms low-income and minority population (which includes Native Americans) and describes the factors to consider when evaluating disproportionately high and adverse human health effects. The EIS should include an evaluation of environmental justice populations within the geographic scope of the projects. Assessment of the project's impact on minority and low-income populations should reflect coordination with those affected populations. The EIS should also describe outreach and public involvement conducted to all other communities that could be affected by the project, since rural communities may be among the most vulnerable to health risks associated with the project. Please refer to EPA's EJ website⁵ for additional information.

Indirect and Cumulative Impacts

The Indirect Impacts analysis should identify how resources, ecosystems, and communities in the vicinity of the project are affected by the proposed project later in time or farther removed in distance. We recommend focusing on induced growth and other effects related to induced changes in the pattern of land use, population density or growth rate, and related effects on air and water and other natural systems, including ecosystems.

The Cumulative Impacts analysis should identify how resources, ecosystems, and communities in the vicinity of the project have already been, or will be, affected by past, present, or future activities in the project area. These resources should be characterized in terms of their response to change and capacity to withstand stresses. Trends data should be used to establish a baseline for the affected resources, to evaluate the significance of historical degradation, and to predict the environmental effects of the project components.

For the cumulative impacts assessment, we recommend focusing on resources of concern or resources that are "at risk" and/or are significantly impacted by the proposed project, before mitigation. For this project, the FERC should conduct a thorough assessment of the cumulative impacts to aquatic and biological resources and air quality, especially in the context of the other developments occurring and proposed in the area. According to a July 17, 2012 FERC produced map, there are at least four LNG export terminals proposed and four potential LNG export terminals identified by project sponsors on the Gulf of Mexico. The EIS must analyze the cumulative effects, especially to air quality and climate change, of these proposed and potential LNG export terminals. Life-cycle emissions of LNG exports must also be addressed.

The EIS should also delineate appropriate geographic boundaries, including natural ecological boundaries, whenever possible, and should evaluate the time period of the project's effects. For instance, for a discussion of cumulative wetland impacts, a natural geographic boundary such as a watershed or sub-watershed could be identified. The time period, or temporal boundary, could be defined as from 1972 (when the CWA established Section 404) to the present.

Please refer to the Council on Environmental Quality's "Considering Cumulative Effects Under the National Environmental Policy Act"⁶ and EPA's "Consideration Of Cumulative Impacts In EPA Review of NEPA Documents"⁷ for assistance with identifying appropriate

⁵ <http://www.epa.gov/environmentaljustice/>

⁶ <http://ceq.hss.doe.gov/nepa/ccenepa/ccenepa.htm>

⁷ <http://www.epa.gov/compliance/resources/policies/nepa/cumulative.pdf>

boundaries and identifying appropriate past, present, and reasonably foreseeable future projects to include in the analysis.

Mitigation and Monitoring

Within the process of developing the EIS, if impacts to waters of the U.S. and wetlands require a USACE permit and are significant, a draft mitigation plan should also be developed and made available to EPA prior to the release of the Final EIS. A draft mitigation plan should strive for avoidance and minimization first and should outline appropriate compensation and enhancement measures for unavoidable impacts to wetlands and special aquatic sites. A draft plan should include the evaluation of the least environmentally damaging practicable alternative, according to the Section 404(b)(1) guidelines and should outline a monitoring plan. Please note that any compensatory mitigation plan must fully comply with the Compensatory Mitigation for Losses of Aquatic Resources; Final Rule (Mitigation Rule) effective June 9, 2008.⁸

Coordination with Land Use Planning Activities

The EIS should discuss how the proposed action would support or conflict with the objectives of federal, state, tribal or local land use plans, policies and controls in the project areas. The term "land use plans" includes all types of formally adopted documents for land use planning, conservation, zoning and related regulatory requirements. Proposed plans not yet developed should also be addressed if they have been formally proposed by the appropriate government body in a written form (CEQ's Forty Questions, #23b).

⁸ http://water.epa.gov/lawsregs/guidance/wetlands/wetlandsmitigation_index.cfm