



Allen & Gooch
A Law Corporation

April 10, 2006

VIA TELEFAX AND OVERNIGHT MAIL

Office of Secretary
Federal Maritime Commission
800 North Capitol Street, N.W.
Washington, D.C. 20573

Re: Lake Charles Harbor and Terminal District v. West Cameron Port, Harbor and Terminal District, Docket No. 06-02

Dear Secretary:

Please find enclosed Supplemental Brief of West Cameron Port, Harbor and Terminal District in Support of its Motion to Dismiss with exhibits. We are faxing the enclosures and following with sending the hard copies via overnight mail.

We are this day sending via overnight mail the original and fifteen copies of the Supplemental Brief of West Cameron Port, Harbor and Terminal District in Support of its Motion to Dismiss with exhibits. Also enclosed is a courtesy copy of the Supplemental Brief for Acting Chief Administrative Law Judge Kenneth A. Krantz pursuant to the Notice of Assignment of February 6, 2006.

By copy of this correspondence, we are also serving by telefax and overnight mail a copy of the Supplemental Brief of West Cameron Port, Harbor and Terminal District in Support of its Motion to Dismiss with exhibits upon Mr. Michael Dees and Mr. Edward Sheppard, counsel for Lake Charles Harbor and Terminal District.

With warmest regards,


Randall K. Theunissen

CC: Judge Kenneth A. Krantz (via telefax only 202-566-0042)
Mr. Michael K. Dees (via telefax and via overnight mail)
Mr. Edward J. Sheppard (via telefax and via overnight mail)

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FEDERAL MARITIME COMMISSION
WASHINGTON, D.C.

THE LAKE CHARLES HARBOR AND
TERMINAL DISTRICT
Claimant

VERSUS

DOCKET NO. 06-02

WEST CAMERON PORT, HARBOR
AND TERMINAL DISTRICT
Respondent

**SUPPLEMENTAL BRIEF OF WEST CAMERON PORT, HARBOR AND TERMINAL
DISTRICT IN SUPPORT OF ITS MOTION TO DISMISS**

Pursuant to the Presiding Judge's ruling of March 16, 2006, Respondent West Cameron Port, Harbor and Terminal District (West Cameron) submits this supplemental brief in support of its previously filed Motion to Dismiss. For the reasons stated herein and in the Motion to Dismiss, West Cameron respectfully requests that the Complaint (original and as amended) filed by the Lake Charles Harbor and Terminal District (LC Port) be dismissed.

I. West Cameron's Motion to Dismiss is Ripe for Decision Now, Without Further Discovery, Cost, or Delay

LC Port filed its complaint with the Commission for the sole reason of depleting the already limited financial resources of West Cameron (funded by loans from the Cameron Parish Police Jury whose own revenue base was devastated by Hurricane Rita). If the actions complained of by LC Port were so egregious, why was there no objection, notice, demand, or action of any kind taken by LC Port or any others alleged to have been aggrieved before the filing of the Complaint? Every dollar spent by West Cameron before this Commission directly reduces West Cameron's funds to prosecute its action in State Court against LC Port (the "State

Court Action”). A review of the timeline and attached support (*See Exhibit 1*, the “Timeline”) together with the lack of merit of LC Port’s claims before the Commission leads to that conclusion.

LC Port’s bold allegations are without substance or support in fact or law and thus are powerless to invoke the Commission’s jurisdiction. Allowing this proceeding to continue with such baseless and unsupported allegations will have the ultimate effect of LC Port’s achieving its goal. If West Cameron is required to continue expending its limited resources here, it will have none to prosecute its State Court Action against LC Port.

The affidavits of A. W. Prebula (*See Exhibit 2*), E. Darron Granger (*See Exhibit 3*), Howard Romero and Cliff Cabell (attached as Exhibits 2 and 1, respectively, to West Cameron’s Supplemental Memorandum), when applied to the applicable law, affirmatively establish that:

- 1. there were never any fees or threats of fees charged by West Cameron;**
- 2. operators of LNG facilities are not Marine Terminal Operators, thus Cheniere is not a Marine Terminal Operator under the Shipping Act of 1984;**
- 3. LNG vessels are “ocean tramps” and thus exempt from the definition of “common carrier” under the Shipping Act of 1984;**
- 4. because West Cameron has not in fact exercised any control over vessels within its district and is legally prohibited from doing so with respect to vessels merely passing through its district, West Cameron is not a Marine Terminal Operator under the Shipping Act of 1984;**
- 5. the agreements between Cheniere and West Cameron are exempt from filing under the Shipping Act of 1984;**
- 6. because the agreements between Cheniere and West Cameron are not between two Marine Terminal Operators, even if not exempt from filing, they would not be subject to the Commission’s jurisdiction under the Shipping Act of 1984; and**
- 7. there can be no damages suffered from actions which did not occur.**

Is there anything more to LC Port's complaint? The answer is no. It should be dismissed.

The Timeline outlines the actions and reactions by LC Port since the filing of the State Court Action against LC Port on December 7, 2005. LC Port's strategy since December 7, 2005 is consistent with its strategies and methods in dealing with other similar situations where LC Port perceived a challenge to its economic prowess (discussed below).

II. Oral Argument is Not Necessary

LC Port has been dogged in its insistence that oral argument in Washington, D.C., is required for the Presiding Judge to rule on West Cameron's Motion to Dismiss. This request is solely in furtherance of LC Port's goal. West Cameron submits that this matter is not such that oral argument would be of any use to the Presiding Judge. Both parties have exhaustively briefed the issues and all of the pertinent factual evidence is public record. In the affidavits attached to the Motion to Dismiss, West Cameron's very limited financial means were stated.

III. Note regarding LC Port's characterization of West Cameron's relationship with Cheniere LNG

In its various pleadings, LC Port repeatedly asserts that West Cameron "extracted" a fee from Cheniere. West Cameron welcomed Cheniere LNG to Cameron Parish with open arms. Likewise, West Cameron is just as eager as anyone for the Cameron LNG facility to be successful and has no intention of derailing that project in any way. West Cameron has never "strong-armed" any payment from any entity, Cheniere included. Cheniere initially proposed the economic consideration of \$1,000.00 per vessel and Cheniere has readily acknowledged the \$1,000 rental arrangement without complaint. (See **Exhibit 4**, letter of Charif Souki, Chairman of Cheniere LNG and **Exhibit 3**, affidavit of E. Darron Granger). West Cameron affirmatively establishes that the economic consideration to be paid by Cheniere in accordance with the two agreements is in exchange for consideration received or to be received by Cheniere from West

Cameron. It is not the province of LC Port to determine, value, or have any input whatsoever with respect to the business reasons why Cheniere has contracted with West Cameron.

IV. LC Port has submitted no evidence to controvert West Cameron's Motion to Dismiss

In its Reply in Opposition to West Cameron's Motion to Dismiss, LC Port failed to attach or submit any evidence to support its assertions that there ever was a fee charged by West Cameron, that West Cameron is "discouraging investors" (Reply at 2) or that its tenants are "operating under the pall of the threat" (Complaint at ¶ 2) of any perceived charge West Cameron is threatening to assert (notwithstanding its statutory impotence to do so). If its allegations are such as they attest, they could produce at least one affidavit attesting to same. After all, "When a defendant moves to dismiss on grounds of lack of subject matter jurisdiction, 'the **plaintiff** has the burden of proving jurisdiction in order to survive the motion.'" *Nichols v. Muskingum College*, 318 F.3d 674, 677 (6th Cir. 2003) (citation omitted & emphasis added). What must a plaintiff (or Complainant in this case, as the case may be) do to satisfy his burden of proving jurisdiction when faced with a motion to dismiss? The answer is well settled:

Dismissal for lack of subject matter jurisdiction is reviewed *de novo*. *Crist v. Leippe*, 138 F.3d 801, 803 (9th Cir. 1998). The district court's findings of fact relevant to its determination of subject matter jurisdiction are reviewed for clear error. *See Kruso v. Int'l Tel. & Tel. Corp.*, 872 F.2d 1416, 1421 (9th Cir. 1989). For motions to dismiss under Rule 12(b)(1), unlike a motion under Rule 12(b)(6), the moving party may submit

affidavits or any other evidence properly before the court. . . . **It then becomes necessary for the party opposing the motion to present affidavits or any other evidence necessary to satisfy its burden of establishing that the court, in fact, possesses subject matter jurisdiction.** The district court obviously does not abuse its discretion by looking to this extra-pleading material in deciding the issue, even if it becomes necessary to resolve factual disputes.

St. Clair v. City of Chico, 880 F.2d 199, 201 (9th Cir. 1989) (citations omitted); *see also Kokkonen v. Guardian Life Ins. Co. of America*, 511 U.S. 375, 377, 114

S. Ct. 1673, 128 L. Ed. 2d 391 (1994) (“Federal courts are courts of limited jurisdiction. . . . It is presumed that a cause lies outside this limited jurisdiction, and the burden of establishing the contrary rests upon the party asserting jurisdiction.”) (citations omitted).

Ass’n of Am. Med. Colleges v. U.S., 217 F.3d 770, 778-79 (9th Cir. 2000) (emphasis added).

Instead, LC Port has continually asserted that full-blown discovery is required and asserted, “The most egregious flaw in the foundation of the Motion is the assumption that it is preferable for the presiding Judge to find the facts in this case by adopting the assertions of West Cameron counsel as to issues of fact and mixed law/fact issues, rather than going through the more accurate, and time-consuming process of discovery, testimony and cross-examination.” (Reply at 1-2). Again, LC Port, the financially superior litigant, wants this proceeding to be as lengthy and as costly as possible and LC Port has made filings at each step in the proceeding in order to require response and actions by West Cameron.

LC Port’s position would render meaningless attempts at questioning subject matter jurisdiction. Courts are free to “resolve factual disputes” in passing on motions raising subject matter jurisdiction and are free to do so on the basis of affidavits and, as here, voluminous public records. The Presiding Judge in his March 16, 2006 ruling stated that West Cameron’s Motion to Dismiss raised factual issues requiring discovery and ordered West Cameron to respond to LC Port’s written discovery. West Cameron has responded to that discovery. However, West Cameron asserts that the right to such discovery should not lead to interminable and useless interrogations or other discovery concerning issues for which there should be ample evidentiary support from LC Port’s own records, from its own tenants, and from the public records available to LC Port without the necessity of West Cameron’s participation, if such evidence even exists. It is not evidence which LC Port wants, but the cost associated with attempting to procure such evidence, which West Cameron has shown, does not exist.

In support of its Motion to Dismiss, West Cameron submitted, as permitted, two affidavits and numerous agreements readily available in the public records. Even though LC Port bears the burden of establishing jurisdiction, it submitted nothing. LC Port asserts that West Cameron's "Motion suffers another defect by its mischaracterization of the impact upon Lake Charles of the injuries caused by the unlawful actions of West Cameron[,]" (Reply at 2), and also asserts that "Lake Charles is currently being injured by the threat of West Cameron to impose unjust and unreasonable fees, which is discouraging potential investors who would otherwise be attracted to Calcasieu Parish and the Port of Lake Charles." (Reply at 13). What "fees" is LC Port talking about? What investors is West Cameron threatening? Where are the affidavits, or any appropriate evidentiary support for these bald allegations? LC Port has presented no evidence in support of these allegations, or for any allegations in its Complaint, for that matter.

Perhaps LC Port meant that "companies with vessels calling at Lake Charles, including CITGO, Conoco, Sempra, and Trunkline, are working under the pall of the threat that the charge may—at any moment—be imposed upon all of them. . . ." LC Port submits no evidence or even the most basic of affidavits from any of its allegedly threatened tenants in support of such allegations because no such threats have been made. As further evidence, West Cameron submits the affidavit of A.W. Prebula, the plant manager for the CITGO Petroleum Corporation Lake Charles Manufacturing Complex since June 1999. (*See Exhibit 2*). Mr. Prebula is not aware of any threats by West Cameron to levy a charge upon CITGO vessels passing through West Cameron jurisdiction. In fact, CITGO has not altered its business on the Calcasieu Marine Ship Channel on the threat that West Cameron will levy any fee upon CITGO for passing through.

V. West Cameron's Positions and Evidence

West Cameron premised the jurisdictional element of its Motion to Dismiss on numerous grounds, *e.g.*, that West Cameron is not a “marine terminal operator” as that term is defined, that operators of LNG terminals are not MTO’s either, that LNG tankers are not “common carriers,” and that West Cameron’s lease arrangement with Creole Trail LNG is exempt and does not require filing, as the Commission determined with LC Port’s lease.

With regard to the issue of West Cameron’s alleged status as an MTO, West Cameron will refer the Presiding Judge to its extensive discussion in its Supporting Memorandum. However, LC Port takes issue with West Cameron’s reliance on *Puerto Rico Ports Auth. v. Fed. Maritime Comm’n*, 919 F.2d 799 (1st Cir. 1990), and states:

In distinguishing Plaquemines from the decision before it, the court in the Puerto Rico case relied on the statutory exemption given to private terminal facilities that freed it from the port authority’s “control and administration.” *Id.* at 806 (citing 23 L.P.R.A. § 2202). Thus, the court found that, in that case, the port authority did not have the required amount of control. West Cameron has no such limiting authority. *See generally* La. R.S. 34:2551, et seq.; Motion at 2-4. In fact, West Cameron concedes its ability to exercise control over vessels passing through its jurisdiction.

(Reply at 5). The portion of West Cameron’s Supporting Memorandum (pages 2-4) is where West Cameron discusses its general statutory authority and, of course, mentions La. R.S. § 34:2556. At the risk of beating a dead horse, any and all statutory rights of West Cameron to regulate are subject to the La. R.S. § 34:2556 prohibition that no charge can be assessed on vessels passing through. West Cameron is hard-pressed to ascertain how or why LC Port can construe West Cameron’s exhausting citation of La. R.S. § 34:2556 as meaning that “West Cameron concedes its ability to exercise control over vessels passing through its jurisdiction.” How can LC Port distinguish *Puerto Rico* on the basis of a “statutory exemption given to private terminal facilities” when vessels bound for LC Port terminals are subject to a statutory

exemption from West Cameron regulation? LC Port also criticizes West Cameron's reliance on *Bridgeport & Port Jefferson Steamboat Co. v. Bridgeport Port Auth.*, 335 F. Supp. 2d 275 (D. Conn. 2004), on the sole basis that that case was a federal district court opinion as opposed to a circuit court opinion like *Plaquemines Port, Harbor & Terminal Dist. v. Fed. Maritime Comm'n*, 838 F.2d 536 (D.C. Cir. 1988). For whatever reason, which is not stated, LC Port pulls rank in its distinction of authority rather than distinguishing the respective authority on its merits.

LC Port flatly ignores the statutory impediment to West Cameron's doing what it asserts West Cameron is doing and LC Port flatly ignores that West Cameron is not in fact doing so. LC Port only cites La. R.S. § 34:2556 once parenthetically and states that "[t]his proceeding should not be affected by whether or not West Cameron would be in violation of state law for imposing fees." (Reply at 13). Lake Charles was created in 1924 and West Cameron in 1968—if West Cameron ever did or is doing what LC Port alleges it did or is doing, West Cameron is most confident that LC Port would have wasted no time in seeking injunctive relief. LC Port has never done so because West Cameron has never violated La. R.S. § 34:2556.

West Cameron also argued that LNG tankers are not MTO's and that LNG vessels are not "common carriers." As discussed below, these assertions were made by LC Port and accepted by the Commission. The overly specialized and complex nature of LNG vessels does not render them "common carriers." See 46 U.S.C.A App. § 1702(6). West Cameron would submit that LNG vessels fit under the exclusion to the definition of common carrier as being an "ocean tramp" under section 1702(6)(B). The Fifth Circuit in *U.S. v. Stephen Bros. Line*, 384 F.2d 118, 124 n. 16 (5th Cir. 1967) cited the prevailing definition of a "tramp":

The Agency has emphasized the significance of multishipper cargo. A tramp 'is a carrier transporting on any one voyage cargo supplied by a single shipper only under a single charter party or contract of affreightment. **The best example of such a carrier is the tanker.**' The fact 'that. . .vessels carried a

variety of commodities for numerous shippers radically differentiates them from those coming within the definition (of an ‘ocean tramp’).’

(citations omitted & emphasis added).

In LC Port’s submission of its lease to the Commission, LC Port apparently made certain representations about the nature of LNG vessels, but now backtracks. LC Port is not naïve with respect to the characteristics of LNG terminals and LNG vessels - an LNG facility has been operated by Trunkline within its jurisdiction for years. LC Port piggybacked upon the filings of Trunkline in filing objections in the Cameron LNG FERC proceeding (*See Exhibit 5*, LC Port’s Motion to Intervene).

For purpose of guidance to the Presiding Judge on this point, West Cameron submits the affidavit of E. Darron Granger. (*See Exhibit 3*). According to Mr. Granger, LNG vessels are highly specialized and travel on a voyage by voyage basis under a single charter. LC Port has submitted no evidence remotely tending to establish that LNG vessels are “common carriers.” It has an extensive contractual relationship with Cameron LNG; if LC Port was in possession of information tending to establish that LNG vessels are common carriers it would behoove LC Port to submit it. Anyway, LC Port has indicated otherwise to the Commission in the past.

LC Port likewise presented no evidence, much less argument, that West Cameron’s arrangement with Creole Trail LNG is not exempt. The Commission readily acknowledged that “marine terminal facilities agreements (leases) are exempt from filing under the Commission’s rules.” (*See Exhibit 6*, February 15, 2006 Federal Maritime Commission letter to Michael K. Dees). Even assuming, *arguendo*, that West Cameron could be classified as an MTO and Creole Trail LNG could be classified as an MTO and/or common carrier, its agreement with Cheniere LNG would be exempt from filing:

- (a) *Marine terminal facilities agreement* means any agreement between or among two or more marine terminal operators, or between one or more marine terminal operators and one or more ocean common carriers, to the extent that the agreement involves ocean transportation in the foreign commerce of the United States, that conveys to any of the involved parties any rights to operate any marine terminal facility **by means of lease, license, permit, assignment, land rental**, or other similar arrangement for the use of marine terminal facilities or property.
- (b) All marine terminal facilities agreements as defined in § 535.310(a) are exempt from the filing and waiting period requirements of the Act and this part.

46 C.F.R. § 535.310 (emphasis added). West Cameron submits that LC Port does not need further exhaustive discovery in order to assist the Presiding Judge in determining whether West Cameron's arrangement with Cheniere (all of whose provisions have been provided to the Presiding Judge) qualifies as a "marine terminal facilities agreement" even assuming the aforementioned MTO and common carrier status. This request is in furtherance of LC Port's apparent goal to have West Cameron expend its limited funds defending this proceeding.

VI. LC Port's Inconsistent Positions

LC Port commenced the instant proceeding against West Cameron on January 24, 2006, and then filed an Amended Complaint on January 30, 2006. What LC Port has failed to alert the Presiding Judge of is its filing of its lease with Cameron LNG and the Commission's subsequent return on the basis of no jurisdiction. As discussed in its Memorandum in Support of Motion to Dismiss, West Cameron discussed the details of LC Port's lease agreement with Cameron LNG whereby "wharfage fees" of \$0.0015 per dekatherm of natural gas would be assessed and that "[t]he wharfage fees rate shall be applicable to all volumes of natural gas delivered from the LNG Terminal, including incremental volumes delivered as a result of one or more terminal expansions constructed on the Amended Leased Premises." (Supporting Memorandum at 7 and Exhibit 4 attached thereto).

LC Port's timing was impeccable. As indicated above, LC Port's lease was filed with the Commission on January 30, 2006; however, **the lease was executed on December 31, 2002, some three years earlier**, while West Cameron's Memorandum of Understanding, the agreement LC Port is challenging, is dated October 27, 2003, **over two years** prior to the filing of the instant complaint. West Cameron's State Court Action was filed on December 7, 2005. On February 15, 2006, the Commission's Bureau of Trade Analysis returned as "Not Subject" LC Port's lease and stated, in part, the following:

From our initial review of the referenced lease, it was not clear whether the agreement was one that was subject to the Commission's jurisdiction. We were not certain that Cameron LNG, LLC qualified as a marine terminal operator, as the term is defined in the 1984 Act; specifically, whether Cameron was furnishing wharfage, docking, warehouse, or other terminal facilities in connection with common carriers.

In addressing our concerns, **you indicated that Cameron LNG would be using the facilities exclusively to berth and discharge LNG tankers and that Cameron LNG is not, itself, a common carrier. Based upon your representations, it would appear that the referenced lease is not between two persons that fall under the Commission's jurisdiction.** Although Lake Charles Harbor & Terminal District would qualify as a marine terminal operator under the 1984 Act, as it does furnish terminal service and facilities to common carriers, it appears that Cameron LNG does not.

(February 15, 2006, letter to Michael Dees, **Exhibit 6**) (emphasis added). LC Port now represents to the Commission that an LNG tanker is a not a "common carrier" on the one hand, then argues in opposition to West Cameron's Motion to Dismiss that "[West Cameron] further blandly asserts, without any attempt at explanation, that the **vessels that use the Calcasieu Ship Channel are not 'common carriers,' and that Liquefied Natural Gas ("LNG") terminals are not marine terminals. . . .**" (See Reply at 2) (emphasis added). Counsel for LC Port blatantly mischaracterizes the assertions of West Cameron. West Cameron's position as stated to the Commission is that "LNG vessels" are not "common carriers." In no instance did West

Cameron address the characteristics of any other types of vessels that use the Calcasieu Ship Channel as such vessels are not at issue in this matter.

LC Port made such assertions that LNG vessels are not “common carriers” to the Commission—obviously to the Commission’s satisfaction. Such inconsistent arguments beg the question of whether LC Port has any evidence that LNG tankers that will be accessing the Cameron LNG terminal are in any fashion different than the LNG tankers that will be accessing the Creole Trail LNG terminal. For LC Port to now argue that “we suggest the facts developed in this case will similarly demonstrate that the LNG ships traversing the Calcasieu Ship Channel are ‘common carriers’ entitled to protection under the 84 Act” (Reply at 6), **demonstrates the absence of any merit to that argument.** Furthermore, E. Darron Granger’s affidavit says “the LNG facilities to be constructed by Sempra/Cameron LNG should be similar in purpose, characteristics and operation to the LNG facilities to be constructed by Cheniere” and that “all LNG facilities and all LNG vessels operate generally with the same characteristics and generally provide the same limited services and purposes.”

The path to the filing of LC Port’s lease must be viewed in context. As the Presiding Judge may be aware, the construction of an LNG terminal requires an extensive and comprehensive application and approval process with the Federal Energy Regulatory Commission. On July 12, 2002, prior to the execution of the lease agreement subsequently filed with the Commission, LC Port, through its undersigning counsel in this proceeding, filed a “Motion to Intervene and Initial Comments of the Lake Charles Harbor and Terminal District.” (See **Exhibit 5**). In that pleading, LC Port stated that it “is extremely concerned about the negative financial impact that these major vessel traffic increases will have on area businesses. In addition, these projects, as proposed, may have negative impacts on marine safety and the

environmental integrity of the Channel.” (*Id.* at 3-4). It must be noted that LC Port owns the property on which the Cameron LNG is to be constructed; thus, the intervention was filed *against its own tenant*.

However, on November 12, 2002, shortly before the formal execution of the lease filed with the FMC three years later, LC Port filed a “Supplemental Comments and Conditional Withdrawal of Request for Further Proceedings of the Lake Charles Harbor and Terminal District.” (*See Exhibit 7*). LC Port attached the terms of its proposed lease amendment containing, *inter alia*, the provision for payment by Cameron LNG of the \$0.0015 dekatherm “wharfage.” In consideration for the agreement to pay such “wharfage fees,” LC Port withdrew its intervention two weeks after the amendment to the lease. By LC Port’s calculations, it will receive in excess of \$2,200,000 per year. (*See Exhibit 8*) Evidently, LC Port’s concerns are alleviated. This is another example of LC Port making a collateral attack in an inapposite proceeding to gain an economic benefit.

LC Port is currently negotiating with Cheniere Energy, Inc. with respect to the release of spoils easements on the Creole Trail LNG location. Like it did against Cameron LNG, when LC Port was not successful in “extracting” the maximum economic benefit for the release of the spoils, LC Port filed a motion to intervene in the pending Cheniere FERC proceeding. (**Exhibit 9**). The Commission will note that spoils were not an issue on two other projects for which LC Port was to receive economic benefit but were an issue for the Cheniere project where LC Port stands to receive no money. As indicated by Cheniere in its Answer of Creole Trail (**Exhibit 10**), this was nothing more than LC Port again making a collateral attack in an inapposite proceeding to gain an economic benefit. In this instance, LC Port was seeking \$20,000,000.00 for costs without any underlying methodology or analysis for arriving as such costs estimates.

West Cameron submits that LC Port's motivation in this matter is one of forcing West Cameron to expend its finite resources. As attested in the affidavits attached to the Motion to Dismiss (and not controverted by LC Port as same is public record), West Cameron has no current means of generating revenue. The Louisiana Legislature created West Cameron in 1968, and LC Port is well aware that it has never exercised its statutory right to regulate. Its sole means of asserting its rights in the State Court Action and defending itself in this matter comes from incremental allotments from the Cameron Parish Police Jury. To the extent West Cameron has to defend this matter, the fewer resources it has to assert its rights contesting the legality of LC Port's presence in West Cameron's statutory jurisdiction in the State Court Action. In contrast, LC Port candidly acknowledges and advertises its economic stature, "The Port of Lake Charles funds its operations through self-generated revenue and through a 2.5 mil ad valorem tax, which generates \$1 million annually and with interest on the District's \$87 million investment portfolio expected to generate \$5.2 million in 1998[.]" (See **Exhibit 11**, "Revenue" page of LC Port website). It is thus beyond question that LC Port can outspend West Cameron if it so pleases.

Counsel for LC Port has recently inquired of undersigned counsel that they wish to take the depositions of the West Cameron Port Commission, Cameron Parish (presumably the Police Jury), Cheniere LNG, and *undersigned counsel*. Whether West Cameron's lease arrangement with Cheniere is subject to Commission jurisdiction is one matter and will be adjudged on the terms of the agreement itself (as the Commission did with LC Port's lease)—interrogating the members of the West Cameron Port Commission and Cameron Parish Police Jury and officials with Cheniere LNG is another matter. Such expensive and time consuming discovery (above and beyond the written discovery to which West Cameron has already responded) will have no

bearing on the issue of jurisdiction or to the merits of LC Port's claims of "unjust and unreasonable practices," "imposition of unreasonable prejudice or disadvantage," or "failure to file marine terminal operator agreement."

VII. West Cameron's Discovery Responses

LC Port's request for production number 1 and West Cameron's response to same was as follows:

1. Any and all documents that relate to wharfage charges to be assessed against vessels using the Calcasieu River Ship Channel, including without limitation, any and all minutes by West Cameron.

Response.

None. However attached to discovery are the November 12, 2003 Resolution, (W CAM PORT 0236) (minutes believed to be destroyed in Hurricane Rita), February 22, 2005 Resolution and Minutes (W CAM PORT 0000998-0001004) and Resolution Dated March 28, 2006 (W CAM PORT 0001005-0001009) (minutes for this meeting to be provided once approved and signed at the April regularly scheduled board meeting. Although it is the position of West Cameron that these documents are not required to be produced in response to this request as written as no "wharfage" charges have ever been assessed or collected, because the word "wharfage" appears in the body and to avoid any semblance or argument that such documents are being withheld from LC Port on a technicality, same are being produced.

We attach the referenced resolutions to this supplemental brief, in globo. (*See* Exhibit 12) West Cameron suspects that counsel for LC Port will attempt to utilize West Cameron's February 22, 2005 Resolution, in a vacuum in its reply. In such respects, West Cameron asserts that its actions on March 28, 2006 unequivocally set forth the limited significance which should be attributed to the "wharfage" language in its February 22, 2005 resolution. Certainly if such language would have in fact created the perception attempted to be advanced by LC Port in this matter, there would have been notice, objection, inquiry, demand or actions to cease and desist

by LC Port and all others who would have concern with respect thereto. Nothing came until the Complaint by LC Port to start these proceedings.

VIII. Conclusion

West Cameron, then and now, submits that LC Port has failed to satisfy its burden of establishing jurisdiction of the Commission. When LC Port's representations to the Commission when it filed its lease are viewed with the about-face arguments in opposition to West Cameron's Motion to Dismiss, LC Port's motives in prosecuting and demanding extensive, costly and needless discovery and oral argument in Washington, D.C., it becomes obvious that LC Port is forcing West Cameron to expend its very finite resources at the expense of West Cameron's being able to prosecute its suit in state court. West Cameron merely submits this observation to the Presiding Judge and once again respectfully requests that its Motion to Dismiss be granted.

Respectfully submitted,



RANDALL K. THEUNISSEN

NEIL G. VINCENT

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ATTORNEYS FOR RESPONDENT

WEST CAMERON PORT, HARBOR AND
TERMINAL DISTRICT

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all parties of record by facsimile and overnight mail a copy to each such person.

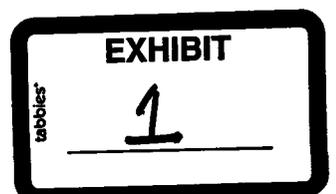
Dated at, Lafayette, Louisiana, this 10th day of April, 2006.



Randall K. Theunissen
Randall K. Theunissen
On Behalf of Respondent, West
Cameron Port, Harbor and
Terminal District

TIMELINE

- December 7, 2005** - West Cameron filed suit in Louisiana State District Court with respect to jurisdictional issues related to the Cameron LNG/Sempra project (the "State Court Suit")
- December 20, 2005** - LC Port requested informal extension of time until January 27, 2006 within which to file responsive pleadings in the State Court Suit, which request was immediately granted by West Cameron.
- January 23, 2006** - LC Port, **in executive session** on the evening of January 23, 2006 approved filing of Federal Maritime Complaint against West Cameron (the "Federal Maritime Complaint").
- January 24, 2006** - An article appeared on the front page of the American Press which reported quotes from the Federal Maritime Complaint (See Exhibit "A") with the heading "**LC PORT BOARD Board: Terminal Shipping fee illegal**" and stating:
- "The complaint raises the stakes in a legal battle between the two ports centered around a liquefied natural gas terminal in Cameron Parish being built by San Diego-based Sempra Energy."**
- January 24, 2006** **The above referenced article in the American Press was the first notice that West Cameron received that West Cameron was alleged to be assessing a fee against vessels for use of the Calcasieu Ship Channel, that it had made any threats with respect thereto or that such threats would scare away potential investors on the Channel. Until this newspaper article, West Cameron received no notice, demand, inquiry, objection, cease and desists, or other indication, directly or indirectly from LC Port or otherwise with respect to the allegations in the Federal Maritime Complaint.**
- January 24, 2006** - LC Port files Federal Maritime Complaint
- January 30, 2006** - LC Port filed the contractual documents evidencing the arrangements dated **December 31, 2002** with Cameron LNG/Sempra along with applicable amending documents.
- February 3, 2006** - LC Port files Amended Complaint
- February 15, 2006** - Federal Maritime Commission posted to LC Port a letter providing that, **based upon representations of facts by counsel for LC Port**, Cameron LNG was not an MTO and that LNG vessels were



not “common carriers” and that the agreements were not subject to Federal Maritime Commission jurisdiction.

- February 16, 2006** - West Cameron filed its Motion to Dismiss the Federal Maritime Complaint
- March 3, 2006** - West Cameron filed a Motion to Stay Discovery pending ruling on Motion to Dismiss
- March 6, 2006** - LC Port filed Motion to Compel responses to outstanding discovery
- March 6, 2006** - LC Port files its Reply in Opposition to Motion to Dismiss
- March 15, 2006** - West Cameron obtains copies of proposed legislation on behalf of LC Port which would have the effect of retroactively legislating out all claims by West Cameron in the State Court Suit (the “Proposed Legislation”).
- March 16, 2006** - Federal Maritime Commission issues order requiring West Cameron to respond to pending discovery, deferring ruling on Motion to Dismiss and setting deadline of April 10, 2006 for supplemental briefing.
- March 17, 2006** - Cameron Parish Police Jury posted notice of a meeting for the evening of March 20, 2006 for public discussion on the Proposed Legislation.
- March 20, 2006** - On the afternoon of the public meeting called by the Cameron Parish Police Jury to discuss publicly an opposition to the Legislation, LC Port filed in the Federal Maritime Proceeding the following:
 - 1. Reply in Opposition to Motion to Stay (**which had already been ruled upon by the Federal Maritime Commission**)
 - 2. Motion for Partial Summary Judgment (**without request for specific relief**)
 - 3. Motion for Reduction of Time to Respond to Motion for Summary Judgment **to five days.**
- March 20, 2006** - Police Jury meeting where all political bodies in Cameron Parish unanimously opposed the Proposed Legislation.
- March 29, 2006** - West Cameron timely provided responses to discovery.

Publication:American Press;**Date:**Jan 24, 2006;**Section:**Front Page;**Page Number:**1

LC PORT BOARD

Board: Terminal shipping fee illegal

BY JEREMY HARPER AMERICAN PRESS

The Port of Lake Charles said it will file a complaint against the West Cameron Port with the Federal Maritime Commission arguing that shipping fees the Cameron port plans to charge a natural gas company are illegal and could drive away prospective port customers.

The port's governing board voted to file the complaint Monday night after a closeddoor meeting in executive session to discuss the matter.

It also voted to hire a Washington, D.C.-based law firm to handle the complaint

The complaint raises the stakes in a legal battle between the two ports centered around a liquefied natural gas terminal in Cameron Parish being built by San Diego-based Sempra Energy.

It also draws into the dispute two additional LNG terminals being built elsewhere in Cameron Parish by another company, Houston-based Cheniere Energy.

The conflict began with the Sempra terminal, a \$700 million plant on part of a tract of land in Cameron Parish owned by the Port of Lake Charles. The site is near Hackberry along the Calcasieu River Ship Channel.

The West Cameron Port Board contends that the Port of Lake Charles cannot legally own land in Cameron Parish and sued the port in December for damages and to take over the property. The case has yet to go to trial.

While the complaint announced Monday by the Port of Lake Charles addresses the Sempra project, it mainly focuses on Cheniere's two LNG terminals: one called Creole Trail LNG along the Calcasieu River Ship Channel and another dubbed Sabine Pass LNG in southwestern Cameron Parish.

Cheniere has agreed to pay the West Cameron Port Board \$1,000 for each LNG ship it navigates through the port's district — a charge the port calls a "wharfage" fee.

The fees could total hundreds of thousands of dollars by the end of the decade when both terminals are operational.

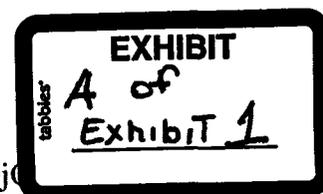
The Port of Lake Charles in its complaint says the fees Cheniere has agreed to pay aren't for any actual service or the use of any facilities. It also alleges that the fees violate state and federal laws.

"West Cameron has admitted that it would provide no services or facilities for these payments," the complaint states.

"By assessing these charges simply for the use of the channel, West Cameron is acting as a toll taker, similar in nature to the legendary robber barons of the Rhine River."

The complaint alleges that the Cameron port has signaled that it wants to impose similar vessel fees on Sempra, which the Port of Lake Charles said could threaten the project and future economic development.

"The threat of these charges will inevitably scare away other potential investors who would otherwise be attracted to Calcasieu Parish and the Port of Lake Charles," the complaint states.



Neither Cheniere nor Cameron port officials could be reached for comment Monday night.

Before the board voted unanimously to file the complaint at its Monday meeting, Port of Lake Charles attorney Mike Dees defended the move.

"The position of the West Cameron port authority, in our view, causes a great deal of difficulty in terms of the viability of the operation of the Port of Lake Charles," Dees said.

The complaint asks for unspecified monetary damages and requests that the Cameron port's agreements with Cheniere be filed with the Federal Maritime Commission.

Thompson Coburn LLP, a law firm that has represented the port's cases before the FMC in previous years, will handle the complaint with consultation from port officials.

The FMC is an independent regulatory agency responsible for the regulation of oceanborne transportation in the waters of the United States.

The FMC is not related to the U.S. Maritime Administration, the division of the federal Department of Transportation that regulates offshore LNG terminals.

FEDERAL MARITIME COMMISSION
WASHINGTON, D.C.

THE LAKE CHARLES HARBOR AND
TERMINAL DISTRICT
Claimant

VERSUS

DOCKET NO. 06-02

WEST CAMERON PORT, HARBOR
AND TERMINAL DISTRICT
Respondent

AFFIDAVIT OF A. W. Prudelo

STATE OF Louisiana

PARISH/County OF Caldesian

BEFORE ME, the undersigned Notary Public, in and for the aforesaid
Parish/County and State, personally came and appeared A. W. Prudelo,

who after first being duly sworn did depose and state as follows:

1. That he is a person of the full age of majority and a resident of the State of Louisiana.
2. That in such capacity he has personal knowledge or direct access to the information and company records from which to make the following averments.
3. I have been the plant manager for the CITGO Petroleum Corporation ("CITGO") Lake Charles Manufacturing Complex from June 1999 to April 1, 2006 and I am currently the Vice President of Refining for CITGO Petroleum Corporation. I would be a representative of CITGO who would be familiar with any charges or fees or threatened charges or fees set by West Cameron Port Harbor and Terminal District ("West Cameron") with respect to vessel traffic by CITGO within the territorial jurisdiction of West Cameron.
4. I have read complaint filed by the Lake Charles Harbor and Terminal District ("LC Port") against West Cameron.
5. I am not aware of any requests from West Cameron to charge CITGO any type of fee for passage of vessels through the territorial jurisdiction of West Cameron.



6. I am not aware of any threats by West Cameron to levy a charge upon CITGO vessels passing through its territorial district and CITGO is not altering its business on the Calcasieu Marine Ship Channel on the threat that West Cameron will charge such a fee to pass through their district.
7. I am not aware that CITGO has been assessed any type of fee by West Cameron for passage through their district.
8. That each and every averment provided in this affidavit is made of my own personal knowledge.


A. W. Prebula

**SWORN TO AND SUBSCRIBED
BEFORE ME THIS 16th DAY
OF April, 2006.**

Cheryl A. Campbell #1845
Notary Public

(my commission expires With Life - Notary or Bar Role No: 1845)

FEDERAL MARITIME COMMISSION
WASHINGTON, D.C.

THE LAKE CHARLES HARBOR AND
TERMINAL DISTRICT

Claimant

VERSUS

DOCKET NO. 06-02

WEST CAMERON PORT, HARBOR
AND TERMINAL DISTRICT

Respondent

AFFIDAVIT OF E. DARRON GRANGER

STATE OF TEXAS

COUNTY OF HARRIS

BEFORE ME, the undersigned Notary Public, in and for the aforesaid Parish/County and State, personally came and appeared E. Darron Granger, who after first being duly sworn did depose and state as follows:

1. I am a person of the full age of majority and a resident of the State of Texas.
2. My work for the past 38 years involved all aspects of planning and coordinating the construction and operation of Liquefied Natural Gas ("LNG") facilities.
3. That in such capacity I have personal knowledge and experience or direct access to the information from which to make the following averments.
4. I am VP LNG Technical for Cheniere Energy, Inc., and would be a representative of Cheniere who would be familiar with the LNG facilities to be constructed by Sabine LNG and Creole Trail LNG (each subsidiaries of Cheniere Energy, Inc., and together hereinafter ("Cheniere")) within the territorial jurisdictions of West Cameron Port Harbor and Terminal District ("West Cameron").
5. I am familiar with the facilities to be constructed by Cheniere for the purposes of receiving LNG at the two referenced locations.
6. I am familiar with the general characteristics of the vessels which will be used to transport LNG to the respective LNG facilities.

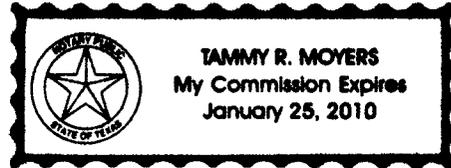


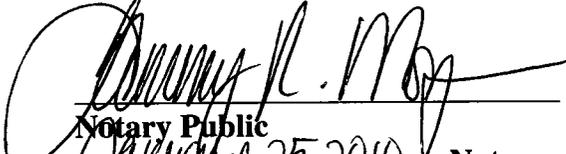
7. Based on my experience in the LNG industry, LNG vessels are highly specialized vessels, designed solely for the transportation of LNG, on a voyage by voyage basis, with each voyage under a single charter party or contract of affreightment, or pursuant to a long-term master time charter or contract of affreightment, similar to the arrangements made with respect to oil tankers. LNG vessels are not of the characteristics where they would hold themselves out to the general public to provide piecemeal transportation of cargo by water.
8. Neither of the facilities to be constructed by Cheniere in West Cameron's jurisdiction will be engaged in the business of furnishing or providing wharfage, dock, warehouse, or other terminal facilities other than for offloading of LNG, storing LNG, and vaporizing LNG. Such facilities would not be generally open to the public in connection with the providing of wharfage, dock, warehouse or other terminal facilities for receipt of cargo for the general public on a piecemeal basis.
9. That in my experience, all LNG facilities and all LNG vessels operate generally with the same characteristics and generally provide the same limited services and purposes.
10. Based upon the information provided with respect to the FERC permitting for each facility, the LNG facilities to be constructed by Sempra/Cameron LNG should be similar in purpose, characteristic and operation to the LNG facilities to be constructed by Cheniere.
11. That in my experience and based upon the information provided with respect to the FERC permitting for each facility, the LNG vessels that will be transporting LNG to the Sempra/Cameron LNG facility and each of the two Cheniere facilities will be similar in purpose, characteristics and operation.
12. That Cheniere initiated contact with West Cameron with respect to the economic arrangements which are now the subject of the Memorandum of Understanding between Sabine LNG and West Cameron and with respect to the Option and First Amendment to Option between Creole Trail LNG and West Cameron and that such economic arrangements were agreed to in exchange for the considerations received or to be received by Cheniere from West Cameron in accordance with the terms of the two referenced agreements.
13. Any payments under existing agreements with West Cameron would be purely voluntary. No fees or charges, including but not limited to those provided for in the referenced agreements, have been "extracted" by West Cameron from Cheniere.

14. That each and every averment provided in this affidavit is made of my own personal knowledge or review of documents provided by the various applicants in the FERC proceedings mentioned above.


E. Darron Granger

**SWORN TO AND SUBSCRIBED
BEFORE ME THIS 7th DAY
OF April, 2006.**





Notary Public
January 25, 2010
(my commission expires _____)

- Notary or Bar Role No: _____

CHENIERE

November 12, 2003

Mudd & Bruchhaus
Attorneys at Law
P.O. Box 1510
148 Cameron, LA 70631
Attn: David P. Bruchhaus

Dear David,

This letter is to confirm the intention of Cheniere LNG, Inc., its successors and assigns, with respect to fees that will be applicable to the West Cameron Port Commission. Cheniere intends to construct, operate and maintain an LNG terminal facility along the Calcasieu Ship Channel capable of receiving LNG by vessel and delivering the regasified LNG ("Project"). Upon successful start-up of the facilities, the Project will remit to the West Cameron Port Commission an amount equal to One Thousand United States Dollars (US\$1,000.00) for each LNG vessel that delivers a cargo to the Project's facility. Timing and method of payment to the Commission will be agreed between the parties at a later date.

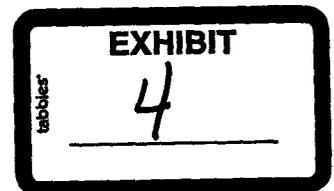
Sincerely,



Charif Souki
Chairman - Cheniere LNG, Inc.

CHENIERE ENERGY, INC.

282 Clay Street, Suite 2400 • Houston, Texas 77002-4102 • (713) 659-1361 • Fax (713) 659-5459



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FEDERAL ENERGY
REGULATORY COMMISSION

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Hackberry LNG Terminal, LLC) Docket Nos. CP02-374-000,
) CP02-376-000, CP02-377-
) 000, and CP02-378-000

**MOTION TO INTERVENE AND INITIAL COMMENTS
OF
THE LAKE CHARLES HARBOR AND TERMINAL DISTRICT**

Pursuant to Rules 211, 212, and 214 of the Commission's Rules of Practice and Procedure (18 C.F.R. §§ 385.211, 385.212, and 385.214), applicable Regulations under the Natural Gas Act (18 C.F.R. § 157.10), and the Commission's "Notice of Application," issued June 26, 2002, the Lake Charles Harbor and Terminal District ("District" or "Port") hereby submits this motion to intervene and initial comments in the above-captioned proceeding. As detailed more fully in its motion below, the District has profound regulatory and financial interests in Hackberry LNG Terminal's ("Hackberry") proposed liquefied natural gas ("LNG") project. As discussed in the comments that follow, the District is working closely with Hackberry to ensure that the adverse effects that this project will have on shipping traffic in the Calcasieu Ship Channel ("Channel") are adequately mitigated. However, in order to safeguard its significant interests in the outcome of Hackberry's application for a certificate of public convenience and necessity, the District requests that the Commission set this matter for a formal

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hearing, appoint a Settlement Judge, and hold the hearing in abeyance pending the outcome of settlement negotiations.

I. COMMUNICATIONS

Communications regarding this matter should be addressed to the following persons, who also should be designated for service on the Commission's official list:

Michael K. Dees
General Counsel
Port of Lake Charles
P.O. Box 3753
150 Marine Street
Lake Charles, LA 70602
337-493-3504
337-493-3523 (facsimile)

Edward J. Sheppard
Bonnie S. Blair
Thompson Coburn LLP
Suite 600
1909 K Street, N.W.
Washington, D.C. 20006-1167
202-585-6900
202-585-6969 (facsimile)

II. DISTRICT'S INTEREST IN THIS PROCEEDING AND MOTION TO INTERVENE

The District, or Port of Lake Charles, is a political subdivision of the State of Louisiana, charged with regulating "the commerce and traffic of the harbor and terminal district in such a manner as may in its judgment be best for the public interest."¹ The District's jurisdiction extends not only to the facilities in and around the Port itself but also to the 34 inland miles of the Calcasieu Ship Channel ("Channel") and the 36-mile portion of the Channel extending outward from the mouth of the Calcasieu River into the Gulf of Mexico.² In its application to the Commission, Hackberry proposes to site, construct, and operate its LNG terminal on Port-owned land and to ship LNG to these facilities in significant quantities through the Channel. The

¹ LA. REV. STAT. § 34:203 (2001), Exhibit A. The terms "District" and "Port" are used interchangeably in this filing, as they are part of the same political entity. For the sake of accuracy, however, the Port comprises the area north of the Industrial Canal, and the District comprises this area as well as the inland portion of the Calcasieu Ship Channel.

² See Exhibit B, "Area Map of Lake Charles Harbor and Terminal District."

District has an interest in ensuring that this project does not adversely affect marine safety or unduly burden shipping traffic in the area over which the District has regulatory responsibility.

In addition to the District's regulatory interest, it possesses a significant financial interest in the project and its effect on Channel traffic and surrounding land values. At its Bulk Terminal #1 and City Docks facilities at Mile Point ("M.P.") 30 and 34, the District earns more than \$11.5 million in annual revenues from dockage, wharfage, and handling charges.³ In addition to the land it is negotiating to lease to Hackberry, the District also owns several other properties in the Canal and along the banks of the Channel that it leases to large commercial tenants such as CMS Trunkline, Conoco, Citgo, and Unifab. To the extent that increased ship traffic emanating from this project causes traffic congestion, it will affect the District's revenues and lease rents.

As discussed more fully below, the District has concerns about the effect that increased LNG vessel traffic will have on the Port and its surrounding community that it is attempting to resolve through direct discussions with Hackberry. In late 2001, CMS Trunkline submitted a similar application that, if approved, will increase LNG traffic by at least 115 vessels per year. According to Hackberry's application, its terminal "will be capable of loading and unloading approximately 210 LNG tankers per year" on a site that is currently inactive.⁴ Due to the operational restrictions in the Channel articulated in affidavits filed by Captain James Robinson (a Navigation Consultant and 25-year veteran of the Coast Guard), Anatoly Hochstein (a marine traffic and safety expert), and Fredd Hoff Isaksen (an area shipper) on behalf of the District in the

³ See Affidavit of Dan W. Anderson, Exhibit C, at ¶¶5-6. This affidavit and the affidavits of James Robinson, Exhibit D, Fredd Hoff Isaksen, Exhibit E, and Anatoly Hochstein, Exhibit F, were executed in late January and filed as part of the District's "Protest and Motion to Intervene" in Docket No. CP02-60-000, filed July 30, 2002. Since these affidavits address the same substantive issues raised in this proceeding, they are included in this filing for the Commission's consideration.

⁴ See "Application for Authority to Site, Construct, and Operate LNG Terminal Facilities," Hackberry LNG Terminal, LLC ("Hackberry Application"), filed May 20, 2002 in Docket Nos. CP02-374-000 *et al.*, at 30.

CMS proceeding, the District is extremely concerned about the negative financial impact that these major vessel traffic increases will have on area business interests. In addition, these projects, as proposed, may have negative impacts on marine safety and the environmental integrity of the Channel.

For the reasons described above, the District has a direct and substantial interest in the outcome of this proceeding. No other party can adequately represent those interests, and participation by the District in this proceeding is in the public interest. The District therefore requests permission to intervene as a party to this proceeding.

III. REQUEST FOR FORMAL HEARING

Pursuant to 18 C.F.R. § 157.10 of the Commission's Rules under the Natural Gas Act, the District requests a formal evidentiary hearing on Hackberry's application for a certificate of public convenience and necessity to address the District's concerns. While the application should be set for formal hearing, the District also believes that the parties have the desire and intent to address their respective concerns and therefore requests that the Commission appoint a Settlement Judge in this proceeding and hold the hearing in abeyance pending the outcome of settlement negotiations.

IV. COMMENTS

The District is a political subdivision of the State of Louisiana, charged with managing the waterways in and around Lake Charles. The District is economically dependent on the revenues from its operations and the rents from its leases in order to fulfill this statutory obligation. The application submitted by Hackberry in this docket, in which Hackberry seeks a certificate of public convenience and necessity to site, construct, and operate LNG facilities

within the Channel, will result in as much as a 210-vessel increase in LNG traffic. According to Robinson, an increase of this magnitude cannot be accommodated under the current operational conditions in the Channel without either a complete overhaul of the Port's operations or a costly expansion in the Channel's infrastructure.⁵ As described in Robinson's affidavit, the Channel is currently operating near its maximum capacity of approximately 1000 vessels per year,⁶ and an increase of even 115 LNG vessels in a given year would be very difficult to sustain without these dramatic changes.⁷ The assessments of Hochstein and Isaksen echo this position.⁸

Like the application of CMS Trunkline in Docket No. CP02-60-000, Hackberry also relies on the ship traffic analysis of Lanier and Associates ("Lanier"). The District disputes Lanier's analysis in this proceeding, since it is based on the same methodological deficiencies identified by Robinson in the CMS Trunkline proceeding—*inter alia*, inadequate consideration of pilot scheduling and training, Port infrastructure and weather conditions, and tug availability.⁹ Even using its own assumptions, however, the Lanier study concludes that a 210-vessel increase in LNG traffic cannot be accommodated, finding that the Channel's "infrastructure is presently adequate to handle approximately 200 LNG vessels per year, combined for all LNG terminals."¹⁰

⁵ See Robinson Affidavit at ¶¶22-23. Robinson's assessment was based on CMS Trunkline's proposed annual increase of 115 LNG vessels. CMS Trunkline uses the same type of vessel, with the same navigational restrictions, as the vessels utilized by Hackberry.

⁶ See Robinson Affidavit at ¶¶8, 14, and 16.

⁷ See *id.* at ¶16.

⁸ See Hochstein Affidavit at ¶5; Isaksen Affidavit at page 2, ¶2. The assessments of Hochstein and Isaksen were also based on CMS Trunkline's proposed annual increase of 115 vessels.

⁹ See Robinson Affidavit at ¶¶10-18.

¹⁰ See Hackberry Application, at Appendix A.11, "Executive Summary," at 2.

Needless to say, the passage of a combined increment of 325 LNG vessels for both CMS Trunkline and Hackberry would be unsustainable under this assessment.

As Hackberry correctly points out in its application, however, it is “currently in negotiations with the Lake Charles District addressing the participation of various Calcasieu River Ship Channel users in potential channel improvements in coordinating vessel traffic in the Calcasieu River Ship Channel.”¹¹ While the District does not necessarily agree with Hackberry’s claim that its project “will not have an adverse effect on existing and future shipping” in the Channel,¹² it is hopeful that it will be able to work collaboratively with Hackberry and other users of the Channel to mitigate the negative impacts of increased LNG vessel traffic on the Port and the surrounding community. In the event that the District is unable to mitigate these effects with the assistance of Hackberry and other Port users, the District may be forced to oppose Hackberry’s LNG project for the reasons articulated in its January 30, 2002 filing in the CMS Trunkline proceeding. In order to protect its vital economic and regulatory interests, the District therefore respectfully requests that the Commission set this matter for formal hearing.

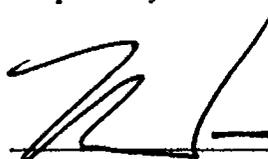
¹¹ See Hackberry Application, at 30.

¹² See *id.* at “Resource Report 11,” at 11-14. In the quoted section, Hackberry states that the “Trunkline LNG Expansion project” will not have adverse effects. It is assumed that Hackberry meant to submit that its project will have no such effects.

CONCLUSION

WHEREFORE, for the foregoing reasons, the District respectfully urges the Commission to grant the District leave to intervene as a party to this proceeding and to set this matter for formal hearing. The District also requests that the Commission appoint a Settlement Judge and hold the hearing in abeyance pending the outcome of settlement negotiations.

Respectfully submitted,



Michael K. Dees
General Counsel for Lake Charles Harbor and
Terminal District



Bonnie S. Blair
Edward J. Sheppard
Mark L. Parsons
Counsel for the Lake Charles Harbor and Terminal
District

Law Offices of:

Thompson Coburn LLP
Suite 600
1909 K Street, N.W.
Washington, D.C. 20006-1167
202-585-6900

16
July 19, 2001

CERTIFICATE OF SERVICE

I hereby certify that I have on this 16th day of July, 2002, caused a copy of the foregoing document to be sent by first-class mail to all parties on the list compiled by the Secretary of the Commission in this proceeding.



Mark L. Parsons
Attorney for the Lake Charles Harbor and
Terminal District

Law Offices of:

Thompson Coburn LLP
Suite 600
1909 K Street, N.W.
Washington, D.C. 20006-1167
202-585-6900

§203. Powers of board; title to structures and facilities

A.(1)(a) The board may regulate the commerce and traffic of the harbor and terminal district in such a manner as may in its judgment be best for the public interest;

(b) It has all the rights, privileges, and immunities granted to corporations in Louisiana;

(c) It may own and administer, contract for, construct, operate, and maintain docks, landings, wharves, sheds, elevators, locks, slips, canals, laterals, basins, warehouses, belt and connecting railroads, works of public improvement, and all other property, structures, equipment, and facilities necessary or useful for port, harbor, and terminal purposes, including but not limited to buildings and equipment for the accommodation of passengers and the handling, storage, transportation, and delivery of freight, express, and mail; and

(d) It may dredge and maintain shipways, channels, canals, slips, basins, and turning basins.

(2)(a) Pursuant to Public Law 99-662, The Water Resources Act of 1986, or regulation, or if because of contractual obligations of the district with the United States of America or any agency thereof the district is required to pay or assist in paying dredging expenses or expenses related to the dredging of navigable waters within the district, the district may reasonably regulate and impose reasonable user fees for said projects. Any user fees imposed shall reflect, to a reasonable degree and to the extent required by federal law, the benefits provided by the project to a particular class or type of vessel pursuant to Public Law 99-662, The Water Resources Act of 1986.

(b) The board shall publish a notice of intent to charge user fees. The notice shall be published in the official journals of the parishes comprising the district. For a period of thirty days from the date of the publication, any person in interest may contest in writing the proposed fees. After the thirty-day comment period, the board shall hold a public hearing to consider the proposed user fees.

(c)(i) The board may establish an advisory group consisting of port/channel users for the purpose of providing recommendations and information relative to the aforementioned dredging projects.

(ii) The board may establish, operate, and maintain in cooperation with the federal government and the state of Louisiana and its various agencies, subdivisions, and public bodies navigable waterway systems;

(iii) It may acquire land necessary for the business of the district;

(iv) It may acquire industrial plant sites and necessary property or appurtenances therefor, and it may acquire or construct industrial plant buildings with necessary machinery and equipment within the district;

(v) It may lease or sublease for processing, manufacturing, commercial, and business purposes lands or buildings owned, acquired, or leased as lessee by it, which leases may run for any term not exceeding forty years at a fixed rental, but may run for a term not exceeding ninety-nine years, provided they shall contain a clause or clauses for readjustment of the rentals upon the expiration of a primary term of forty years, and it may ratify, confirm, and approve any such leases heretofore granted by it;

(vi) It may borrow from any person or corporation using or renting any land, dock, warehouse, or any other facility of such district such sums as shall be necessary to improve the same according to plans and specifications approved by it, and it may erect and construct such improvement and agree that the loan

therefor shall be liquidated by deducting from the rent, dock, wharf, or toll charges payable for such property a percentage thereof to be agreed on, subject, however, to any covenants or agreements made with the holders of revenue bonds issued under the authority hereinafter set forth;

(vii) It may maintain proper depths of water to accommodate the business of the district;

(viii) It may provide mechanical facilities and equipment for use in connection with such wharves, sheds, docks, elevators, warehouses, and other structures;

(ix) It may provide light, water, and police protection for the district and for all harbor and terminal facilities situated therein;

(x) It may make and collect reasonable charges for and regulate the use of all structures, works, and facilities administered by the board and for any and all services rendered by it;

(xi) It may regulate, reasonably, the fees and charges to be made by privately owned wharves, docks, warehouses, elevators, and other facilities within the limits of the district when the same are offered for the use of the public;

(xii) It may borrow funds for the business of the district;

(xiii) It may levy and collect taxes;

(xiv) It may mortgage properties constructed or acquired by the district and it may mortgage and pledge any lease or leases and the rents, income, and other advantages arising out of any lease or leases granted, assigned, or subleased by it; and

(xv) It may incur debt and issue bonds for its needs in the manner provided by the constitution and laws of the state of Louisiana.

B. All buildings, railroads, wharves, elevators, and other structures, equipment, and facilities herein referred to are declared to be works of public improvement and title thereto shall vest in the public.

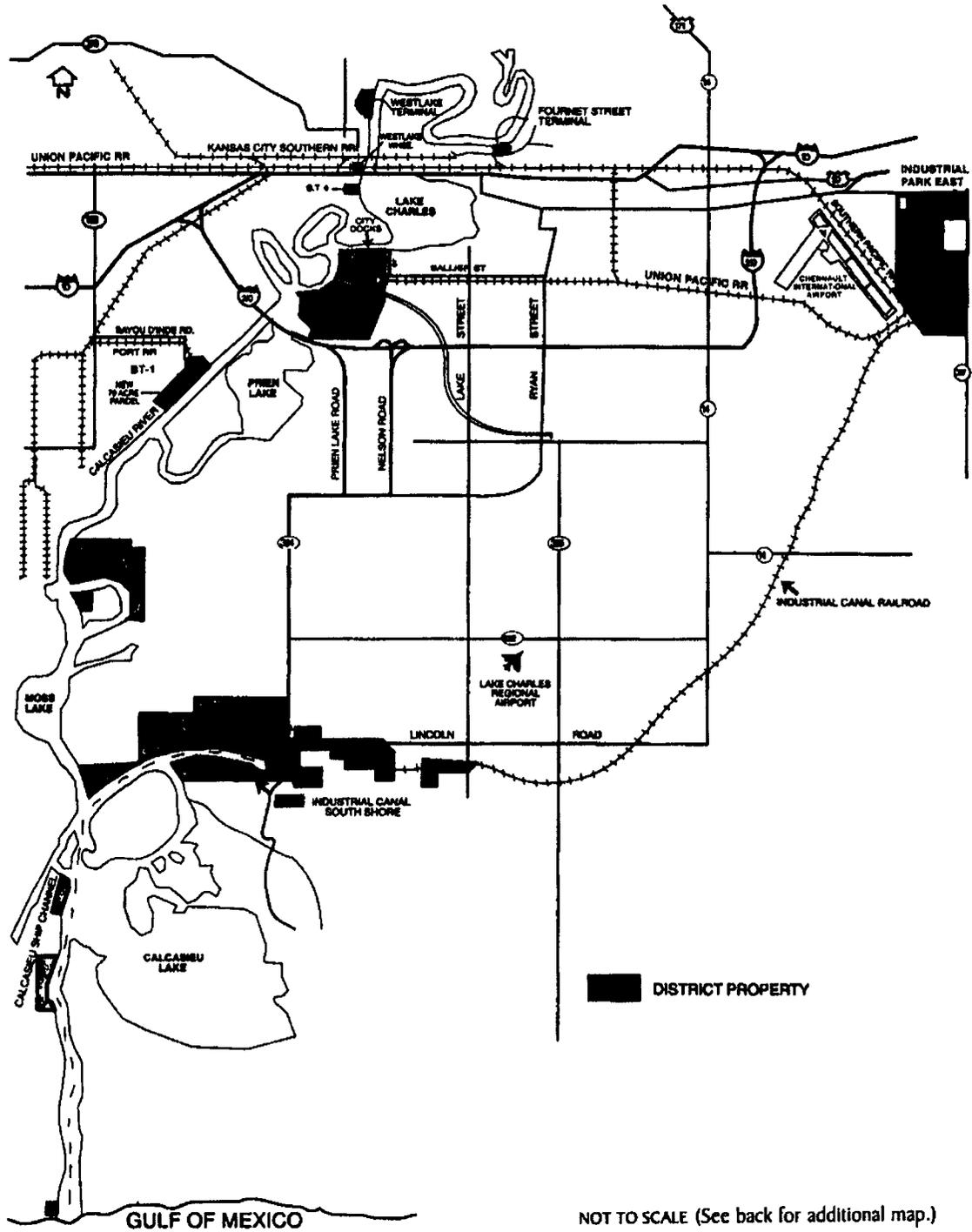
C. As additional authority, the Lake Charles Harbor and Terminal District may induce and encourage the location of enterprises which would have economic impact upon the area served by it and lease lands presently owned by it for the general development of tourism and may finance by presently existing provisions the facilities for the enterprise contemplated by the lease, provided the Lake Charles Harbor and Terminal District shall not operate or own the enterprise either directly or indirectly except by default and then only for a reasonable period of time. The Lake Charles Harbor and Terminal District may construct roads and other public infrastructures on port owned property for the development of tourism.

D. As additional authority, the district is hereby authorized to expend funds of the district for any purpose which may be necessary under applicable state or federal law or regulation to mitigate the loss of wetlands relating to any project, facility, or development of the district.

Amended by Acts 1958, No. 344, § 1; Acts 1987, No. 102, § 1, eff. June 18, 1987; Acts 1987, No. 209, § 1, eff. July 2, 1987; Acts 1991, No. 572, § 1, eff. July 16, 1991.

Area Map

N.T.S.



Lake Charles Harbor and Terminal District
Port of Lake Charles

Regional Location and Mileage Map



(See back for additional map.)



Lake Charles Harbor and Terminal District
Port of Lake Charles

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

CMS Trunkline LNG Company, LLC)
)
) **Docket No. CP02-60-000**

AFFIDAVIT OF DAN W. ANDERSON

STATE OF LOUISIANA)
) SS.
PARISH OF CALCASIEU)

DAN W. ANDERSON, being duly sworn, does hereby depose and say:

1. My name is Dan W. Anderson. I am currently employed as the Director of Administration and Finance at the Lake Charles Harbor and Terminal District, or the Port of Lake Charles ("Port"). In that capacity, I am responsible for overseeing and managing the revenue flow of the Port. I am therefore highly familiar with the Port's revenue intake and any operational issues, such as lease negotiations and the loss of business or the incurring of charges at the Port's City Docks and Bulk Terminal #1 facilities.

2. I received my Bachelor of Science degree in accounting from Brigham Young University in 1980 and my Masters of Business Administration from nearby McNeese State University in 1992. I am currently a licensed certified public accountant in the States of Louisiana and Idaho and a certified government finance officer in the State of Louisiana.

3. Prior to obtaining my current position in 1997, I was employed by the Marine Spill Response Corporation from 1993 to 1997 as a Finance & Administration Manager and

Contract Negotiator. From 1990 to 1993, I served as the Director of Administration and Finance at the Port of Lake Charles.

4. The traffic congestion that will result from an additional 115 vessels per year in the Calcasieu Ship Channel ("Channel") undoubtedly will have adverse effects on the economic activity of the Port, its tenants, and the surrounding community. The Port has two sources of income—the *ad valorem* tax revenues that it collects from local property owners and the revenues that it generates at its City Docks and Bulk Terminal #1 and through its lease agreements with various businesses located in and around the Port. The *ad valorem* tax is fixed by state law and is not adjusted to deal with operational needs.

5. At City Docks, the Port derives more than \$1.5 million in annual revenues from dockage paid by cargo vessels and wharfage fees paid by the companies that move more than 1.1 million pounds of "breakbulk" cargo, such as grain, rice, and peas, through the Port's transit sheds and storage facilities each year. The Port has invested approximately \$100 million in this facility and in the railroads transporting cargo in and out of the facility since 1990. Approximately 700 people are employed full-time at this facility.

6. At Bulk Terminal #1, the Port employs 32 workers and derives more than \$10 million in annual revenues from dockage, wharfage fees, and handling charges incurred in the Port's storage, handling, and loading of between 5 and 6 million tons of petroleum coke and other bulk materials annually. Since 1990, the Port has invested approximately \$40 million to upgrade this facility.

7. Increased ship traffic congestion will have the obvious result of discouraging vessel owners and agents from transporting their cargo through the Port of Lake Charles, which would result in lost revenues and an unfavorable return on the Port's investments. Shippers are

unwilling to incur high *per diem* daily shipping costs to sit in the channel or harbor waiting for the ingress and egress of other vessels.

8. Another even more direct consequence of increased congestion is the demurrage charges that the Port must pay when cargo sits in rail cars for more than two days because delays prevent this cargo from being moved to the transit sheds. Due to congestion and other problems, the Port incurred over \$322,000 such demurrage charges in 2001 alone. Additionally, the Port must pay any storage or "long haul" charges caused by operational delays and has been forced, on occasion, to pay the cost of fumigating cargo that has sat idly for long periods of time.

9. Congestion also negatively impacts the value of Port property and its ability to obtain favorable lease agreements. Currently, the Port receives approximately \$500,000 annually in rents from its industrial tenants. As logic dictates, waterfront property, leased for the purpose of efficiently transporting cargo, significantly diminishes in value when the business leasing the property is unable to transport its cargo in a timely fashion.

10. At the Industrial Canal, where CMS Trunkline currently operates and where it plans to locate its proposed expansion, there are developed and undeveloped rental properties that likely will be affected adversely by this project. Immediately adjacent to the CMS-leased property is a 30 plus-acre, black-topped, waterfront piece of property that was formerly leased to a container company. The value of this land is substantial. The Port recently attempted to secure a lease with a canned goods company for this property, but the company, whose shipping is extremely time sensitive, declined a lease, largely due to concern over congestion related issues involving the dependability of pilot service. The Park also contains over 140 acres of undeveloped land, whose value is also certain to depreciate with increased CSC congestion.

11. Increased congestion will also have a number of indirect economic effects. As a 1999 study by Professor Douglas McNeil of McNeese State University indicates, the Port of Lake Charles, directly and indirectly, contributes approximately 12,000 jobs to the local economy and has a \$55 million a year impact on that economy. If shippers decide to use other ports to transport their goods or if current businesses in the area move to less-congested areas, these jobs and this revenue will certainly be jeopardized. It is also worth noting that the Port of Lake Charles was the site of the first bulk rice shipment to Cuba in many years—pursuant to a federal humanitarian bill in 2000—and that the Port sent more food to Afghanistan as part of the “Food for Peace” program in recent months than any port in the nation. Such efforts would be similarly affected by any increase in ship traffic that caused untimely congestion and delays.

THUS DONE AND SIGNED at Lake Charles, Louisiana, on this 29th day of January, 2002, before the undersigned witnesses and me, Notary, after due reading of the whole.

WITNESSES:

Linda S. Manuel
Catherine M. Harper

Dan W. Anderson
DAN W. ANDERSON

BEFORE ME: Sharon J. Edwards
NOTARY PUBLIC

**MY COMMISSION
EXPIRES AT DEATH.**

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

CMS Trunkline LNG Company, LLC)
) **Docket No. CP02-60-000**
)

AFFIDAVIT OF JAMES L. ROBINSON

STATE OF LOUISIANA)
) SS.
PARISH OF CALCASIEU)

JAMES ROBINSON, being duly sworn, does hereby depose and say:

1. My name is James L. Robinson. I am a retired United States Coast Guard (“USCG”) Captain (O-6). For the past five months I have served as Navigation Consultant to the Lake Charles Harbor and Terminal District, or the Port of Lake Charles (“Port”). My business address is Post Office Box 3753, Lake Charles, LA 70602.

2. I obtained a Bachelor of Science Degree in Marine Engineering from the United States Coast Guard Academy in 1969 and have completed post-graduate study in the University of Michigan’s Environmental Management Graduate Program and in numerous courses and seminars dealing with maritime management issues.

3. My work experience includes twenty-five years of commissioned service with the USCG, including service as Chief of the Port Safety Branch, Second Coast Guard District, and Hearing Officer in St. Louis, Missouri (1977-1981); the Captain of the Port, Officer in Charge of Marine Inspection, and Federal On-Scene Coordinator at Huntington, West Virginia

(1989-1991); and Captain of the Port, Officer in Charge of Marine Inspection, and Federal On-Scene Coordinator at Port Arthur, Texas (1991-1994).

4. While at Port Arthur, where I also served on staff from 1983 to 1989, I became familiar with the Calcasieu Ship Channel ("Channel"), including the nature of its traffic flows, and with marine safety and environmental concerns associated with that traffic. Between the commencement of my positions at Port Arthur and the present, I have also become very familiar with the ways in which traffic flows in the Channel affect economic interests in and around the Port.

5. As a result of my employment and educational background, I have developed familiarity with the law and regulations related to navigation, marine and port safety, and environmental protection issues, especially with respect to the Channel.

6. In my capacity as Navigation Consultant for the Port, one of my primary responsibilities is to advise the Port's Executive Director on issues pertaining to vessel traffic in and around all Port facilities and the Channel.

7. I have reviewed the portions of the CMS Trunkline LNG Company ("CMS") filing in this docket pertaining to Channel traffic and marine safety and have focused particularly on the "Ship Traffic Study for the Calcasieu River" ("traffic study") prepared by Lanier and Associates ("Lanier"). I believe that this study's conclusion that an annual increase of 115 LNG vessels operating in the Channel would have no or minimal adverse impacts on traffic congestion is erroneous.

8. Specifically, for the reasons more fully articulated below, I believe that this study fails to consider, or significantly underestimates, a number of operational restrictions currently existing in the Channel. In my estimation and based on my experience, traffic

congestion in the Channel is reaching critical mass, and the introduction of 115 additional LNG tankers per year—without substantial and costly changes in pilot practice or Channel infrastructure—would be disruptive to traffic flows and efficient business operations.

9. Due to the time constraints imposed by the January 7, 2002 filing of the traffic study, the Port has not yet undertaken a thorough analysis of the study's assumptions and calculations. However, in my initial analysis of the study, I have identified a number of assumptions that do not comport with the operational realities of the Channel.

10. First of all, the traffic study fails to adequately address pilot operating procedures, both generally and with respect to LNG vessels in particular. The study alludes to but minimizes the level of operating discretion that the Lake Charles Pilots Association exercises. LNG vessel passage in the Channel is limited by explicit USCG guidelines/requirements as found in the USCG's "Liquefied Natural Gas Vessel Management and Emergency Plan" and by federal safety zone regulations found at 33 C.F.R. § 165.805 and by the established practice of Lake Charles pilots.

11. I would estimate that a number of the less experienced of the 13 pilots currently employed by the Association would, at least initially, opt not to pilot LNG vessels. These vessels are extremely large, sit high in the water, are unusually susceptible to high winds, and are difficult to steer because the storage tanks protruding above the main deck of LNG vessels obstruct the pilot's visibility.

12. The assumption that 14 pilots will be able to work 12- or 16-hour days also does not comport with my understanding of pilot practice. The study estimates that a trip to the CMS Trunkline facility takes approximately 6.5 hours and a trip to the Citgo and Conoco Clifton Ridge terminals or the Port takes 8 or 9 hours. Assuming that these times are correct, it stands to

reason that following trips of these lengths, pilots will be unable to undertake another trip of similar length in the same day. In addition, the pilots have interpreted the Oil Pollution Act of 1990 to limit the time for which pilots can safely handle vessels to 12 consecutive hours.

13. Combined with the pilots' reluctance to sail vessels at night or in winds above 20 knots—a condition that exists more often than not in the vicinity of the Channel—these factors indicate to me that the study's conclusion that an increase of LNG vessel traffic from roughly 60 vessels per year to 175 or more LNG vessels per year will not adversely affect Channel operations is wide of the mark.

14. There are a host of other operational variables that the study either ignores or addresses simplistically. The Channel is unusually long—extending approximately 34 miles from the City Docks to the mouth of the Calcasieu River (Gulf of Mexico) and another 36 miles out into the Gulf to the sea buoy that marks the dredged opening of the Channel. The Channel's 400-foot inland width essentially restricts deep-draft vessel traffic to one-way transit for 80% of the approximate 1000 vessels that use the Channel annually. The pilots' current, questionable practice of allowing the first vessel calling for pilotage to be served regardless of ship type means that other, less operationally restricted vessels, due to the presence of additional LNG vessels, will be further burdened, creating significant inefficiencies.

15. The study also does not address the fact that large vessels, such as LNG vessels, cannot enter the inland portion of the channel at mile point ("M.P.") 0 until the arrival of high flood tides and unless ebb currents are at a minimum. This is due to the fact that these tides and currents impact the available depth of the Channel and may affect vessel "squat" as vessels transit. A large vessel must enter on a high flood tide, frequently necessitating a long wait for the vessel to be piloted. Combined with fog, which has historically delayed Channel use for up to 4

days, and other weather contingencies, these factors significantly hinder traffic flow in the Channel.

16. Largely due to the decentralized nature of traffic management that currently exists in the Channel, deep-draft vessel traffic is currently operating near maximum capacity. The traffic study contends that the Channel has endured rapid increases in vessel traffic in recent years. In fact, Port statistics show that cargo ship traffic has remained fairly consistent overall in the past five years—increasing from 1036 in 1997 to 1091 in 1998 and to 1127 in 1999, decreasing to 1023 in 2000, and increasing modestly to 1031 in 2001. Any 115-vessel traffic increase in the future would place serious burdens on the safe and efficient operation of the Channel. An increase in LNG vessel traffic of this magnitude would be extremely challenging to sustain under current conditions.

17. I believe that the traffic study also significantly underestimates the effect of tug availability on traffic congestion in the Channel. As the study notes, there are currently two tug companies in the Channel operating two tugs each. Currently, these tugs operate primarily above the Industrial Canal, servicing smaller ships at the Port's City Docks, the tankers that call on the Conoco and Citgo terminals, the vessels that call on the Port's Bulk Terminal #1 and other private terminals. A tug is also required (33 C.F.R. § 165.807) to accompany the numerous hawser tows that operate in the area—a point that is insufficiently addressed by the Lanier study. With the introduction of 115 additional LNG vessels per year, each of which require between 2 and 3 of the 4 available tugs, these tugs will be forced to operate a larger percentage of the time south of the Industrial Canal, potentially creating more tug shortages. It is also unclear to me why the traffic study assumes at page 17 that only 20% of LNG vessels would require multiple tugs.

18. The study alludes to the possibility of hiring more private tug services, but these services are not readily available and could only be brought from other ports on short notice at considerable cost. Tug companies will invest in additional tugs only if they have an assurance of steady business. The process for obtaining these assurances and acquiring more necessary tugs is uncertain.

19. These factors, which are likely to result in adverse economic impacts, will similarly affect marine safety in the short term. Severe congestion will tend to compromise current operating procedures as shippers pressure pilots to move their cargo in a timely manner in the initial absence of in-place necessary infrastructure and traffic management procedures.

20. Under Louisiana State law, specifically La. Rev. Stat. § 34:203 (2001), the Port is charged with ensuring the safe and efficient operation of the Channel. In order to avoid or mitigate the direct and indirect adverse economic impacts of increased traffic congestion and to continue ensuring acceptable levels of marine and port safety, the Port, in conjunction with the Lake Charles Pilots Association, the USCG, the Army Corps of Engineers, and others, would be required to institute a number of changes in Port operations.

21. Current USCG safety zone regulations (33 C.F.R. § 165.805)—under which other vessels must remain at least vessels two miles ahead of and one mile astern of the additional LNG vessels—would soon likely have to be revised (relaxed), as would pilot practices precluding LNG vessel passage during night-time hours and under certain weather conditions. This relaxation of navigation restrictions would result in decreased margins of safety, which may not be acceptable to regulators, pilots, and vessel owners or operators.

22. To adequately address these concerns, the Port will likely be forced to incur costs to obtain and utilize real-time channel condition data and navigation management

information systems that will be essential in managing traffic in the Channel under these more challenging conditions. Costly electronic charting, transponders, and other state-of-the-art navigation management tools will be essential. These marine Automated Information Systems (“AIS”), as now employed at some ports to manage ship traffic, would become essential sooner than expected.

23. The only conceivable alternative to such an expansive overhaul of current Channel congestion management would be a full-scale widening of the 400-foot Channel or the introduction of “meeting and passing lanes” to allow for increased two-way traffic south of the CMS facility. The former option would be logistically and financially infeasible in the near term, in addition to requiring significant and time-consuming environmental review and approval by a host of state and federal agencies. The latter option is technically feasible, but would require an estimated minimum initial expenditure of several million dollars, including administrative and legal costs and the costs associated with rights-of-way, planning, engineering, and studies.

24. While federal funding would be provided on a cost-share basis for a finite channel-widening project, the local share of this expense would be approximately 30%, of which CMS should be expected to make a significant contribution given the magnitude of its planned Channel usage increase. Due to the designation of the Channel as a “Coastal Zone Management Area,” a consistency study—in addition to standard reconnaissance and feasibility studies—would be required before such a project could be undertaken. These studies could take several years to complete.

25. In their traffic study, Lanier makes reference to “future traffic growth” emanating from existing Conoco, Citgo, and Port facilities and the prospect of future LNG vessel traffic associated with a now-dormant Dynegy facility. I am not familiar with all intended

business expansions, but to the extent they would result in the significant vessel traffic increases alleged in the Lanier report they will exacerbate the problems described above. This would be particularly true of any facility that would result in an increase in LNG traffic, due to the particular traffic problems that LNG vessels present.

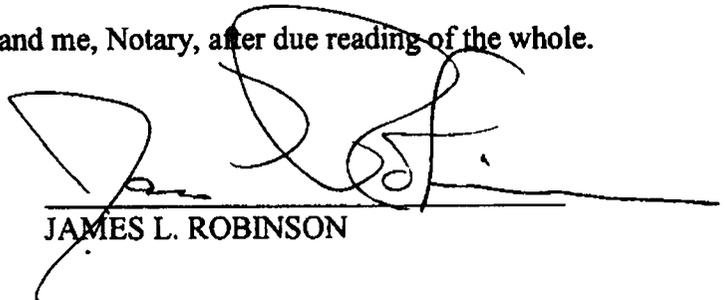
26. It is possible that vessel traffic increases of the type projected in the Lanier study would result in a beneficial overhauling of the Port's existing traffic management practices and the Channel's infrastructure. This will certainly not happen, however, without significant planning and financial investment. Fairness would dictate that those entities responsible for causing traffic congestion should play a financial role in alleviating it.

THUS DONE AND SIGNED at Lake Charles, Louisiana, on this 29th day of January, 2002, before the undersigned witnesses and me, Notary, after due reading of the whole.

WITNESSES:

Bernadette L. Couville

Catherine M. Harper



JAMES L. ROBINSON

BEFORE ME: Sharon L. Edwards
NOTARY PUBLIC

**MY COMMISSION
EXPIRES AT DEATH.**

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

RE: CMS Trunkline LNG Company, LLC
Docket No. CP02-60-000
Trunkline Gas Company
Docket No. CP02-55-000
Liquefied Natural Gas Terminal
Lake Charles, Louisiana 70605-0300

STATE OF NEW YORK :
COUNTY OF Nassau : AFFIDAVIT

BEFORE ME, the undersigned authority, personally came
and appeared:

FREDD HOFF ISAKSEN

who, after being duly sworn, did depose and say:

Since 1975, I have been employed by Sealift Inc and
currently hold the position of Vice President. I am
responsible for arranging for the shipment of various cargoes to
be carried on vessels owned or chartered by Sealift and the
contracting for such cargoes to be loaded from various Gulf of
Mexico ports, including the Port of Lake Charles.

In 2001, Sealift booked 14 vessels for the facilities
of the Port of Lake Charles and carried from the Port of Lake
Charles 129,917 short tons of cargoes, mostly bagged grains and
food products. Sealift contemplates booking a similar amount of
cargo and vessel movement to the Port of Lake Charles in 2002 and
these amounts may well increase in future years.

A key factor in considering whether Sealift books
vessels and cargoes for the Port of Lake Charles is the unimpeded

use of the Calcasieu River Ship Channel. Delays in transiting the Calcasieu River Ship Channel are extremely costly and could well cause Sealift to use other ports in the Gulf of Mexico.

An additional 115 LNG vessels per year as proposed by CMS will cause substantial delays in shipping and may cause Sealift to consider using other Gulf Ports through which to move cargo.

For each ton of bagged cargo that Sealift moves through the Port of Lake Charles, about 88,344 man-hours of work are produced for longshoremen handling such cargo and about \$55.00 of economic impact is generated in Calcasieu Parish, Louisiana.

THUS DONE AND SIGNED at Oyster Bay, NY, on this 23rd day of January, 2002, before the undersigned competent witnesses and me, Notary, after due reading of the whole.

WITNESSES:

[Signature]
[Signature]

[Signature]
FREDD HOFF ISAKSEN

BEFORE ME: Elizabeth Simon
NOTARY

ELIZABETH SIMON
Notary Public, State of New York
No. 01SI5088280
Qualified in Nassau County
Commission Expires: 11-17-05

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

CMS Trunkline LNG Company, LLC)
) **Docket No. CP02-60-000**
)

AFFIDAVIT OF DR. ANATOLY HOCHSTEIN

COMMONWEALTH OF VIRGINIA)
) **SS.**
COUNTY OF ARLINGTON)

Anatoly Hochstein, being duly sworn, does hereby depose and say:

1. My name is Anatoly Hochstein. I am currently employed as Professor and Director of the National Ports and Waterways Institute (“Institute”), a joint endeavor of the University of New Orleans and the George Washington University, and as Vice-President of the Berger Group, Inc. in East Orange, New Jersey. My business address is 2300 Clarendon Boulevard, Suite 300, Arlington, VA 22201.

2. I received my Masters of Science in Hydraulics Engineering from the Leningrad Institute of Water Transportation in 1955 and my Doctorate of Philosophy from the Moscow Central Institute for Navigation in 1963. I have published five books and more than 60 articles in professional and scientific journals dealing with a broad range of water transport-related issues. I am a member of a number of professional societies, including the American Association of Port Authorities and the American Society of Civil Engineers. I also have served

3. I have over 25 years of experience in the field of water transportation, and I have been responsible for a number of water transportation projects worldwide. My areas of expertise range from analysis of trade/shipping patterns and institutional and managerial frameworks to fleet operations and preliminary feasibility of structural and non-structural waterway improvements.

4. For the past 15 years, the Institute, under my direction, has studied the development of the maritime port industry in Louisiana. The Port of Lake Charles has commissioned the Institute, through its contract with Meyer and Associates, Inc., to conduct a study aimed at developing a strategic plan for the Port's future. I am the lead investigator for this study, which will outline strategic directions for Port development and performance. This plan will be completed in March of this year.

5. Based on my study of the Calcasieu Ship Channel ("Channel"), its management, and its traffic over many years, I have concluded that a 115-vessel annual increase in LNG vessel traffic in the Channel, as proposed by CMS in its filing before the Federal Energy Regulatory Commission, which I have reviewed in pertinent part, will have a highly deleterious effect on Channel operations. This is due to the current operating procedures and infrastructure that exist in the Channel. Even at present, there is considerable vessel delay due to the Channel restrictions.

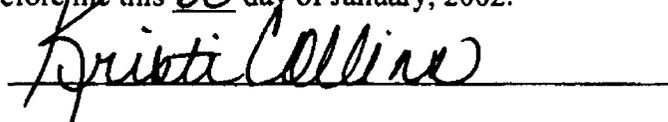
6. Due to federal regulations and the Lake Charles Pilot Association's operating procedures, LNG vessels occupy a disproportionate amount of channel capacity—in fact, they require a virtually dedicated traffic lane for the duration of their passages. Federal regulations

require the vessels to travel two miles behind and one mile astern of other vessels. The pilots' current operating procedures also preclude the movement of these vessels at night. In addition, these vessels require the assistance of between two and four tug boats—with four tugs being the maximum number currently available in the Channel for all purposes.

7. It is my reasoned opinion that a combination of more centralized Channel vessel traffic management and the introduction of "passing lanes" along the inland portions of the Channel will be absolutely essential if this increased level of LNG vessel traffic materializes. Otherwise, the ability of the Port to accommodate demand for the services will be severely reduced. The Army Corps of Engineers performed a feasibility study on such a passing lane project in the mid-1990s, and I believe that another such study should be undertaken to reassess this possible solution to the traffic congestion problem.



SUBSCRIBED AND SWORN TO before me this 30 day of January, 2002.



Notary Public, Commonwealth of Virginia
My Commission Expires: ~~My Commission Expires~~ Commission Expires August 31, 2005

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FILED
THE SECRETARY

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**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

FEDERAL ENERGY
REGULATORY COMMISSION

Hackberry LNG Terminal, LLC) Docket Nos. CP02-374-000,
) CP02-376-000, CP02-377-
) 000, and CP02-378-000

**SUPPLEMENTAL COMMENTS AND CONDITIONAL WITHDRAWAL
OF REQUEST FOR FURTHER PROCEEDINGS OF
THE LAKE CHARLES HARBOR AND TERMINAL DISTRICT**

Pursuant to the Commission's June 26, 2002 "Notice of Application," the Commission's Rules of Practice and Procedure (18 C.F.R. §§ 385.211 *et seq.*), and applicable Regulations under the Natural Gas Act (18 C.F.R. § 157.10), the Lake Charles Harbor and Terminal District ("District") hereby submits supplemental comments in the above-captioned proceeding. As detailed more fully below, the District and Hackberry LNG Terminal ("Hackberry") have recently resolved the District's concerns regarding Hackberry's proposed liquefied natural gas ("LNG") project through a negotiated agreement on throughput charges for Hackberry's LNG vessel traffic in the Calcasieu Channel.¹ The throughput charge will provide revenues to support infrastructure improvements that may be required to accommodate the increase in LNG vessel traffic that will occur as a result of Hackberry's LNG project and will therefore serve to mitigate

¹ This agreement is in the form of a letter of intent to amend Dynegy/Hackberry's existing site lease and is included as Attachment A, along with the proposed lease amendment terms and relevant portions of the original lease agreement. To the extent that the agreement contemplated by this letter of intent and accompanying documents does not materialize, the District reserves its right to renew its opposition to the project and to seek relief from the Commission.

the adverse impacts articulated in the District's July 16, 2002 "Initial Comments." Accordingly, subject to completing the implementation of the letter of intent, the District withdraws its previous request for further proceedings regarding the Hackberry LNG proposal.

SUPPLEMENTAL COMMENTS

In its July 16, 2002 "Motion to Intervene and Initial Comments," the District expressed its "concerns about the effect that increased LNG vessel traffic will have on the Port [of Lake Charles] and its surrounding community" and reported that it was attempting to resolve those concerns through direct discussions with Hackberry.² In a letter to the Commission following its August 6, 2002 scoping meeting in Sulphur, Louisiana, Hillary Langley, President of the District's Board of Commissioners, stated that "[w]e continue to maintain that the challenge of significantly increasing Calcasieu River Waterway navigation by as much as fifty percent in connection with . . . pending LNG terminal proposals, and other facility expansions, demands certain effort and expenditures by entities tasked to operate the waterway in a secure, safe and efficient manner."

As a result of recently concluded negotiations, the District has reached an agreement in principle with Hackberry that resolves the concerns detailed in its Initial Comments and reiterated in Mr. Langley's letter. Pursuant to this agreement, Hackberry will pay wharfage fees to the District to be "assessed on LNG throughput and calculated on a per unit basis . . . for natural gas delivered from the LNG Terminal into one or more natural gas pipelines."³ Further details of the agreement are included in the "Proposed Lease Amendment Terms," appended as

² See "Motion to Intervene and Initial Comments of the Lake Charles Harbor and Terminal District" ("District Initial Comments"), at 3.

³ See Attachment A, "Dynegy Hackberry Site Lease—Proposed Lease Amendment Terms," at ¶4.

Attachment A to this filing. Revenues from this throughput charge will contribute to infrastructure improvements that may be necessary to accommodate increased LNG vessel traffic and will help offset any other associated costs that the District will be forced to incur as a result of increased LNG vessel traffic.

CONCLUSION

WHEREFORE, as a result of the agreement between the District and Hackberry described in relevant part above and attached to this filing, the District, with the caveat contained herein, respectfully withdraws any objections to the LNG project proposed by Hackberry in this docket and withdraws its prior request that the Commission appoint a Settlement Judge.

Respectfully submitted,



Edward J. Sheppard
Bonnie S. Blair
Mark L. Parsons
Counsel for the Lake Charles Harbor and Terminal
District

Law Offices of:

Thompson Coburn LLP
Suite 600
1909 K Street, N.W.
Washington, D.C. 20006-1167
202-585-6900

November 12, 2002

CERTIFICATE OF SERVICE

I hereby certify that I have on this 12th day of November, 2002, caused a copy of the foregoing document to be sent by first-class mail to all parties on the list compiled by the Secretary of the Commission in this proceeding.



Mark L. Parsons
Attorney for the Lake Charles Harbor and
Terminal District

Law Offices of:

**Thompson Coburn LLP
Suite 600
1909 K Street, N.W.
Washington, D.C. 20006-1167
202-585-6900**

ATTACHMENT

A

Hackberry LNG Terminal, L.L.C.
1000 Louisiana - Suite 5800
Houston, Texas 77002
Telephone: 713.507.8400
www.dynegy.com


DYNEGY

October 29, 2002

Mr. Terry T. Jordan
Executive Director
Lake Charles Harbor & Terminal District
Post Office Box 3753
Lake Charles, Louisiana 70602



Re: Letter of Intent - Proposed Lease
for Hackberry LNG Terminal, L.L.C. ("Hackberry")

Dear Mr. Jordan:

We are pleased that Lake Charles Harbor & Terminal District (the "District") is willing to proceed with a preliminary commitment to enter into a new leasing arrangement with Hackberry LNG Terminal, L.L.C. ("Hackberry") and Dynege Midstream Services, L.P. ("Dynege Midstream").

Enclosed is a new summary of the proposed provisions for the amendment to the lease, which is consistent with our most recent discussions.

Therefore, the purpose of this letter is to express our mutual intent to revise the existing lease between the District and Dynege Midstream by entering into an amendment to such lease substantially in accordance with the attached terms and conditions.

You have advised us that the proposed terms and conditions attached are consistent with the approval granted by the Board of Commissioners of the District ("Board") on Monday, October 14, 2002. Your execution below also serves to confirm this understanding of the Board's approval, as the terms do differ slightly with those approved by the Board at that meeting.

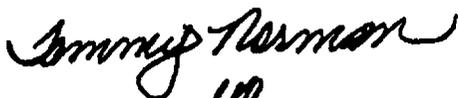
The parties agree that this letter is evidence of the current status of the parties' negotiations on the terms to be included in the lease amendment but that this letter is not a legally binding agreement and is not intended to create any legally enforceable obligations for any of the parties. Only the final and fully executed amendment to the lease shall create a legally binding agreement among the parties regarding the above subject matter.

If the above and enclosed are acceptable to the District, please sign this Letter of Intent as indicated below and return it to me. If agreed to by you, this Letter of Intent shall not be subject

Mr. Terry T. Jordan
Lake Charles Harbor & Terminal District
October 29, 2002
Page 2

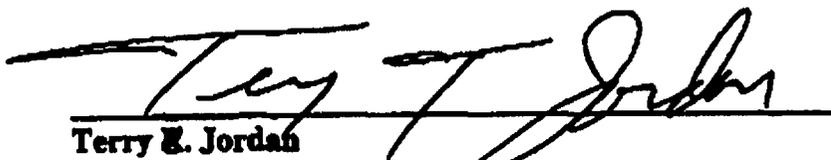
to assignment or other transfer by either party and shall terminate either (i) if it is determined that additional review and approval by the Board is required and such approval is not obtained by November 15, 2002, or (ii) December 31, 2002, if the final lease amendment has not been executed by that date.

Very truly yours,



Tammy Norman *LLP*
For: Dynegy Midstream Services, Limited Partnership
and Hackberry LNG Terminal, L.L.C.

THE ABOVE IS HEREBY ACKNOWLEDGED AND
AGREED TO ON BEHALF OF THE LAKE CHARLES
HARBOR & TERMINAL DISTRICT ON THIS 30 DAY
OF OCTOBER, 2002.



Terry T. Jordan
T.

**Dynegy Hackberry Site Lease
Proposed Lease Amendment Terms
October 29, 2002**

This list of Proposed Lease Amendment Terms is attached to, and incorporated into, that certain Letter of Intent between the Lake Charles Harbor & Terminal District (the "District"), Dynegy Midstream Services, Limited Partnership ("Dynegy Midstream") and Hackberry LNG Terminal, L.L.C. ("Hackberry"), of the same date stated above. That Letter of Intent and this document have as their subject that certain "Surface Lease" dated February 13, 1978 between the District, as successor to Amoco Production Company, and Dynegy Midstream, as successor to Cities Service Company (the "Lease").

The proposed amendment to the Lease would include provisions to the following effect:

1. Amended description of property subject to the Lease to add an additional 28.68 acres to bring the leased premises to a total of 118.68 acres as more generally shown in the attached drawing. Dynegy Midstream would make an assignment of the Lease into Hackberry, which would only become effective upon the amendment coming into full force and effect. Hackberry and Dynegy Midstream would be required to provide a guaranty of Hackberry's Lease obligations from Dynegy Holdings, Inc., with a right and obligation to substitute a parent company of equal or greater creditworthiness should Hackberry cease to be a majority-owned subsidiary of Dynegy Inc. in the future. The amendment would include revisions to the general liability indemnity language and the environmental indemnity language substantially similar to the District's current provisions which are attached hereto and incorporated herein by reference, subject to the agreed modifications set forth in the attached.
2. Extended term of 30 years, from and after amendment effective date, with six option periods of five years each. The amendment would be subject to, and would become effective only upon, the occurrence of both of the following: a) Hackberry's acceptance of a Certificate issued by the Federal Energy Regulatory Commission pursuant to Section 157.20(a) of the Commission's regulations, [18 C.F.R. Sec. 157.20(a) (2001)], which Certificate expressly provides for construction of Hackberry's LNG Terminal on the amended leased premises (as described in Paragraph 1 above); and (b) either closing on Hackberry's project financing for the terminal and pipeline or Hackberry's written notice that it has elected to commence construction prior to closing its project financing.
3. Initial annual base rent of \$3,000 per acre ($\$3,000 \times 118.68 \text{ acres} = \$356,040.00$) adjusted upward every 5 years in accordance with any increase in the Consumer Price Index in the manner provided for under the terms of Paragraph 4 of the Surface Lease ("CPI Index Terms") during the extended term and at the beginning of each option period. Such base rental would be paid annually in advance on the anniversary of the amendment effective date. The first such payment would be made within thirty (30) days of the amendment becoming effective and would be reduced by a credit equal to a pro rata portion of any rent previously paid under the prior terms of the Lease which is attributable to any time periods from and after the amendment effective date (rounded to whole months only).

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6. Initial dredging of the slip would be the responsibility of Hackberry. At Hackberry's option, the District would provide Hackberry access to the spoils disposal sites utilized by the District. The disposal fee would be the standard fee assessed to all similarly situated users of the District's disposal site (with regard to spoil volumes and types), which is currently \$3.50 per cubic yard. On January 1, 2003, the charge increases to \$3.75 and use of the disposal site would be subject to all applicable rules, laws and regulations, including the permit requirements of the US Army, Corps of Engineers.
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11. Hackberry and District agree and acknowledge that nothing in the attached Letter of Intent or this document or in the Lease amendment is intended to, or shall be construed as, granting vessels calling at Hackberry's facilities any greater or lesser priority with regard to channel access and usage than existing users of the channel and vessels calling at Hackberry's facilities are subject to the same vessel traffic controls and management as the District may, in compliance with applicable laws, impose on other vessels using the Calcasieu River Ship Channel.

9. Indemnification.

9.1 Tenant's General Agreement to Indemnify. The Tenant releases the District, its officers, representatives, employees, agents, successors and assigns, (individually and collectively, "District Indemnitee") from, assumes any and all liability for, and agrees to indemnify the District Indemnitee against all claims, liabilities, obligations, damages, penalties, litigation, costs, charges and expenses (including, without limitation, reasonable attorneys' fees, engineers' fees, architects' fees, and the costs and expenses of appellate action, if any), imposed on, incurred by or asserted against the District Indemnitee or its interest in real property in the Project Site arising out of (i) the use or occupancy of the Project Site by the Tenant, its officers, representatives, agents, and employees, (ii) the construction or operation of the Project by the Tenant, its officers, representatives, agents, and employees, (iii) any claim arising out of the use, occupancy, operation, or construction of the Project Site by the Tenant, its officers, representatives, agents, and employees, and (iv) activities on or about the Project Site by the Tenant, its officers, representatives, agents, and employees, of any nature, whether foreseen or unforeseen, ordinary, or extraordinary, in connection with the construction use, occupancy, operation, maintenance, or repair of the Project, the Improvements, or the Project Site by the Tenant, its officers, representatives, agents, and employees; provided, however, that any such claim, liability, obligation, damage or penalty arising solely as a result of the negligence or willful misconduct of the District Indemnitee shall be excluded from this indemnity. The indemnity provided in this section shall include within its scope any liability imposed by law on the District on a strict liability theory as landowner for physical defects in the Project Site (except for environmental contamination), it being the intention of the parties for Tenant to assume liability for such defects in the Project Site during the term of this Ground Lease. This section shall include within its scope but not be limited to any and all claims or actions for wrongful death, but any and all claims brought under the authority of or with respect to any local, state, or federal environmental statute or regulation shall be covered by Section 9.2 and not this Section 9.1.

9.2 Tenant's Environmental Indemnification. The Tenant agrees that it will comply with all environmental laws and regulations applicable to the Tenant, including without limitation, those applicable to the use, storage, and handling of hazardous substances in, on or about the Project Site. The Tenant agrees to indemnify and hold harmless each of the District Indemnitees against and in respect of, any and all damages, claims, losses, liabilities, and expenses (including, without limitation, reasonable attorneys, accounting, consulting, engineering, and other fees and expenses), which may be imposed upon, incurred by, or assessed against any of the District Indemnitees by any other party or parties (including, without limitation, a governmental entity), arising out of, in connection with, or relating to the subject matter of: (a) the Tenant's breach of the covenant set forth above in this Section 9.2 or (b) any environmental condition of contamination on the Project Site ~~or any~~ which is in violation of any federal, state, or local environmental law with respect to the Project Site first occurring after the Ground Lease Commencement Date and caused by the Tenant's operations or facilities.

~~**9.3 Burden of Proof.** The Tenant, at its own cost, shall cause to be conducted as Phase I and Phase II environmental assessment of the Project Site prior to the commencement of construction of the Improvements and a copy of all written reports issued in connection with such assessment shall be given to the District within five (5) days of completion. If, as a result~~

~~of such assessments, environmental contamination of the Project Site is discovered, such contamination shall be deemed to have existed prior to the Ground Lease Commencement Date. Any condition of the environmental contamination discovered on the Project Site after the completion of the environmental assessments (Phase I and Phase II) shall be presumed, for purposes of the Tenant's agreement to indemnify the District Indemnitee, to have been caused by the Tenant's operations or facilities, unless the Tenant can demonstrate, by a preponderance of the evidence, that (i) such condition originated off the project Site, or (ii) such condition was not caused by the Tenant's operations or facilities. The provision of this Section 9.3 are intended only to allocate the burden of establishing causation between the Tenant and the District with respect to environmental contamination discovered before or after the Ground Lease Commencement Date. In no event shall any third party other than the District Indemnitee and the Tenant Indemnitee be entitled to any benefit, reliance, or presumption based on the provisions of causation or liability of either party with respect to any environmental contamination of the Project Site.~~

9.3 Defense & Settlement: ~~The indemnity obligations of Tenant under Sections 9.1 and 9.2 shall be subject to the District or the applicable District Indemnitees giving Tenant prompt notice when either the District or any District Indemnitee becomes aware of any actual or threatened claim, action or administrative enforcement action which might give rise to a claim for indemnification under these provisions, including a description of the relevant facts and circumstances regarding any such actual or threatened claims or actions. Notice shall not be sufficient unless it is given promptly enough to allow Tenant to respond to same in a timely fashion such that all material defenses, legal or factual, are preserved. Tenant shall thereafter have sole responsibility and control over the defense and costs of defense, and any settlement, of any such claims or actions and any liability which arises as a result of any interference with Tenant's right to control such defense, or any failure to cede same, shall not be within the scope of Tenant's indemnity obligations hereunder. Provided, however, to the extent District or any District Indemnitees are dissatisfied with Tenant's conduct of the defense any such claims or actions, District or such District Indemnitees may retain their own separate counsel, at their sole cost and expense (unless and until Tenant is shown to be in breach of its obligations hereunder with regard to such claim or action) to protect their respective interests.~~

9.49.5 Survival of Indemnities. ~~The foregoing indemnities shall survive the term and shall be in addition to any of the District's or the Tenant's obligations for breach of a representation or warranty expiration or other termination of the lease and shall be the sole and exclusive remedy of District and the District Indemnitees with regard to any and all damages, claims, losses, liabilities, and expenses (including, without limitation, reasonable attorneys, accounting, consulting, engineering, and other fees and expenses) ("Claims"), which are within the scope of the above stated indemnities. Provided, however, to the extent any such a Claim that is subject to Tenant's above indemnity obligations arises other than as a result of an enforcement action by a governmental entity or an actual claim or action by a third party not affiliated with the District or any District Indemnitee, any liability of Tenant with regard to same shall expire upon the passage of the fourth anniversary of the later to occur of the vacation of the leased premises by Tenant or the expiration or other termination of the Ground Lease, unless a detailed notice of any such Claim is received in writing by Tenant prior to such fourth anniversary, including data supporting such Claim.~~



FEDERAL MARITIME COMMISSION

800 North Capitol Street, N.W.
Washington, D.C. 20573-0001

Phone: (202) 523-6796
Fax: (202) 523-4372

Bureau of Trade Analysis

February 15, 2006

Michael K. Dees, Esquire
General Counsel
Lake Charles Harbor & Terminal District
P.O. Box 3753
Lake Charles, LA 70602

Re: Surface Lease Agreement with Amendments between Lake
Charles Harbor & Terminal District and Cameron LNG, LLC
FMC Agreement No. 201168

Dear Mr. Dees:

This acknowledges receipt of the referenced agreement on
January 30, 2006. The above agreement number has been assigned
to the filing.

Generally, marine terminal facilities agreements (leases)
are exempt from filing under the Commission's rules.
Nonetheless, the rules do provide for the optional filing of such
agreements. We would point out that marine terminal leases
subject to the Shipping Act of 1984 are afforded antitrust
immunity whether they are filed or not under the exemption
provisions of the 1984 Act.

From our initial review of the referenced lease, it was not
clear whether the agreement was one that was subject to the
Commission's jurisdiction. We were not certain that Cameron
LNG, LLC qualified as a marine terminal operator, as the term is
defined in the 1984 Act; specifically, whether Cameron was
furnishing wharfage, docking, warehouse, or other terminal
facilities in connection with common carriers.

In addressing our concerns, you indicated that Cameron LNG
would be using the facilities exclusively to berth and discharge
LNG tankers and that Cameron LNG is not, itself, a common
carrier. Based on your representations, it would appear that the
referenced lease is not between two persons that fall under the
Commission's jurisdiction. Although Lake Charles Harbor &
Terminal District would qualify as a marine terminal operator
under the 1984 Act, as it does furnish terminal service and
facilities to common carriers, it appears that Cameron LNG does
not.



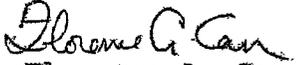
W CAM PORT
0001010

2.

The foregoing is our informal opinion and is not legally binding on the Commission if it should have the occasion to determine otherwise in the future.

We are returning a copy of the lease marked "Not Subject" for your records.

Sincerely,


Florence A. Carr
Director

Enclosure

bc: AGR

ORIGINAL

FILED
THE SECRETARY

02 NOV 12 AM 11:40

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

FEDERAL ENERGY
REGULATORY COMMISSION

Hackberry LNG Terminal, LLC) Docket Nos. CP02-374-000,
) CP02-376-000, CP02-377-
) 000, and CP02-378-000

**SUPPLEMENTAL COMMENTS AND CONDITIONAL WITHDRAWAL
OF REQUEST FOR FURTHER PROCEEDINGS OF
THE LAKE CHARLES HARBOR AND TERMINAL DISTRICT**

Pursuant to the Commission's June 26, 2002 "Notice of Application," the Commission's Rules of Practice and Procedure (18 C.F.R. §§ 385.211 *et seq.*), and applicable Regulations under the Natural Gas Act (18 C.F.R. § 157.10), the Lake Charles Harbor and Terminal District ("District") hereby submits supplemental comments in the above-captioned proceeding. As detailed more fully below, the District and Hackberry LNG Terminal ("Hackberry") have recently resolved the District's concerns regarding Hackberry's proposed liquefied natural gas ("LNG") project through a negotiated agreement on throughput charges for Hackberry's LNG vessel traffic in the Calcasieu Channel.¹ The throughput charge will provide revenues to support infrastructure improvements that may be required to accommodate the increase in LNG vessel traffic that will occur as a result of Hackberry's LNG project and will therefore serve to mitigate

¹ This agreement is in the form of a letter of intent to amend Dynegy/Hackberry's existing site lease and is included as Attachment A, along with the proposed lease amendment terms and relevant portions of the original lease agreement. To the extent that the agreement contemplated by this letter of intent and accompanying documents does not materialize, the District reserves its right renew its opposition to the project and to seek relief from the Commission.



the adverse impacts articulated in the District's July 16, 2002 "Initial Comments." Accordingly, subject to completing the implementation of the letter of intent, the District withdraws its previous request for further proceedings regarding the Hackberry LNG proposal.

SUPPLEMENTAL COMMENTS

In its July 16, 2002 "Motion to Intervene and Initial Comments," the District expressed its "concerns about the effect that increased LNG vessel traffic will have on the Port [of Lake Charles] and its surrounding community" and reported that it was attempting to resolve those concerns through direct discussions with Hackberry.² In a letter to the Commission following its August 6, 2002 scoping meeting in Sulphur, Louisiana, Hillary Langley, President of the District's Board of Commissioners, stated that "[w]e continue to maintain that the challenge of significantly increasing Calcasieu River Waterway navigation by as much as fifty percent in connection with . . . pending LNG terminal proposals, and other facility expansions, demands certain effort and expenditures by entities tasked to operate the waterway in a secure, safe and efficient manner."

As a result of recently concluded negotiations, the District has reached an agreement in principle with Hackberry that resolves the concerns detailed in its Initial Comments and reiterated in Mr. Langley's letter. Pursuant to this agreement, Hackberry will pay wharfage fees to the District to be "assessed on LNG throughput and calculated on a per unit basis . . . for natural gas delivered from the LNG Terminal into one or more natural gas pipelines."³ Further details of the agreement are included in the "Proposed Lease Amendment Terms," appended as

² See "Motion to Intervene and Initial Comments of the Lake Charles Harbor and Terminal District" ("District Initial Comments"), at 3.

³ See Attachment A, "Dynegy Hackberry Site Lease—Proposed Lease Amendment Terms," at ¶4.

Attachment A to this filing. Revenues from this throughput charge will contribute to infrastructure improvements that may be necessary to accommodate increased LNG vessel traffic and will help offset any other associated costs that the District will be forced to incur as a result of increased LNG vessel traffic.

CONCLUSION

WHEREFORE, as a result of the agreement between the District and Hackberry described in relevant part above and attached to this filing, the District, with the caveat contained herein, respectfully withdraws any objections to the LNG project proposed by Hackberry in this docket and withdraws its prior request that the Commission appoint a Settlement Judge.

Respectfully submitted,



Edward J. Sheppard
Bonnie S. Blair
Mark L. Parsons
Counsel for the Lake Charles Harbor and Terminal
District

Law Offices of:

Thompson Coburn LLP
Suite 600
1909 K Street, N.W.
Washington, D.C. 20006-1167
202-585-6900

November 12, 2002

CERTIFICATE OF SERVICE

I hereby certify that I have on this 12th day of November, 2002, caused a copy of the foregoing document to be sent by first-class mail to all parties on the list compiled by the Secretary of the Commission in this proceeding.



Mark L. Parsons
Attorney for the Lake Charles Harbor and
Terminal District

Law Offices of:

Thompson Coburn LLP
Suite 600
1909 K Street, N.W.
Washington, D.C. 20006-1167
202-585-6900

ATTACHMENT
A

Hackberry LNG Terminal, L.L.C.
1000 Louisiana - Suite 5800
Houston, Texas 77002
Telephone: 713.507.8400
www.dynegey.com



October 29, 2002

Mr. Terry T. Jordan
Executive Director
Lake Charles Harbor & Terminal District
Post Office Box 3753
Lake Charles, Louisiana 70602



Re: Letter of Intent - Proposed Lease
for Hackberry LNG Terminal, L.L.C. ("Hackberry")

Dear Mr. Jordan:

We are pleased that Lake Charles Harbor & Terminal District (the "District") is willing to proceed with a preliminary commitment to enter into a new leasing arrangement with Hackberry LNG Terminal, L.L.C. ("Hackberry") and Dynegey Midstream Services, L.P. ("Dynegey Midstream").

Enclosed is a new summary of the proposed provisions for the amendment to the lease, which is consistent with our most recent discussions.

Therefore, the purpose of this letter is to express our mutual intent to revise the existing lease between the District and Dynegey Midstream by entering into an amendment to such lease substantially in accordance with the attached terms and conditions.

You have advised us that the proposed terms and conditions attached are consistent with the approval granted by the Board of Commissioners of the District ("Board") on Monday, October 14, 2002. Your execution below also serves to confirm this understanding of the Board's approval, as the terms do differ slightly with those approved by the Board at that meeting.

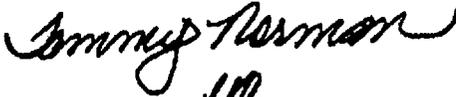
The parties agree that this letter is evidence of the current status of the parties' negotiations on the terms to be included in the lease amendment but that this letter is not a legally binding agreement and is not intended to create any legally enforceable obligations for any of the parties. Only the final and fully executed amendment to the lease shall create a legally binding agreement among the parties regarding the above subject matter.

If the above and enclosed are acceptable to the District, please sign this Letter of Intent as indicated below and return it to me. If agreed to by you, this Letter of Intent shall not be subject

Mr. Terry T. Jordan
Lake Charles Harbor & Terminal District
October 29, 2002
Page 2

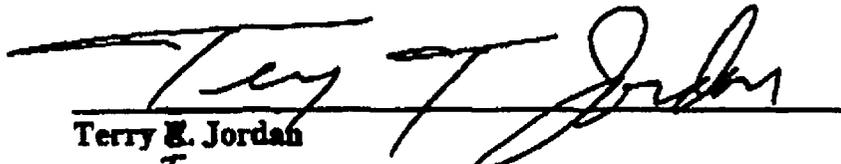
to assignment or other transfer by either party and shall terminate either (i) if it is determined that additional review and approval by the Board is required and such approval is not obtained by November 15, 2002, or (ii) December 31, 2002, if the final lease amendment has not been executed by that date.

Very truly yours,



Tammy Norman *T.N.*
For: Dynegy Midstream Services, Limited Partnership
and Hackberry LNG Terminal, L.L.C.

THE ABOVE IS HEREBY ACKNOWLEDGED AND
AGREED TO ON BEHALF OF THE LAKE CHARLES
HARBOR & TERMINAL DISTRICT ON THIS 30 DAY
OF October, 2002.



Terry T. Jordan
T.



**Dynegy Hackberry Site Lease
Proposed Lease Amendment Terms
October 29, 2002**

This list of Proposed Lease Amendment Terms is attached to, and incorporated into, that certain Letter of Intent between the Lake Charles Harbor & Terminal District (the "District"), Dynegy Midstream Services, Limited Partnership ("Dynegy Midstream") and Hackberry LNG Terminal, L.L.C. ("Hackberry"), of the same date stated above. That Letter of Intent and this document have as their subject that certain "Surface Lease" dated February 13, 1978 between the District, as successor to Amoco Production Company, and Dynegy Midstream, as successor to Cities Service Company (the "Lease").

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11. Hackberry and District agree and acknowledge that nothing in the attached Letter of Intent or this document or in the Lease amendment is intended to, or shall be construed as, granting vessels calling at Hackberry's facilities any greater or lesser priority with regard to channel access and usage than existing users of the channel and vessels calling at Hackberry's facilities are subject to the same vessel traffic controls and management as the District may, in compliance with applicable laws, impose on other vessels using the Calcasieu River Ship Channel.

9. Indemnification.

9.1 Tenant's General Agreement to Indemnify. The Tenant releases the District, its officers, representatives, employees, agents, successors and assigns, (individually and collectively, "District Indemnitee") from, assumes any and all liability for, and agrees to indemnify the District Indemnitee against all claims, liabilities, obligations, damages, penalties, litigation, costs, charges and expenses (including, without limitation, reasonable attorneys' fees, engineers' fees, architects' fees, and the costs and expenses of appellate action, if any), imposed on, incurred by or asserted against the District Indemnitee or its interest in real property in the Project Site arising out of (i) the use or occupancy of the Project Site by the Tenant, its officers, representatives, agents, and employees, (ii) the construction or operation of the Project by the Tenant, its officers, representatives, agents, and employees, (iii) any claim arising out of the use, occupancy, operation, or construction of the Project Site by the Tenant, its officers, representatives, agents, and employees, and (iv) activities on or about the Project Site by the Tenant, its officers, representatives, agents, and employees, of any nature, whether foreseen or unforeseen, ordinary, or extraordinary, in connection with the construction use, occupancy, operation, maintenance, or repair of the Project, the Improvements, or the Project Site by the Tenant, its officers, representatives, agents, and employees; provided, however, that any such claim, liability, obligation, damage or penalty arising solely as a result of the negligence or willful misconduct of the District Indemnitee shall be excluded from this indemnity. The indemnity provided in this section shall include within its scope any liability imposed by law on the District on a strict liability theory as landowner for physical defects in the Project Site (except for environmental contamination), it being the intention of the parties for Tenant to assume liability for such defects in the Project Site during the term of this Ground Lease. This section shall include within its scope but not be limited to any and all claims or actions for wrongful death, but any and all claims brought under the authority of or with respect to any local, state, or federal environmental statute or regulation shall be covered by Section 9.2 and not this Section 9.1.

9.2 Tenant's Environmental Indemnification. The Tenant agrees that it will comply with all environmental laws and regulations applicable to the Tenant, including without limitation, those applicable to the use, storage, and handling of hazardous substances in, on or about the Project Site. The Tenant agrees to indemnify and hold harmless each of the District Indemnitees against and in respect of, any and all damages, claims, losses, liabilities, and expenses (including, without limitation, reasonable attorneys, accounting, consulting, engineering, and other fees and expenses), which may be imposed upon, incurred by, or assessed against any of the District Indemnitees by any other party or parties (including, without limitation, a governmental entity), arising out of, in connection with, or relating to the subject matter of: (a) the Tenant's breach of the covenant set forth above in this Section 9.2 or (b) any environmental condition of contamination on the Project Site ~~or any~~ which is in violation of any federal, state, or local environmental law with respect to the Project Site first occurring after the Ground Lease Commencement Date and caused by the Tenant's operations or facilities.

~~9.3 Burden of Proof. The Tenant, at its own cost, shall cause to be conducted as Phase I and Phase II environmental assessment of the Project Site prior to the commencement of construction of the Improvements and a copy of all written reports issued in connection with such assessment shall be given to the District within five (5) days of completion. If, as a result~~

~~of such assessments, environmental contamination of the Project Site is discovered, such contamination shall be deemed to have existed prior to the Ground Lease Commencement Date. Any condition of the environmental contamination discovered on the Project Site after the completion of the environmental assessments (Phase I and Phase II) shall be presumed, for purposes of the Tenant's agreement to indemnify the District Indemnitee, to have been caused by the Tenant's operations or facilities, unless the Tenant can demonstrate, by a preponderance of the evidence, that (i) such condition originated off the project Site, or (ii) such condition was not caused by the Tenant's operations or facilities. The provision of this Section 9.3 are intended only to allocate the burden of establishing causation between the Tenant and the District with respect to environmental contamination discovered before or after the Ground Lease Commencement Date. In no event shall any third party other than the District Indemnitee and the Tenant Indemnitee be entitled to any benefit, reliance, or presumption based on the provisions of causation or liability of either party with respect to any environmental contamination of the Project Site.~~

9.3 Defense & Settlement: The indemnity obligations of Tenant under Sections 9.1 and 9.2 shall be subject to the District or the applicable District Indemnitees giving Tenant prompt notice when either the District or any District Indemnitee becomes aware of any actual or threatened claim, action or administrative enforcement action which might give rise to a claim for indemnification under these provisions, including a description of the relevant facts and circumstances regarding any such actual or threatened claims or actions. Notice shall not be sufficient unless it is given promptly enough to allow Tenant to respond to same in a timely fashion such that all material defenses, legal or factual, are preserved. Tenant shall thereafter have sole responsibility and control over the defense and costs of defense, and any settlement, of any such claims or actions and any liability which arises as a result of any interference with Tenant's right to control such defense, or any failure to cede same, shall not be within the scope of Tenant's indemnity obligations hereunder. Provided, however, to the extent District or any District Indemnitees are dissatisfied with Tenant's conduct of the defense any such claims or actions, District or such District Indemnitees may retain their own separate counsel, at their sole cost and expense (unless and until Tenant is shown to be in breach of its obligations hereunder with regard to such claim or action) to protect their respective interests.

9.49.5 Survival of Indemnities. The foregoing indemnities shall survive the term and shall be in addition to any of the District's or the Tenant's obligations for breach of a representation or warranty, expiration or other termination of the lease and shall be the sole and exclusive remedy of District and the District Indemnitees with regard to any and all damages, claims, losses, liabilities, and expenses (including, without limitation, reasonable attorneys, accounting, consulting, engineering, and other fees and expenses) ("Claims"), which are within the scope of the above stated indemnities. Provided, however, to the extent any such a Claim that is subject to Tenant's above indemnity obligations arises other than as a result of an enforcement action by a governmental entity or an actual claim or action by a third party not affiliated with the District or any District Indemnitee, any liability of Tenant with regard to same shall expire upon the passage of the fourth anniversary of the later to occur of the vacation of the leased premises by Tenant or the expiration or other termination of the Ground Lease, unless a detailed notice of any such Claim is received in writing by Tenant prior to such fourth anniversary, including data supporting such Claim.



Submission For Approval

Department: Legal and Economic Development **Date:** September 27, 2004

Subject: Cameron LNG, LLC (Sempra) – Third Amendment to Surface Lease

Cost: _____ **Budgeted** _____ **Non Budgeted** _____ **Source of Funds** _____

Preamble: Board approval of a Third Amendment to Surface Lease with Cameron LNG, LLC (Sempra) is sought to allow expansion of the planned LNG terminal on District property at Hackberry, Louisiana.

Background & Status: The District, in December 2002, entered into a lease agreement with Dynegy Midstream Services for 118 acres of property for development, construction, and operation of a LNG terminal near Hackberry, Louisiana. Sempra Energy, through its subsidiary, Cameron LNG, LLC, has taken over the project and received approval of the Federal Energy Regulatory Commission (FERC) for construction of the project. Sempra now desires to double the capacity of the originally planned and approved LNG facility. In order to do so, Sempra/Cameron LNG desires to lease an additional 100 acres of District property adjacent and to the north of the current leased site. Securing the additional property for lease will allow Sempra/Cameron LNG to finalize a natural gas supply contract with a major oil company. The proposed plant expansion would increase capacity from 1.5 billion cubic feet per day (bcfd) to 3.0 bcfd. The planned expansion is subject to the review and approval of FERC. The current lease terms are as follows:

A. Second Amended Lease for Originally Planned 1.5 bcfd LNG Plant

118.61 acres \$356,040 Land Rent – CPI every 5 years – starting from June 2004
Lease term - 30 years with 5-6 yr option from extended term
commencement date May 1, 2004

Through-put Charge:
\$821,250 or \$.0015 per dekatherms of gas delivered from LNG
terminal or loaded from terminal
1,500,000 dekatherms per day x .0015 x 365 = \$821,250

Minimum annual through-put payment - \$410,625 – adjusted every
five (5) years by the CPI

EXHIBIT
8

CAM REQ 71

B. The proposed lease terms for the additional 100 acres are:

- Adds 100 acres to north for total of 218.29 acres
- Additional rental as follows:
 - Months 1-6: \$ 50,000 – one-time payment upon execution of lease amendment
 - Months 7-12: \$100,000 – one-time payment at beginning of month 7
 - Months 13-24: \$200,000 – one-time payment beginning of month 13
\$300,000 annually after 24 months or upon final FERC certificate for expansion – whichever is earlier
- Prior to month 24, Lessee may terminate any portion of the added 100 acres found not suitable from a technical or permitting standpoint for construction of expanded facilities
- Expansion increases capacity from 1.5 bcfd to 3.0 bcfd. Through-put charge applies to expanded facilities. Adds an additional \$821,250 in through-put charges at full capacity
- Minimum annual through-put increased from \$410,625 to \$500,000
- With minimum of \$500,000 annual through-put charge, the total guaranteed annual payments after month 24 for the entire leased site:
 - \$500,000 minimum annual through-put
 - \$356,000 original annual acreage rental
 - \$300,000 additional annual acreage rental
 - \$1,156,000 Total Annual Minimum

Existing Corps spoil disposal pipeline for dredge spoil disposal access west of Highway 27 remains and Corps/Port has right to use or lessee relocates and constructs a new one on leased premises which the Corps/Port may use

Sempra/Cameron LNG is anxious to secure approval of the amended lease to allow finalization of the pending gas supply contract.

Financial Analysis: The leased property was originally purchased by the District in February 1999 for \$550,000. At the time it was purchased, Dynegy had an existing lease over 118 acres of the property paying \$54,000 annually. Under the Third Amended Lease and once the expanded LNG facility is fully permitted, constructed and at full operation, maximum annual revenues to the District will be as follows:

Land Rental	\$ 656,000
Through-put Charges	<u>\$1,642,500</u>
Total Annual Payments at Full Capacity	\$2,298,500

Minimum annual payments upon completion of the expanded facility and regardless of capacity utilization:

Land Rental	\$ 656,000
Minimum Through-put	\$ 500,000
	<u>\$1,156,000</u>

- Attachments:**
- a. Original Surface Lease
 - b. Amendment
 - c. Second Amendment to Surface Lease
 - d. Proposed Third Amendment to Surface Lease
 - e. Photo

Submitted and Recommended by:

Michael K. Dees, General Counsel

Recommended for Board Approval:

Date: _____

R. Adam McBride, Port Director

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Creole Trail LNG, L.P.)	Docket No. CP05-360-000
)	
Cheniere Creole Trail Pipeline Company)	Docket Nos. CP05-357-000,
)	CP05-358-000,
)	CP05-359-000

**MOTION TO INTERVENE AND INITIAL COMMENTS OF
THE LAKE CHARLES HARBOR AND TERMINAL DISTRICT**

Pursuant to Rules 211, 212, and 214 of the Commission's Rules of Practice and Procedure (18 C.F.R. §§ 385.211, 385.212, and 385.214), applicable Regulations under the Natural Gas Act (18 C.F.R. § 157.10), and the Commission's "Notice of Filing," issued December 16, 2005, the Lake Charles Harbor and Terminal District ("District") hereby submits this motion to intervene and initial comments in the above-captioned proceeding. As detailed more fully in its motion below, the District has profound regulatory and financial interests in the Creole Trail LNG Terminal and Pipeline Project ("Creole Trail Project") as proposed by Creole Trail LNG, L.P. and Cheniere Creole Trail Pipeline (collectively referred to as "Creole Trail"). The site on which Creole Trail plans to construct and operate the liquefied natural gas ("LNG") import terminal and natural gas pipeline facilities (hereinafter "Area O") is a dredge material placement area ("DMPA") to which the District has a permanent easement for the deposit of material dredged by the U.S. Army Corps of Engineers ("COE") from the Calcasieu River Ship Channel. To date, Creole Trail has not provided for an acceptable replacement DMPA that can accommodate the disposal capacity equivalent, approximately 8 million cubic yards, of Area O. As discussed in the comments that follow, Creole Trail has acknowledged the problem, but it has



not provided an adequate commitment to replace Area O with an acceptable DMPA and guarantee the costs associated with such replacement.

I. STATEMENT OF ISSUES

The District's Comments raise the following issue:

1. Should Commission approval of the Creole Trail Project be conditioned upon Creole Trail securing a replacement DMPA with disposal capacity equivalent to that of Area O.

District's Position: Yes. The EIS reflects Creole Trail's acknowledgement that procurement of replacement dredge disposal capacity is an issue that Creole Trail has the responsibility to address, but the alternatives described in the EIS are outdated and incorrect. Because Creole Trail has not presented an approved and executed solution to the need for alternative DMPA capacity, the Commission should condition any approval of the Creole Trail Project upon Creole Trail fulfilling its responsibility to provide alternative DMPA capacity equivalent to that of Area O.

II. COMMUNICATIONS

Communications regarding this matter should be addressed to the following persons, who also should be designated for service on the Commission's official list:

Michael K. Dees
General Counsel
Port of Lake Charles
P.O. Box 3753
150 Marine Street
Lake Charles, LA 70602
337-493-3504
337-493-3523 (facsimile)
e-mail: mdees@PORTLTC.com

Edward J. Sheppard
Bonnie S. Blair
Thompson Coburn LLP
Suite 600
1909 K Street, N.W.
Washington, D.C. 20006-1167
202-585-6900
202-585-6969 (facsimile)
e-mail: bblair@thompsoncoburn.com

III. DISTRICT'S INTEREST IN THIS PROCEEDING AND MOTION TO INTERVENE

The District, or Port of Lake Charles, is a political subdivision of the State of Louisiana, charged with regulating “the commerce and traffic of the harbor and terminal district in such a manner as may in its judgment be best for the public interest.”¹ The District’s jurisdiction extends not only to the facilities in and around the Port itself but also to the 34 inland miles of the Calcasieu Ship Channel (“Channel”) and the 32-mile portion of the Channel extending outward from the mouth of the Calcasieu River into the Gulf of Mexico. Although the COE is responsible for dredging the Channel, the District, as the Local Sponsor pursuant to the Water Resources Development Act (33 U.S.C. §§ 2201-2330), is responsible for supplying the DMPAs at its sole expense. The District is also responsible for thirty-five percent (35%) of the costs for dikes, which are necessary to contain the deposited dredged material within the boundaries of each site, and other development costs for DMPAs.

Pursuant to easements acquired by the District in 1962 in the name of the COE, the District has a permanent easement over 75 acres of DMPA Area O and cancellable easements over the several hundred remaining acres of Area O. Although Area O has not been used recently for disposal of dredged material from the Channel, it is certain that it will be needed in the future. Creole Trail plans to lease the Area O site from the property owners and have the COE release the site as a DMPA. If this occurs, the District will lose a critical DMPA with substantial disposal capacity and may be obligated to secure a replacement DMPA. The District therefore has an interest in ensuring that Creole Trail’s LNG project does not adversely affect the

¹ LA. REV. STAT. § 34:203 (2001).

IV. COMMENTS

In early 2005, Creole Trail submitted to the Commission certain preliminary requests for approval and publicly announced the proposed development of its planned LNG facility to be sited at Area O. Upon learning of the project through the public press, the District contacted Creole Trail to express its concerns regarding the impact of the project on the Channel and associated DMPAs. The District advised Creole Trail of its permanent easement rights to 75 acres within Area O and cancellable easement rights to the remaining several hundred acres. The District informed both Creole Trail and the COE's New Orleans office that it would not consent to any release of the permanent easements in Area O unless Creole Trail, a private for-profit developer, is required to provide for a replacement site with capacity equivalent to Area O and guarantee the incremental costs of such replacement.

The Commission's Draft Environmental Impact Statement ("EIS"), FERC/EIS-0186D, indicates that Creole Trail acknowledges the problem regarding the replacement of Area O as a DMPA and states that Creole Trail is "working with the COE and the Port of Lake Charles in an effort to have this area released for the proposed project" and "evaluating options for replacing DMPA 'O' at another location."² Section 3.5 of the EIS, entitled "Dredged Material Placement Area Alternatives,"³ states that Creole Trail is evaluating the potential to combine the statutory beneficial use requirement imposed on its disposal of material dredged during construction of the LNG facility with wetland mitigation and replacement of the portion of Area O that would no longer be available as a DMPA. The EIS lists and describes six DMPA Alternative sites being considered by Creole Trail to accomplish its objectives and states that Creole Trail is

² EIS, Section 2.1.1, p. 2-1.

³ EIS, Section 3.5, pp. 3-22 through 3-25.

“coordinating with several federal and state agencies, local authorities, and landowners to select an appropriate site.”⁴

As described in the EIS, Creole Trail’s preferred site is DMPA Alternative 2, which is property immediately southwest and west of the proposed LNG terminal property in and around Oyster Lake (“Oyster Lake site”). Creole Trail believes that the Oyster Lake site will benefit the environment by restoring the wetland (marsh) functions and values lost by coastal subsidence and erosion and “provides a long-term, sustainable location for dredged material placement for both Creole Trail and the COE.”⁵ The EIS notes, however, that the COE has expressed doubts that Creole Trail could use one site for wetland mitigation, beneficial use of dredged material, and as a replacement for Area O “because wetlands created to meet wetland mitigation requirements might be adversely affected by the deposition of dredged material during subsequent dredging cycles.”⁶ As a result, “Creole Trail’s ongoing consultations with the COE and other agencies will include coordination with the COE to ensure that the replacement site for DMPA ‘O’ would meet the future needs of the COE’s maintenance dredging cycles.”⁷

As reflected in the EIS, there is no question that Creole Trail has acknowledged the problem with locating its facility on the Area O site and has indicated to the Commission its intention to replace Area O with one of several alternative DMPA sites, even expressing a preference for the Oyster Lake site. The information in the EIS regarding the alternative DMPA sites, however, is outdated and inaccurate. At the instigation of Creole Trail, Section 133 was

⁴ EIS, Section 3.5, p. 3-23.

⁵ Id.

⁶ EIS, Section 4.4.3, p. 4-57.

⁷ EIS, Section 4.4.3, pp. 4-57 to 4-58.

included in the Energy and Water Development Appropriations Act, Public Law 109-103 (the “Act”), enacted by Congress on November 19, 2005 to address the Area O problem. Section 133 provides that, not later than six months after the date of enactment of the Act, the owners of real property designated as “Area M” will convey to the Secretary of the Army an easement for the placement of dredged materials over a contiguous equivalent area to the real property known as Area O in exchange for the Secretary of the Army’s conveyance to the same owners of the permanent easements granted to the COE in 1962 to use the 75-acre portion of Area O for the placement of dredged materials.

If the exchange of real property described in Section 133 of the Act occurs, Area O will be replaced by Area M. Area M does not appear to be one of the alternative sites described in Section 3.5 of the EIS. While the District does not have an objection in principal to the replacement of Area O with Area M, the District’s preliminary estimates indicate that the incremental costs for preparing Area M as an acceptable DMPA and for pumping dredged material on the Area M site will be substantial, potentially in excess of \$20 million. In discussions between the District and Creole Trail regarding Section 133 of the Act, Creole Trail has taken the position that it will not be responsible for such incremental costs.

The Commission should ensure that the Creole Trail Project follows through on its responsibility, acknowledged in the EIS, to replace Area O with a DMPA having an equivalent disposal capacity as that of Area O. The District respectfully urges the Commission to condition any approval of the Creole Trail Project upon Creole Trail taking full responsibility to secure a replacement DMPA acceptable to the COE and the District with disposal capacity equivalent to that of Area O.

CERTIFICATE OF SERVICE

I hereby certify that I have on this 21st day of February, 2006, caused a copy of the foregoing document to be sent by electronic mail or first-class mail to all parties on the list compiled by the Secretary of the Commission in this proceeding.

/s/ Bonnie S. Blair
Bonnie S. Blair
Attorney for the Lake Charles Harbor and Terminal
District

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March 22, 2006

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

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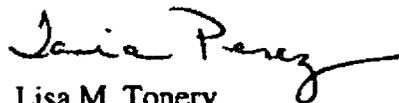
Re: Creole Trail LNG, L.P. and Cheniere Creole Trail Pipeline Company
Docket No. CP05-360-000 and Docket Nos. CP05-357-000, et al.

Dear Ms. Salas:

Creole Trail LNG, L.P. and Cheniere Creole Trail Pipeline hereby submit an original and seven (7) copies of their Answer to the "Motion to Intervene and Initial Comments of The Lake Charles Harbor and Terminal District" filed on February 21, 2006 in the above-referenced dockets.

Please contact the undersigned at (212) 556-2307 if you have any questions regarding the instant filing.

Respectfully submitted,



Lisa M. Toner
Tania S. Perez
Attorneys for
Creole Trail LNG, L.P., and
Cheniere Creole Trail Pipeline Company

cc: Medha Kochhar
Fran Lowell



**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Creole Trail LNG, L.P.)	Docket No.	CP05-360-000
Cheniere Creole Trail Pipeline Company)	Docket Nos.	CP05-357-000 CP05-358-000 CP05-359-000

**ANSWER OF CREOLE TRAIL LNG, L.P. AND CHENIERE CREOLE TRAIL
PIPELINE COMPANY TO THE MOTION TO INTERVENE AND INITIAL
COMMENTS OF THE LAKE CHARLES HARBOR AND TERMINAL DISTRICT**

Pursuant to Rule 213 of the Federal Energy Regulatory Commission's ("Commission's") Rules of Practice and Procedure, 18 C.F.R. § 385.213 (2005), Creole Trail LNG, L.P. and Cheniere Creole Trail Pipeline Company (collectively, "Creole Trail"), hereby submit this Answer to the "Motion to Intervene and Initial Comments of The Lake Charles Harbor and Terminal District" ("the Port") filed on February 21, 2006 in the above-referenced dockets. In support, Creole Trail states the following:

**I.
BACKGROUND**

On December 16, 2005, the Commission issued a "Notice of Availability of The Draft Environmental Impact Statement For The Proposed Creole Trail LNG Terminal and Pipeline Project" ("DEIS"), which provided for comments on the DEIS to be filed on or before February 21, 2006. On February 21, 2006, the Port filed a Motion to Intervene and Initial Comments to the DEIS ("Comments").

In its Comments, the Port alleges that the site on which Creole Trail proposes to construct its LNG terminal is a dredge material placement area (hereinafter referred to as "DMPA O" or

“Area O”) for which the Port holds a permanent easement for deposit of material dredged by the United States Army Corps of Engineers (“COE”) from the Calcasieu Ship Channel. (See Comment’s at 1.) The Port also states that Creole Trail has not provided alternative DMPA capacity equivalent to that of DMPA O, and requests that the Commission condition its approval of the Creole Trail Project upon Creole Trail providing such replacement disposal capacity. (See Comments at 2.)

Creole Trail holds options to lease both the Westlands Tract and the Pujo Tract for the Creole Trail LNG terminal. In consideration for the Creole Trail lease options, on January 27, 2005, Westlands informed the COE that it wished to exercise its right to withdraw its 265 acres of property from DMPA O. Likewise, on February 9, 2005, Pujo requested a partial release from the COE for the easement over the 72 acre Pujo Tract. On March 4, 2005, the COE responded to both Westlands' and Pujo's request. With respect to the Westlands request, the COE acknowledged Westlands' right to withdraw the easement and indicated that "no formal withdrawal of the easement is required." (*See Ex. C.*) With respect to the Pujo request, the COE indicated that no withdrawal clause existed and therefore "consideration for the release of this area will not be granted." (*See Ex. C.*)

As a method of resolving Creole Trail's proposed use of the lands comprising the Pujo Tract, Congress included certain language in the recently enacted Energy and Water Development Appropriations Act, Pub. L. 109-103 (the "Legislation"). Section 133 of the Legislation (attached as Ex. E) includes provisions for exchange of the easement covering the Pujo Tract for an easement covering portions of another tract (*i.e.*, DMPA M) in the vicinity of DMPA O.

II. STATEMENT OF ISSUES

Through its Comments, the Port requests that the Commission condition approval of the Creole Trail Project upon Creole Trail securing a replacement DMPA with disposal capacity equivalent to that of Area O. (*See Comments at 2.*) The Port's request to use the Commission and this forum for resolution of the above-described matter should be rejected for the reasons discussed below.

1. The Port's assertion that it holds permanent easements for deposit of dredge material covering DMPA O is false;
2. The easements for dredge material held by the COE covering the Westlands Tract already has been conceded by the COE to be released for the Creole Trail Project;
3. The legislative solution for exchange of the Pujo Tract easement for an easement covering lands in DMPA M is progressing to conclusion and may be implemented without participation by the Port. The Port should not be permitted to use this proceeding as a means to circumvent and frustrate that Legislation;
4. The Port's spoil disposal activities are unlikely to be interrupted as the Port has not used Area O since the 1980s; and
5. The Alternative DMPA sites discussed in the DEIS do not render the DEIS stale or incorrect.

For the above reasons, and as more fully discussed below, the Port's request that Commission approval of the Creole Trail Project be conditioned upon Creole Trail securing a replacement DMPA with disposal capacity equivalent to that of Area O should be rejected.

III. ANSWER

A. The Port Holds No Legal Interest in the Pujo or the Westlands Tract.

The easements covering the Westlands Tract and the Pujo Tract are held by the COE – not by the Port. (See easements, Ex. B and Ex. D.) Furthermore, the COE has undertaken to deal with and administer these easements under its own methods and procedures. Accordingly, the Port's assertion that it is the owner or holder of the easements covering DMPA O (Comments at 1) is patently false.

B. The COE Easement Covering the Westlands Tract Is Not At Issue.

As reflected above, the COE's spoil disposal easements on the Westlands Tract are revocable and Westlands has a legal right to revoke the easements and utilize such property for development of the Creole Trail Project. On January 27, 2005, Westlands informed the COE that it wished to exercise its right to withdraw its 265 acres of property from DMPA O. The COE responded on March 4, 2005 stating that "no formal withdrawal of the easement is required for these sections. Only a real estate consent document would be required in order for the work to proceed." (See Ex. C.)

The Port's assertion that Creole Trail should be required to provide an "equivalent capacity" substitute for all of DMPA O (because Westlands has withdrawn its land), is essentially a collateral attack on the legal right of Westlands to withdraw its property from DMPA O use. There is no legal or equitable basis for requiring Creole Trail to provide an "equivalent capacity" substitute for the Westlands property. Accordingly, the Port's position should be rejected.

C. There is a Legislative Solution to the Pujo Tract Issue.

1. Land Swap

In contrast to its rights in the Westlands Tract, the COE holds a permanent disposal easement on the Pujo Tract. In a letter to the COE dated February 9, 2005, Pujo requested a partial release from the COE for the property so that it could lease such property to Creole Trail for its LNG project. The COE declined Pujo's request. However, as discussed below, Legislation was recently enacted to balance the interests of the COE, the Port and Creole Trail by providing a mechanism for the release of the COE's permanent spoils disposal easement on the

72-acre Pujo Tract in exchange for easements on 188 acres of property in DMPA M.³ DMPA M is located immediately across the river from DMPA O and the COE currently only has revocable easements on this 188-acre portion of DMPA M.

Construction and operation of the Creole Trail Project will bring tremendous economic benefits to the state of Louisiana that are sorely needed in the wake of the devastation caused by Hurricanes Rita and Katrina, as well as much needed new gas supplies to U.S. markets. The Legislation, which was enacted by Congress on November 19, 2005, is intended to encourage the development of energy and water infrastructure in response to the recent hurricanes in the Gulf Coast region as well as the country's growing dependence on imported oil. In this regard, Section 133 of the Legislation attempts to facilitate the development of the Creole Trail Project by providing a real estate exchange option whereby Creole Trail, through the Pujo Tract owners, may elect to exchange a real estate interest in the Pujo Tract for easements on 188 acres in DMPA M. Creole Trail and the Port both collaborated in the formulation of Section 133, which is intended to resolve the DMPA O issue in an even-handed and fair manner. To this end, the COE has been working diligently to effectuate the land transactions contemplated by the Legislation. It has undertaken the required real estate appraisals and surveys and provided guidance on the necessary real estate instruments. Similarly, Creole Trail has made significant progress in its negotiations with the owners of the relevant DMPA M tracts.

2. Allocation of Incremental Costs

In addition to the exchange of the DMPA M tracts for the Pujo Tract as discussed above, Section 133 of the Legislation also addresses the allocation of incremental costs associated with

³ The Legislation also covers the release of certain additional land owned by Westlands, which is part of DMPA O, but not part of the 265 acres to be used for the Creole Trail site as discussed herein.

the land exchange. Specifically, Section 133 of the Legislation provides that “incremental costs to the [Port] associated with the preparation of the area and the placement of dredge material in the new disposal easement area . . . over the costs that would have been incurred in the placement of dredge material in the old disposal easement area [*i.e.*, Pujo portion of DMPA O] . . . up to the disposal capacity equivalent of the [Pujo] property . . . shall be made available by the Owners. Owners shall make appropriate guarantees, as agreed to by the Secretary [of the Army], that funds will be available as needed to cover such incremental costs.”

Creole Trail will comply with the findings of the Secretary of the Army as provided in the Legislation. To this end, Creole Trail has prepared an estimate of the incremental costs consistent with the guidelines provided by Section 133 of the Legislation and has shared this estimate with the COE and the Port. The estimate includes the costs to develop a levee and dewatering structures along with maintenance of the infrastructure over 25 years. The incremental cost analysis undertaken by Creole Trail concluded that DMPA M actually will be less expensive to develop and maintain than DMPA O.

While the Port contends in its Comments (at 7) that the incremental costs “will be substantial, potentially in excess of \$20 million,” the Port has been unwilling to provide an estimate, to either Creole Trail or the COE, of the anticipated costs or methodology for its incremental cost analysis. The COE and Creole Trail have repeatedly requested this information from the Port -- including during a three-way teleconference on February 14, 2006, seven days before the Port filed its Comments. Creole Trail’s efforts to reach a mutually agreeable resolution of the DMPA O issue with the Port have been frustrated by the Port’s refusal to provide a reasonable estimate of incremental costs along with the methodology for calculating such costs.

Contrary to the Port's assertion in its Comments (at 7), Creole Trail has not taken the position that Creole Trail should not be responsible for any incremental costs. As reflected above, however, Creole Trail has taken the position that the Port must provide an estimate of what it believes the incremental costs would be and the underlying methodology and analysis for arriving at such cost estimate. Rather than provide such information, the Port has continued to contend that there are too many variables at issue for it to provide a plausible estimate. Consequently, the Port's Comment that the incremental costs "will be substantial, potentially in excess of \$20 million," appears to be without any factual basis.

D. The Port's Spoil Disposal Activities Likely Will Not Be Interrupted As the Port has not Used Area O Since the 1980s.

In its Comments, the Port attempts to justify its position that Creole Trail must provide alternative DMPA capacity equivalent to that of Area O by contending that "it is certain that [Area O] will be needed in the future," (Comments at 3) despite the fact that Area O has not been used by the COE for spoil disposal since the 1980s. In meetings with Creole Trail personnel, the COE has informed Creole Trail that the lower reaches of the Calcasieu River near the proposed Creole Trail site seldom need to be dredged due to the self-scouring action of the river. Moreover, no approved Dredge Material Placement Plan (DMPP) is in place for the Calcasieu River. Accordingly, there is no definitive plan that would be disrupted should DMPA O be withdrawn from use for dredge spoil placement. Despite these circumstances, Creole Trail is not challenging the possibility that additional DMPAs may be needed at some future date for spoil disposal from the Calcasieu Ship Channel. The most pressing need for additional DMPA space appears to be on the middle and upper reaches of the Calcasieu River, where silting is more pervasive and DMPA space has been lost in recent years to commercial development. In this regard, Creole Trail would point out that the Port's concern over the loss of suitable DMPA

acreage is, in significant part, due to the Port's own recent release of DMPA acreage to a casino venture and another LNG terminal that is a Creole Trail competitor.

E. The Alternative DMPA Sites Discussed in the DEIS Do Not Render the DEIS Stale or Incorrect.

In its Comments, the Port alleges that the information in the DEIS regarding the alternative DMPA sites is outdated and inaccurate and suggests that the DEIS itself is somehow stale or incorrect because Creole Trail has not presented an approved and executed solution to the need for alternative DMPA capacity. The DEIS lists and describes six DMPA alternative sites that were under consideration for replacing that portion of DMPA O that would be lost due to construction of the Creole Trail berth -- *i.e.*, the Pujo Tract (see DEIS p. 3-25). Shortly before the DEIS was released, however, Congress passed the Legislation (as discussed above) providing a mechanism for swapping the Pujo Tract in DMPA O with tracts in DMPA M. Although DMPA M was not one of the alternatives discussed in the DEIS, as noted by the Port, it will be included in the Final Environmental Impact Statement ("FEIS").

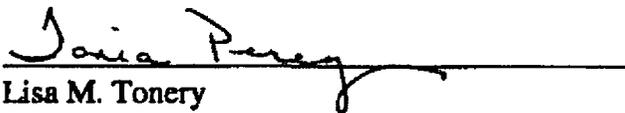
Development activities on a project such as Creole Trail do not come to a halt upon issuance of a DEIS. But rather, project development activities, including certain agency consultations and site optimization activities, continue right up until construction of a project. Accordingly, it is not uncommon for modifications to a project to occur subsequent to issuance of a DEIS. The Creole Trail DEIS sufficiently identified and described DMPA alternatives and it is not stale or incorrect as claimed by the Port. A DEIS's consideration of alternatives is subject to the "rule of reason" generally, and it need only discuss a range of alternatives which are sufficient to permit the decision maker to make a reasoned choice. *See Natural Resources Defense Council, Inc. v. Hodel*, 865 F.2d 888 (D.C. Cir. 1988). Agencies are not required to discuss every imaginable alternative in a DEIS. Moreover, an FEIS may include project changes

and new information, such as a new DMPA, not previously discussed in the DEIS. *See* 40 C.F.R. § 1503.4. The Port's suggestion that the fact that the DEIS does not contain a discussion of the DMPA M alternative somehow renders the DEIS invalid is incorrect.

IV. CONCLUSION

The Port's claim that because "Creole Trail has not presented an approved and executed solution to the need for alternative DMPA capacity, the Commission should condition any approval of the Creole Trail Project" (Comments at 2) upon Creole Trail providing alternative DMPA capacity equivalent to that of the entirety of Area O, not only seeks to penalize Creole Trail for Westlands' exercise of its legal rights under its contract with the COE, but also ignores the intent of the Legislation. Efforts by the Port to make Creole Trail provide an "equivalent capacity" substitute for all of DMPA O are not supported by any viable legal or equitable theory and must be rejected.

Respectfully submitted,



Lisa M. Toner
Tania S. Perez
King & Spalding LLP
1185 Avenue of the Americas
New York, NY 10036
Telephone: (212) 556-2100

Attorneys for

Exhibit A

**Creole Trail Site Land Ownership
Diagram**



Exhibit B

Westlands Easements

Mar-21-2006 04:04pm From-

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37/257

POOR QUALITY

survey, improve and maintain the Lake Charles Ship Channel from the Gulf of Mexico (a modification of the former project for widening the River and Pass); and,

WHEREAS, no widening of the natural waterway is necessary through the property of the grantor herein,

WHEREAS, the United States owns or controls a right of way 500 feet wide adjacent to the property of the grantor herein;

NOW, THEREFORE, in consideration of the benefits to accrue to the United States for the convenience for the use of said river, and the enhanced value that will result to the adjacent lands as the result of the construction and maintenance thereof, and, to facilitate THE UNITED STATES OF AMERICA in the enlargement of said river or waterway on said land, the grantor hereby give and grant unto THE UNITED STATES OF AMERICA, appearing herein through W. B. Smith, the right, privilege, power and authority to deposit such earth or spoils or other material excavated in the construction and maintenance of said river on the property of the grantor herein on or along said river, the said grantor herein on or along said river, the said grantor hereby expressly waiving and releasing THE UNITED STATES OF AMERICA, its officers, agents, servants and contractors from any and all claims for damages that may result to the grantor, or his remaining property,

THIS PRIVILEGE of depositing the earth or spoils produced in the enlargement of said river or waterway shall be and is a servitude or privilege, running with the land, and binding upon grantor herein, his heirs and assigns, and shall cover the property, more particularly described as follows:

DUMPING PRIVILEGE

THAT CERTAIN TRACT OF LAND, situated in the Parish of Cameron, State of Louisiana, known as Section 50 and Section 51; Township 12 South, Range 9 West Southwest District of Louisiana. The grantor reserves the right to withdraw any portion of the above described land from the maintenance dumping privilege, on which said Grantor has made improvements, or on which he contemplates any immediate improvements.

TO HAVE AND TO HOLD the said servitude and all rights and privileges granted hereunder unto THE UNITED STATES OF AMERICA, ITS SUCCESSORS and assigns, for the purposes aforesaid, forever, free and clear of all liens, mortgages and encumbrances of any nature or kind whatsoever, and with full and general warranty of title, and with full subrogation and substitution to all rights and actions in warranty held by the grantor,

THIS DONE AND PASSED my office in the Parish of Calcasieu on the day and date first above written, in the presence of Elmer R. Shutte and Fred Shutte lawful witnesses, who have signed with said appearer and me, Notary, after due reading of the whole.

WITNESSES: (Sig) F. O. Wells UNITED STATES OF AMERICA BY W. B. Smith (Sig) Kenneth Livingston (SEAL) NOTARY PUBLIC

FILED APRIL 11th, 1938 FILE # 38095 RECORDED MAY 4th, 1938 Dr. J. M. ... Recorder

MRS. JEANNA WILCOX TO THE UNITED STATES OF AMERICA RIGHT OF WAY BE IT KNOWN that on this the 15th day of March, in the year of our Lord, one thousand nine hundred and thirty-eight

NOTARY PUBLIC, J. J. Frewer a Notary Public duly commissioned and qualified with
in and for the County of Harris, State of Texas and in the presence of the two subscribing wit-
nesses,

PERSONALLY COME AND APPEARED Mrs. Azema Wilson, born West, wife of W. A.
Wilson residents of Houston, Harris County, Texas.

WHO DECLARED that for the consideration set on the terms and conditions here-
inafter expressed she did, and does, by these presents, grant, bargain, give, donate, convey,
transfer, assign, set over and deliver unto THE UNITED STATES OF AMERICA, appearing herein
through U.S. Smith, its executors and assigns, for its use in embankment, improving and main-
taining the Lake Charles Ship Channel from the docks at Lake Charles to the Gulf of Mexico
(a modification of the terms of project for improvement of Calcasieu River and Pass) in accord-
ance with a project duly authorized by Congress, the perpetual rights, servitudes or easements to
dig, excavate or cut away and remove any or all or such of the hereinafter described
tract of land as may be required at any time in the prosecution of the aforesaid work of
improvement, or any enlargement thereof, and to maintain the portion so cut away and removed
as a part of the navigable waters of the United States; and with said grant is also granted the
further perpetual right, servitude or easement to enter upon, occupy and use such portion of a
tract of land not cut away and converted into public navigable waters, as aforesaid, as may be
required for the deposit of dredged material, or earth, and for such other purposes as may be
needed in the preservation and maintenance of said work of improvement, reserving, however,
to the grantor, her heirs and assigns, grantor, all such rights and privileges in said tract of
land as may be used and enjoyed without interfering with or abridging the rights and easements
hereby conveyed to THE UNITED STATES OF AMERICA the tract of land over which servitude is granted
being granted, being described as follows:

THAT CERTAIN TRACT OF LAND, situated in the Parish of Cameron, State of
Louisiana, known as
Across Section 36, Township 14 South, Range 10 West, lying West of the Cal-
casieu River and Section 35 of Township 15 South, Range 10 West,, Southwest District of Louisi-
ana.

The small bayou which crosses the river near the West line of Section 36,
PLATE-BAYOU, is to be kept open.

Said right of way to be 500 feet wide, 250 feet on each side of the center-
line as now located, and as shown on plat attached and made a part hereof.

TO HAVE AND TO HOLD the said servitude and all rights and privileges granted
hereunder unto THE UNITED STATES OF AMERICA, its executors and assigns, for the use and purposes
aforesaid, forever, free and clear of all liens, mortgages and encumbrances of any nature or
kind whatsoever, and with full and general warranty of title, and with full subrogation and
substitution in all rights and actions in warranty held by the grantor.

THIS GRANT, transfer and donation is made and accepted for and is consid-
eration of the price and sum of _____ and the further benefits to
accrue to the grantor in the added convenience for the use of said canal and the enhanced
value that will result to adjacent lands as the result of the construction and maintenance of
said canal.

THIS DEED WAS PASSED at my office, in the City of Houston, on this day and date
first above written, in the presence of Mrs. T. W. James, Jr. and Kyle S. Johnson, lawful wit-
nesses, who have signed with said applicant and me, Notary, after the reading of the whole.

WITNESSES:
(Said Mrs. T. W. James, Jr. and Kyle S. Johnson)

(Sig) Kyle S. Hawman

UNITED STATES OF AMERICA

BY

(Sig) J. J. FRISER (REAL)
NOTARY PUBLIC

WITNESSES:

(Sig) Elmer E. SMITHE

Antoinette Gannuso

(Sig) Kenneth Avingston
NOTARY PUBLIC

(PLAT SHOWN ON ORIGINAL)

DUMPING PRIVILEGE

STATE OF LOUISIANA

PARISH OF CAMERON

BE IT KNOWN THAT ON this the 15th day of March, in the year of our Lord, one thousand nine hundred and thirty-eight.

BEFORE ME, J. J. FRISER, a Notary Public duly commissioned and qualified with in and for the County of Harris, State of Louisiana in the presence of the two subscribing witnesses,

PERSONALLY CAME AND APPEARED Mrs. Azema Wilson, born West, wife of W. H. Wilson, residents of Houston, Texas.

WHO DECLARED THAT, whereas, THE UNITED STATES OF AMERICA proposed to construct, improve and maintain the Lake Charles Ship Channel from the docks at Lake Charles to the Gulf of Mexico (a modification of the former project for improvement of Calcasieu River and Pass); and,

WHEREAS, no widening of the natural waterway is necessary through or adjacent to the property of the grantor herein;

WHEREAS, the United States own or controls a right of way 500 feet wide through or adjacent to the property of the grantor herein;

NOW, THEREFORE, in consideration of the benefits to accrue to the grantor in the added convenience for the use of said river, and the enhanced value that will result to grantor's adjacent lands as the result of the construction and maintenance thereof, and, in order to facilitate THE UNITED STATES OF AMERICA in the enlargement of said river or waterway over said land, the grantor hereby give and grant unto THE UNITED STATES OF AMERICA, appearing herein through W. H. Smith, the right, privilege, power and authority to deposit such earth or spalls or other material excavated in the construction and maintenance of said river on the property of the grantor herein on or along said river, the said grantor hereby expressly waiving and releasing THE UNITED STATES OF AMERICA, its officers, agents, servants, and contractors from any and all claims for damages that may result to the grantor or her remaining property.

THIS PRIVILEGE of depositing the earth or spalls produced in the enlargement of said river or waterway shall be and is a servitude or privilege, running with the land, and binding upon grantor herein, and her heirs and assigns, and shall cover the property, more particularly described as follows:

THE CERTAIN TRACT OF LAND, situated in the Parish of Cameron, State of Louisiana, known as

That part of Section 25, west of the Calcasieu River; The east half of Section 26; The East half of Section 35; That part of Section 36, lying West of the Calcasieu River; All in Township 14 South, Range 10 West.

Section 35 and the fractional E/2 of Section 2, of Township 15 So. 14th, Range 10 West.

The grantor reserves the right to withdraw any portion of the above described land from

REPRODUCED FROM ORIGINAL

PROPERTY

the maintenance dumping privilege on which said Grantor has made improvements, or on which said Grantor has made improvements, or on which he contemplates any immediate improvements.

The small bayou which runs into the river near the West line of Section 36, Township 14 South, Range 10 West, is to be kept open.

TO HAVE AND TO HOLD the said Servitude and all rights and privileges granted hereunder unto THE UNITED STATES OF AMERICA, its successors and assigns, for the purposes aforesaid, forever, free and clear of all liens, mortgages and encumbrances of any nature or kind whatsoever, and with full and general warranty of title, and with full subrogation and substitution to all rights and actions in warranty held by the grantor.

THIS DONE AND PASSED at my office in the City of Houston, Texas on the day and date first above written, in the presence of Mrs. T. W. Jenas, Jr. and Kyle S. Hammon lawful witnesses, who have signed with said appearer and me, Notary, after due reading of the whole.

WITNESSES:
(Sig) Mrs. T. W. Jenas, Jr.
Kyle S. Hammon

(Sig) Mrs. Azema Wilcox
UNITED STATES OF AMERICA
(Sig) J. J. Frear (SEAL)
NOTARY PUBLIC

UNITED STATES OF AMERICA

WITNESSES:
(Sig) Elmer E. Shutte
Antoinette Gammso

Wys W. B. Smith
(Sig) Kenneth Livingston
Notary Public

FILED APRIL 11th, 1938 FILE # 38096
RECORDED MAY 5th, 1938
By: *[Signature]* Recorder

MAYDIE VINCENT, ET AL
TO THE UNITED STATES OF AMERICA
RIGHT OF WAY
STATE OF LOUISIANA
PARTER OF
RIGHT OF WAY

BE IT KNOWN that on this the 22nd day of March in the year of our Lord, one thousand nine hundred and thirty-eight

BEFORE US, Glenn Overman & Kenneth Livingston, a Notary Public duly commissioned and qualified within and for the Parish of Calcasieu, State of Louisiana, and in the presence of the two subscribing witnesses,

PERSONALLY CAME AND APPEARED Maydie Vincent & Boukah Dugas whose wife's name is [Name] and with whom he is now living and residing, resident of the Parish of [Name]

WHO DECLARED that for the consideration and on the terms and conditions hereinafter expressed did, and does, by these presents, grant, bargain, give, donate, convey, transfer, assign, set over and deliver unto THE UNITED STATES OF AMERICA, appearing here in through W. B. Smith, its successors and assigns, for its use in constructing, improving and maintaining the Lake Charles Ship Channel from the docks at Lake Charles to the Gulf of Mexico (modified of the former project for improvement of Calcasieu River and Pass), in accord and with a project duly authorized by Congress, the perpetual right, servitude or easement to enter upon, dig, excavate, set away and remove any or all or such of the hereinafter-described tract of land as may be required at any time in the prosecution of the aforesaid work of improvement, or any part thereof, and to maintain the portion so set away and removed as a part of the navigable waters of the United States; and with said grant is also granted the

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Attorneys, Attorney in fact, and C. H. Taylor, whose wife's name is Fannie May Flummer, and with whom he is now living and residing, resident of the Parish of Jefferson Davis is now living, and residing, residents of the Parish of Jefferson Davis

WHO DECLARED THAT, whereas, THE UNITED STATES OF AMERICA proposed to construct, improve and maintain the Lake Charles Ship Channel from the locks at Lake Charles, to the Gulf of Mexico (a modification of the former project for improvement of Calcasieu River and Passes) and,

WHEREAS, no widening of the natural waterway is necessary through or adjacent to the property of the grantor herein;

WHEREAS, the United States owns or controls a right of way 500 feet wide through or adjacent to the property of the grantor herein;

NOW, THEREFORE, in consideration of the benefits to accrue to the grantors in the added convenience for the use of said river, and the enhanced value that will result to grantor's adjacent lands as the result of the construction and maintenance thereof, and in order to facilitate THE UNITED STATES OF AMERICA in the enlargement of said river or waterway over said land, the grantor hereby give and grant unto THE UNITED STATES OF AMERICA, appearing herein through W.B. Smith, the right, privilege, power and authority to deposit such earth or spoils or other material excavated in the construction and maintenance of said river on the property of the grantor herein on or along said river, the said grantor hereby expressly waiving and releasing THE UNITED STATES OF AMERICA, its officers, agents, servants and contractors from any and all claims for damages that may result to the grantors or their remaining property.

THE PRIVILEGE of depositing the earth or spoils produced in the enlargement of said river or waterway shall be and is a servitude or privilege, running with the land, and binding upon grantors herein, their heirs and assigns, and shall cover the property, more particularly described as follows:

THAT CERTAIN TRACT OF LAND, situated in the Parish of Cameron, State of Louisiana, known as 1/2 of Section 24; Section 25; West of the Calcasieu River; 1/2 of Section 25; 1/2 of 2/3 of Section 25, lying West of the Ship Channel, Township 14 South, Range 10 West, that portion of Section 35, lying West of the Ship Channel location; Section 2; Township 15 South, Range 10 West.

The grantor reserves the right to withdraw any portion of the above area from maintenance dumping privilege on which any improvements have been made, or on which he plans to make improvements.

The privilege here granted is conditioned on vendor acquiring similar rights, from all of grantor's co-owners in the said land.

It is agreed that notwithstanding anything her in contained to the contrary, the right to dump or deposit earth or spoils as herein granted, shall be confined to that part of the above described land that is located on the west side of said channel and no dumping or depositing of such earth or spoils shall be made on said land on the East side of said channel

TO HAVE AND TO HOLD the said servitude and all rights and privileges granted hereunder unto THE UNITED STATES OF AMERICA, its successors and assigns, for the purposes aforesaid, forever, free and clear of all liens, mortgages and encumbrances of any nature or kind whatsoever and with full and general warranty of title, and with full suggestion and substitution to all rights and actions in warranty held by the grantors,

THIS DONE AND PASSED at my office in the Parish of Jefferson Davis on the day and dated first above written, in the presence of Estuarine Petrand and Frieda Kadal, lawful witnesses, who have signed with said grantor and my notary, as to the reading of the whole.

WITNESSES:

(Sig) Katharine Ostromand

Frieda Zebel

(Sig) Mrs. Maudie J. Taylor

WALTERS C. PETERSON

BY Mrs. Maudie J. Taylor

Attorney-in-Chief

CORRENTY EXTRAORDINARY PETERSON

BY Mrs. Maudie J. Taylor

Attorney-in-Chief

C. N. Taylor

UNITED STATES OF AMERICA

BY:

(Sig) A. H. Adams

NOTARY PUBLIC

TRUST DONE AND PASSED, at my office in the Parish of Calcasieu, this 5th day of March, 1938, in the presence of Elmer E. Shatta and Antoinette Gennaro, lawful witnesses, who with said appearer, and me, Notary, after due reading of the same.

Witnesses:

THE UNITED STATES OF AMERICA

(Sig) Elmer E. Shatta

BY: W. S. Smith

Antoinette Gennaro

(Sig) Kenneth Levingston (SEAL)

NOTARY PUBLIC

FILED

APRIL 13th, 1938

FILE # 38108

RECORDED

MAY 6th, 1938

By: Charles E. Vincent

Notary Public for the Parish of Calcasieu, Louisiana

AURBON WEST

at Lake

DUMPING PRIVILEGE

IN

STATE OF LOUISIANA

THE UNITED STATES OF AMERICA

PARISH OF CALCASIEU

DUMPING PRIVILEGE

BE IT KNOWN that on this the 30th day of March, in the year of our Lord, one thousand nine hundred and thirty-eight.

BEFORE ME, Kenneth A. Vincent and David A. Levingston, a Notary Public, duly commissioned and qualified within and for the Parish of Calcasieu, State of Louisiana, and in the presence of the two subscribing witnesses:

PERSONALLY CAME AND APPEARED Aurbon West, whose wife's name is Kate Norwood West, and with whom he is now living and residing; Les E. West, whose wife's name is Janet Lillian West and with whom he is now living and residing; Albert Cormier, whose wife's name is Sarah Vincent Cormier now living and residing; Albert with whom he is now living and residing; E. D. Sweeney, whose wife's name is Lydia Belle Sweeney, and with whom he is now living and residing; E. W. Sweeney, whose wife's name is Lena Shirley Sweeney and with whom he is now living and residing; Matilda O. Gray, a single woman; William K. Gray, whose wife's name is [redacted] and with whom he is now living and residing; Raymond Vincent, whose wife's name is Nettie Dalton Vincent, and with whom he is now living and residing; Mrs. Clarissa Vincent, widow of Joseph J. Vincent; Lawrence Vincent whose wife's name is Flora Paak Vincent, and with whom he is now living and residing; Mrs. Florence Walters, wife of E. L. Walters, with whom he is now living and residing; Mrs. Idonia Rose, with whom he is now living and residing; Honey Vincent, whose wife's name is Anger Carnespaugh, with whom he is now living and residing; Nora E. Vincent whose wife's name is Ora Moss Vincent, with whom he is now living and residing; Mrs. Amelia Chasson, wife of Pierre Chasson, with whom she is now living and residing; and W. T. [redacted] whose wife's name is Ethel Lewis Burton, with whom he is now living and residing, all of the Parish of Calcasieu, Louisiana, except Mrs. Amelia Chasson who is a resident of [redacted] County, Texas.

WHO DECLARED THAT, whereas, THE UNITED STATES OF AMERICA proposed to [redacted] and maintain Lake Charles Ship Channel from the docks at Lake Charles to the [redacted] modification of the former project for improvement of Calcasieu River.

PROPERTY

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Book 3725-787

WITNESSES:

(Sig) Katharine Osgood
Triada Zebel

(Sig) Mrs. Maude J. Peters

MAUDE J. PETERS
BY Mrs. Maude J. Peters
Attorney-in-fact
DOROTHY ELIZABETH PETERS

BY Mrs. Maude J. Peters
Attorney-in-fact

O. M. Taylor

UNITED STATES OF AMERICA

BY

(Sig) A. H. Adams
NOTARY PUBLIC

THIS DEED AND PASSED, at my office in the Parish of Calcasieu, this 5th day of April, 1938,
in the presence of Oliver K. Shutte and Anoinette Gombase, lawful witnesses, who have signed
with said appointor, and me, Notary, after due reading of/whole.

Witnesses:

THE UNITED STATES OF AMERICA

(Sig) Oliver K. Shutte

BY: W. E. Smith

Anoinette Gombase

(Sig) Kenneth Livingston (SSAL)
NOTARY PUBLIC

WITNES

APRIL 13th, 1938

BOOK # 52100

RECORDED

MAY 6th, 1938

By: *Garfield Lewis*
Clerk of the Parish Recorder

AMONGST WHOM

et al

STAMPING DISTRICT

TO

STATE OF LOUISIANA

THE UNITED STATES OF AMERICA

PARISH OF CALCASIEU

DOETHI PRIVILEGE

BE IT KNOWN that on this the 30th day of March,

in the year of our Lord, one thousand nine hundred and
thirty-eight.

BEFORE ME, Notary A. Vincent and David W. Livingston, a Notary Public, duly commissioned
and qualified within and for the Parish of Calcasieu, State of Louisiana, and in the presence
of the two subscribing witnesses:

PERSONALLY CAME AND APPEARED ARDRE WERT, whose wife's name is Kate Harwood WERT, and
with whom he is now living and residing; (see E. Test, whose wife's name is Jany Ballier
with and with whom he is now living and residing; Albert Corcier, whose wife's name is Sedia
Vincent Corcier now living and residing; and with whom he is now living and residing; E. D.
Sweeney, whose wife's name is Lydia Belle Sweeney, and with whom he is now living and residing;
E. M. Sweeney, whose wife's name is Louie Shirley Sweeney and with whom he is now living and
residing; Marilda G. Gray, a single woman; William K. Gray, whose wife's name is
and with whom he is now living and residing; Raymond Vincent, whose wife's name is Matilda
Vincent, and with whom he is now living and residing; Mrs. Clarence Vincent, widow of
Joseph J. Vincent; Lawrence Vincent whose wife's name is Flora Park Vincent, and with whom he
is now living and residing; Mrs. Florence Roberts, wife of S. B. Roberts, with whom he is now
living and residing; Mrs. Maria Ross, with whom he is now living and residing; Soney Vincent,
whose wife's name is Anger Sarnanough, with whom he is now living and residing; More E. Vincent
whose wife's name is Ora Ross Vincent, with whom he is now living and residing; Mrs. Anelin
Chesson, wife of Pierre Chesson, with whom she is now living and residing; and W. T. Burton
whose wife's name is Mahel Lewis Burton, with whom he is now living and residing, all residents
of the Parish of Calcasieu, Louisiana, except Mrs. Anelin Chesson who is a resident of Orange
County, Texas,

AND DECLARED THAT, whereas, THE UNITED STATES OF AMERICA proposed to construct, improve
and maintain "two Charles Ship Channel from the docks at Lake Charles to the Gulf of Mexico
for the facilitation of the country project for improvement of Calcasieu river and delta and

Book 3789 288

WHEREAS, no widening of the natural waterway is necessary through or adjacent to the property of the grantor herein;

WHEREAS, the United States owns or controls a right of way 500 feet wide through or adjacent to the property of the grantor's herein;

AND WHEREFORE, In consideration of the benefits to accrue to the grantors in the needed convenience for the use of said river, and the enhanced value that will result to grantor's adjacent lands as the result of the construction and maintenance thereof, and, in order to facilitate THE UNITED STATES OF AMERICA in the enlargement of said river or waterway over said land, the grantors hereby give and grant unto THE UNITED STATES OF AMERICA, appearing herein through W. B. Smith, the right, privilege, power and authority to deposit such earth or spoils or other material excavation in the construction and maintenance of said river on the property of the grantors herein on or along said river, the said grantors hereby expressly waiving and releasing THE UNITED STATES OF AMERICA, its officers, agents, servants and contractors from any and all claims for damages that may result to the grantors or their remaining property.

THE PRIVILEGE of depositing the earth or spoils produced in the enlargement of said river or waterway shall be and is a servitude or privilege, running with the land, and binding upon grantors herein, their heirs and assigns, and shall cover the property, more particularly described as follows:

THAT CERTAIN TRACT OR LAND, situated in the Parish of Cameron, State of Louisiana, known as 1/2 of Section 26; Section 25; West of the Calcasieu River; 1/2 of Section 35; W/2 of 1/2 of Section 36; lying West of the Ship Channel, (Township 14 of Section 36, lying West of the Ship Channel) Township 14 North, Range 10 West.

That portion Section 35 lying West of the Ship Channel location; Section 2; Township 14 North, Range 10 West.

The Grantors reserve the right to withdraw any portion of the above area from maintenance dumping privilege on which any improvements have been made, or on which he plans to make improvements.

It is agreed that notwithstanding anything to the contrary, the right to dump or deposit earth or spoils, as herein granted, shall be confined to that part of the above described land that is located on the West side of said channel and no dumping or depositing of such earth or spoils shall be made on said land on the East side of said channel.

TO HAVE AND TO HOLD the said servitude and all rights and privileges granted hereunder unto THE UNITED STATES OF AMERICA its successors and assigns, for the purposes aforesaid, forever, free and clear of all liens, mortgages and encumbrances of any nature or kind whatsoever, and with full and general warranty of title, and with full subrogation and substitution to all rights and actions in warranty held by the grantors.

THIS DEED WAS FORWARDED at my office in the Parish of Calcasieu on the day and date above written, in the presence of _____ and _____ lawful witnesses, who have signed with said grantors and me, Notary, after due reading of the whole.

WITNESSES: To signature of Lee M. West and Albert Cormier.

A. G. West

W. B. Smith

Lee M. West

John Grayson

Albert Cormier

WITNESSES: To signature of A. G. West

K. D. Sweeney

S. W. Sweeney

Robert Livingston

Mailla J. Gray

John Grayson

[Notary in Charge, Mailla J. Gray

Witnesses: To signature of S. W. Sweeney, Notary.

Robert and E. W. Sweeney,
(sig) Maria Woods
J. D. Walters

WITNESSES: To signature of said
J. Gray, Esq. and As Atty. in Fact
for William K. Gray

Helen Cluway
Kenneth Livingston

WITNESSES: To signature
of W. T. Hurton

Vern Lee West
Edna West

WITNESSES: To signature of
W. T. Hurton

Kenneth Livingston
Blair D. Shotts

Raymond Vincent
Mrs. Clarissa Vincent
Mrs. Florence Walters
Lawrence Vincent
Mrs. Idonia Moss
Mora E. Vincent
Mrs. Arella Shannon
Jenny Vincent
W. T. Hurton

THE UNITED STATES OF AMERICA

vs.

IN SENATE PUBLIC

That I, this 25th day of March, A.D., 1938, personally saw and appeared Louis A. West
Alfred Chrysler and Raymond Vincent, all signs above document in presence of Vera Lee West and
John Gray, witnesses.

Subscribed to before me.

Maurice A. Vincent
Notary Public, Calcasieu Parish, La.

STATE OF LOUISIANA

PARISH OF CALCASIEU

Before me, David H. Livingston, Notary Public, in and for said Parish and State, this day
personally appeared S. E. Sweeney, Mrs. Clarissa Vincent, Mrs. Florence Walters, Lawrence Vin-
cent, Mrs. Idonia Moss, Jenny Vincent, Mora E. Vincent and E. W. Sweeney, to me personally
known to be the identical persons whose names are subscribed to the foregoing instrument and
acknowledged to me in the presence of Maria Woods and J. D. Walters, witnesses, that they ex-
ecuted the same on the date last of, and that it was their own free and voluntary act for the uses
and purposes therein expressed.

Witness my official signature and seal at Lake Charles, Louisiana, this 25th day of
March, A.D., 1938.

(Sig) David H. Livingston (S.M.)
Notary Public, Calcasieu Parish, La.

STATE OF LOUISIANA,

PARISH OF CALCASIEU,

Before me, David Livingston, Notary Public, in and for said Parish and State, this day
personally appeared A. W. West, to me personally known to be the identical person whose name is
subscribed to the foregoing instrument and acknowledged to me in the presence of Kenneth Liv-
ingston and Helen Cluway, witnesses, that he executed the same on the date hereof, and that it
was his own free and voluntary act for the uses and purposes therein expressed.

Witness my official signature and seal at Lake Charles, La., on the 25th day of March,
A.D., 1938.

(Sig) David H. Livingston (S.M.)
Notary Public, Calcasieu Parish, La.

STATE OF LOUISIANA,

PARISH OF CALCASIEU

Before me, David H. Livingston, Notary Public in and for said Parish and State, this day
personally appeared Estelle M. West, individually and as attorney in fact for William K. Gray.

to me personally known to be the identical person whose name is subscribed to the foregoing instrument and acknowledged to me in the presence of Helen Cleoney and Kenneth Livingston, witnesses that she executed the same on the date hereof, and that it was her own free and voluntary act for the uses and purposes therein expressed.

witness my official signature and seal at Lake Charles, Louisiana, this 26th day of March, A. D., 1958.

(Sig) David H. Livingston (Seal)
Notary Public, Calcasieu, La.

STATE OF LOUISIANA
PARISH OF CALCASIEU

before me, David H. Livingston, Notary Public, In and for the Parish and State, this day personally appeared Mrs. Analia Cormier, to me personally known to be the identical person whose name is subscribed to the foregoing instrument and acknowledged to me in the presence of Vera Mae West and Lee E. West, witnesses, that she executed the same on the date hereof, and that it was her own free and voluntary act for the uses and purposes therein expressed.

witness my official signature and seal at Lake Charles, Louisiana, this 26th day of March, A. D., 1958.

(Sig) David H. Livingston (Seal)
Notary Public, Calcasieu Parish, La.

THIS DONE AND PASSED, at my office in the Parish of Calcasieu, this 5th day of April 1958, in the presence of Elmer E. Shutte and Antoinette Cannoso, lawful witnesses, who have signed with said appearer and me, Notary, after due reading of the whole.

1918 UNITED STATES OF AMERICA

Witnesses;

W. F. Smith

(Sig) Elmer E. Shutte

Antoinette Cannoso

(Sig) Kenneth Livingston (Seal)
NOTARY PUBLIC

By: *Garfield James*
Clerk of the Parish Recorder

FILED APRIL 13th, 1958
RECORDED MAY 6th, 1958
FILE # 24109

AURORA WEST, et al

RIGHT OF WAY

TO STATE OF LOUISIANA
PARISH OF CALCASIEU
UNITED STATES OF AMERICA
RIGHT OF WAY

BE IT SHOWN that on this the 29th day of March, in the year of our Lord, one thousand nine hundred and thirty-eight.

WHEREAS, Maurice Vincent a Notary Public duly commissioned and qualified within and for the Parish of Calcasieu, State of Louisiana, and in the presence of the two subscribing witnesses,

PERSONALLY came and appeared AURORA WEST, whose wife's name is Kate Margaret West and with whom he is now living and residing; Lee H. West, whose wife's name is Jane West born Miller, and with whom he is now living and residing; Albert Cormier, whose wife's name is Sadie Vincent Cormier, and with whom he is now living and residing; H. D. Sweeney, whose wife's name is Lydia M. Sweeney and with whom he is now living and residing; S.W. Sweeney, whose wife's name is Lena Shirley Sweeney and with whom he is now living and residing; Matilda G. Gray, a single woman; William K. Gray, whose wife's name is _____ and with whom he is now living and residing; Raymond Vincent, whose wife's name is Matilda Dubon Vincent and with whom he is now living and residing; Mrs. Christine Vincent, widow of Joseph J. Vincent; Lawrence Vincent, whose wife's name is Flora Park Vincent and with whom he is now living and residing; Mrs. Florence Rollins, wife of B. L. Walters, with whom she is now living and residing; Mrs. Idna _____

Exhibit C

**March 4, 2005 Letter from Department of Army
to Mr. William W. Ruck, III of Welands Corporation**

REPLY TO
ATTENTION OF**DEPARTMENT OF THE ARMY**
NEW ORLEANS DISTRICT, CORPS OF ENGINEERS
P.O. BOX 80087
NEW ORLEANS, LOUISIANA 70160-0087

March 4, 2005

**Real Estate Division
Management, Disposal and Control Branch****Mr. William W. Rucks, III
President
Westlands Corporation
P.O. Box 51524
Lafayette, Louisiana 70505**

Dear Mr. Rucks:

Please reference your letter of January 27, 2005, which requested a partial release of dredge material disposal easements in Section 22, 23, 26, 35, Township 14 South, Range 10 West, and Section 2, Township 15 South, Range 10 West, Cameron Parish, Louisiana for an LNG facility.

We have investigated the easements acquired by the Federal Government in the above referenced sections. The easements over a portion of Section Nos. 26 and 35, Township 14 South, Range 10 West and Section No. 2, Township 15 South, Range 10 West, contain language whereby the Grantor (owner) reserved the right to withdraw any portion of the disposal easement on which improvements have been made or on which improvements are contemplated. Therefore, no formal withdrawal of the easement is required for these sections. Only a real estate consent document would be required in order for the work to proceed.

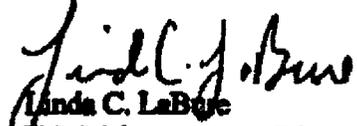
The disposal easement held in Section No. 23, Township 15 South, Range 10 West, do not contain withdrawal clauses, and therefore consideration for the release of this area will not be granted. The United States does not hold an easement within the area located in Section 22, Township 14 South, Range 10 West.

Please be advised that the real estate consent document does not relieve you of the possible need to obtain a Department of Army Regulatory Permit. The regulatory permit process examines your proposed project for compliance with Section 10 of the Rivers and Harbors Act of 1899, for activity on navigable waters, and by Section 404 of the Federal Water Pollution Control Act of 1972, for work in wetlands. We recommend that you first proceed with applying for the Department of Army Regulatory Permit. You can contact our Regulatory Branch, Operations Division at (504) 862-2225 to obtain detailed information on what documents must be submitted in order to make application. We will utilize the permit application as the basis for issuing a real estate consent.

Page 2

If you have any further questions regarding the above procedure to apply for a real estate consent, please contact Ms. Trudy Vinger at (504) 862-1661.

Sincerely,


Linda C. LaBrie
Chief, Management, Disposal
and Control Branch

Copy Furnished:

Mr. Mike Deas, Attorney
Lake Charles Harbor and Terminal District
P.O. Box 3753
Lake Charles, Louisiana

Exhibit D

Pujo Easement

139E-18E

CALCASIEU RIVER AND PASS, LOUISIANA

STATE OF LOUISIANA

PARISH OF CALCASIEU

KNOW ALL MEN BY THESE PRESENTS;

THAT,

WHEREAS, in the Act of Congress, Public Law No. 643, 86th Congress, approved 14 July 1960, modification of the Calcasieu River and Pass, Louisiana Project, was authorized substantially in accordance with the report of the Chief of Engineers dated 1 June 1960 as contained in House Document No. 436, 86th Congress; and,

WHEREAS, the said Act provides that local interests shall furnish free of cost to the United States of America, all lands, easements, rights of way and spoil disposal areas necessary for the construction and for subsequent maintenance of the project;

NOW, THEREFORE, MRS. ELAINE FUJO KILLY, wife of W. BOATMAN KILLY, JR., MRS. HEBA FUJO MOLTER, widow of Bennett A. Molter, MRS. ELOISE FUJO MOLTER LAWRENCE KILL, wife of John J. Kill, III, ROBERT A. MOLTER, JR., and W. BOATMAN KILLY, III,

(hereinafter referred to as "Grantor") does hereby grant, convey, transfer, assign, set over and deliver with all legal warranties and with full substitution and subrogation in and to all the rights and actions of warranty which they have or they have against all preceding owners and vendors unto:

878180 (Calcasieu)

REC'D AT 11:41 AM 10/26/05

195

3/3/62

D E E D

521577

MS. 8.110

NOTICE OF SALE OF LAND

10/26/05

15

15

15

15

(Use this page 2 if conveyance includes channel right of way)

THE UNITED STATES OF AMERICA

or its assigns, (hereinafter referred to as "Grantee") the full, complete and perpetual right, power, privilege, easement or servitude in, on and to the lands described below, for the location, construction, maintenance and operation of the Calcasieu River and Pass, Louisiana Project, including the right to enter upon, dig, cut away and remove any or all of the said lands or earth necessary for the construction, maintenance and operation of said Waterway, or any enlargement thereof, the right to maintain the Waterway as a part of the navigable waters of the United States, and the right to use said land as may be required for the deposit of dredged material or earth and water carrying same and for such other purposes as may be necessary for the construction, preservation and maintenance of said Waterway, the land in, on and to which the rights, easements or servitudes above described are hereby conveyed being described as follows:

TRACT NO. 90611

All of the undivided interest of the undersigned in the Southwest 1/4 of the Southeast 1/4 of Section 17, Township 10 South, Range 8 West and described as:

Beginning at a point on the East line of the said Southwest 1/4 of the Southeast 1/4 of Section 17 which is North 0° 06' East 203.0 feet from the Southeast corner of said Southwest 1/4 of the Southeast 1/4 of Section 17; said point is on the Southeast Right-of-Way line of the proposed 1200 foot Ship Channel Right-of-Way;

Thence, North 0° 06' East 477.3 feet along the East line of said Southwest 1/4 of the Southeast 1/4 and to the Southeast Right-of-Way line of the existing Ship Channel;

Thence, South 54° 15' West 933.5 feet along said Southeast Right-of-Way line and to the right descending bank of the Calcasieu River;

Thence, upstream along the right descending bank of the Calcasieu River as follows:

South 48° 08' East 190.2 feet to the South line of Section 17.

Thence, North 89° 38' East 154.0 feet along the South line of said Section 17 and to the Southeast Right-of-Way line of the Proposed 1200 foot Ship Channel Right-of-Way;

Thence, North 93° 43' East 346.1 feet along said Right-of-Way line and to the point of beginning and containing 6.23 acres; and

TRACT NO. 10821

All of the undivided interest of the undersigned in the Southwest 1/4 of the Southeast 1/4 of Section 17, Township 13 South, Range 9 West, Calcasieu Parish, Louisiana, and fully described as beginning at a point NORTH 0° 05' West 348.3 feet from the Southwest corner of the Southwest 1/4 of the Southeast 1/4 of Section 17, said point of beginning is on the Northwest Right-of-Way line of the existing 300 foot Right-of-Way for the Ship Channel;

Thence, North 0° 09' West 373.9 feet along the West line of the Southwest 1/4 of the Southeast 1/4 of Section 17 and to the Northwest Right-of-Way line of the proposed 1200 foot Ship Channel Right-of-Way;

Thence, North 33° 43' East 475.9 feet along said Right-of-Way line and to the line between properties of Mrs. Elaine P. Kelly et al. on the Southwest and the Hercules Powder Company on the Northwest;

Thence, South 28° 39' East 207.8 feet along said property line and to a concrete monument on said property line;

Thence, continuing South 28° 39' East 100.8 feet along said property line and to the Northwest Right-of-Way of the existing 300' Right-of-Way for the Ship Channel;

Thence, South 34° 15' West 455.0 feet along said Right-of-Way and to the point of beginning and containing 2.58 acres; all of the foregoing as fully shown on plat attached hereto;

a & c

TRACT NO. 13921

In Lot 7 of Section 23, Township 14 South, Range 10 West, Cameron Parish, Louisiana, and fully described as:

Commencing at the corner common to Sections 23, 24, 25 and 26, Township 14 South, Range 10 West, said Section corner is North 09° 43' West 3280 feet from the U. S. Biological survey monument marking the Southeast corner of Section 24;

Thence, West 819.6 feet along the South line of said Section 23 and to the proposed Right-of-Way line;

Thence, North 12° 25' East 650.0 feet along said proposed Right-of-Way line and to the right descending bank of the Calcasieu River (or right bank of West Fork);

Thence, downstream along said bank South 37° 05' East 144.6 feet to Station 1647 + 38.7 of the United States Engineering Department base line;

Thence, continuing South 37° 05' East 631.1 feet along said bank and to the corner common to Sections 23, 24, 25 and 26, the point of beginning and containing 4.51 acres, as fully shown on plat attached hereto.

(Use this page for if conveyance
is channel right of way and
special disposal easement)

Grantor does hereby further grant, convey, transfer, assign,
set over and deliver with all legal warranties and with full substitu-
tion and subrogation in and to all the rights and actions of warranty
which they ^{have} ~~had~~ or may have against all preceding owners
and vendors unto

THE UNITED STATES OF AMERICA

or its assigns, (hereinafter referred to as Grantee) the full, complete
and perpetual right, power, privilege, easement or servitude in, on and
to the lands described below, to enter upon and deposit dredged material
or earth and water carrying same at any time during the construction,
maintenance and operation of the Calcasieu River and Pass, Louisiana
Project, pursuant to the provisions of the heretofore cited Act of Con-
gress, the land in, on and to which the rights, easements or servitudes
above described are hereby conveyed being described as follows:

TRACT NO. 139E21

Spoil area described as all of Lots 6 and 7, Section 23, Township 14
South, Range 10 East, Cameron Parish, Louisiana, less that portion of
Lot 7 described in Tract 139E-1 above, containing 72 acres, as fully shown
on plat attached hereto. *

Grantor hereby releases the United States of America, or its assigns, its officers, agents, servants and contractors from liability for any and all damages done or caused to be done, and from any claim or demand whatsoever for injuries suffered by or done to the said premises by reason of construction, maintenance and operation of the project thereon or the deposit of spoil or other material.

The consideration for this transfer and conveyance is hereby declared to be the sum of Five Hundred Dollars (\$500.00) paid by the late Charles Foster and Terminal District, receipt of which is hereby acknowledged and full discharge and acquittance granted therefor.

All such rights and privileges in and to all of the said above described land as may be used and enjoyed without interfering with or abridging the privileges, rights, easements or servitudes herein granted are expressly reserved to the Grantor.

TO HAVE AND TO HOLD the rights, powers, privileges and easements or servitudes hereby conveyed unto the United States of America, or its assigns, forever.

The Grantor further warrants that the said land described above is free from any mortgage, lien, judgment or any encumbrances whatsoever except those conveyed rights and privileges enumerated as follows:

N O W E

and the Grantor hereby agree to defend the title to the rights and privileges herein and hereby conveyed unto the United States of America or its assigns against the claims of any and all preceding owners and vendors of the lands described above.

Witness the hand of the said Grantor at New Orleans, Louisiana, in the presence of the undersigned competent witnesses, on this 23 day of March, 1964.

WITNESSES:

Samuel H. Blair
Witness

Mona Puj. M. St.
W. B. Beckman
Clara Puj. Puj.
Bernard C. Malter

STATE OF LOUISIANA

PARISH OF Orleans

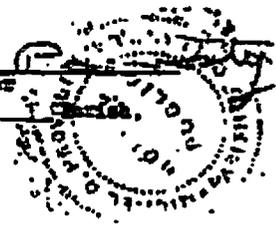
BEFORE ME, the undersigned Notary Public, on this day personally appeared W. B. Kelly, Jr. who, being by me duly sworn, stated under oath that he was one of the subscribing witnesses to the foregoing instrument and that the same was signed by Mona Eric Malter, W. DONOVAN Kelly, YV. Elaine Eric Kelly, and Samuel A. Malter, Jr.

(Grantor, as above mentioned) in his presence and in the presence of Dwight H. Blair, the other subscribing witness.

W. B. Kelly, Jr.
W. B. KELLY, JR.

SWORN TO AND SUBSCRIBED before me this 23 day of April, 1964.

James R. Kelly
Notary Public in and for
Orleans
Louisiana.



03/21/2006 11:42

UTINGEN HERBERT LLC + 17136555489

NY 229 1235

37/255

STATE OF LOUISIANA. OFFICE, CLERK OF COURT.
PARISH OF JEFFERSON DAVIS,

I HEREBY CERTIFY, that the within and foregoing is a true and correct copy of the original act of JUDGMENT which was filed and Recorded February 1st, A.D., 1937, in Conveyance Record "70", page 464, bearing File No. 100763.

IN TESTIMONY WHEREOF, Witness my official signature and seal of office at Jennings, Louisiana, on this 31st day of March, 1938,

(Sig) L. E. Toups
By, Clerk of Court

IN RE EMANCIPATION OF
DOROTHY ELIZABETH PETERS,
No. 5429, CIVIL DOCKET

IN THE FOURTEENTH JUDICIAL DISTRICT
COURT OF LOUISIANA,
in and for JEFFERSON DAVIS PARISH

J U D G M E N T

That same came on for trial at Chambers upon plaintiff's application for emancipation; the Court examined the applicant relative to the matters set forth in her petition and is satisfied that she is fully capable of administering her own affairs, that it would be to her interest that she be emancipated, and the law and the evidence being in favor thereof -

IT IS ORDERED that petitioner, DOROTHY ELIZABETH PETERS, be fully emancipated and relieved of all of the disabilities which attach to minors, with full power to do and perform all acts as fully as if she had attained the age of twenty-one years; costs of this proceeding to be paid out of the said minor's estate.

Judgment READ and SIGNED at Chambers at Jennings, Louisiana, on 'his the 17th day of September, A.D. 1936.

(SIGNED) PAUL DERRILLON
District Judge

Filed Sept. 17, 1936
(SIGNED) L. E. Toups, By, Clerk

STATE OF LOUISIANA. OFFICE, CLERK OF COURT
PARISH OF JEFFERSON DAVIS

I HEREBY CERTIFY that the within and foregoing is a true and correct copy of the original act of JUDGMENT which was filed and Recorded September 28th, A.D., 1936, in Conveyance Record "69", page 63, bearing File No. 90719.

IN TESTIMONY WHEREOF, Witness my official signature and seal of office at Jennings, Louisiana, on this 31st day of March, 1938.

(Sig) L. E. Toups
By, Clerk of Court

FILED APRIL 15th, 1938
RECORDED MAY 6th, 1938
FILE # 28107

By, Clerk & RE-Record

MADE J. PETERS

DUMPING PRIVILEGE

T O

STATE OF LOUISIANA

THE UNITED STATES OF AMERICA

PARISH OF JEFFERSON DAVIS

DUMPING PRIVILEGE

AS IT SHOWS that on this the 31st day of March,

in the year of our Lord, one thousand nine hundred and

RECORDED

and the Grantor hereby agrees to defend the title to the rights and privileges herein and hereby conveyed unto the United States of America or its assigns against the claims of any and all preceding owners and vendors of the lands described #90E1, 90E2 and 139E1.

Witness the hand of the said Grantor at Philadelphia, Pennsylvania, in the presence of the undersigned competent witnesses, on this 5th day of April 19 62.

WITNESSES:

Leiford P. Bernhardt
Jean Robson

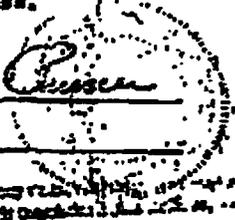
man. 32 or Pigeon with Lawrence Hill

STATE OF PENNSYLVANIA :

COUNTY OF Philadelphia :

BEFORE ME, the undersigned Notary Public, on this day personally appeared Leiford P. Bernhardt who, being by me duly sworn, stated under oath that he was one of the subscribing witnesses to the foregoing instrument and that the same was signed by Mrs. Eloise Paje Meltzer Lawrence Hill

(Grantor, as above mentioned) in his presence and in the presence of (Miss) Jean Robson, the other subscribing witness.

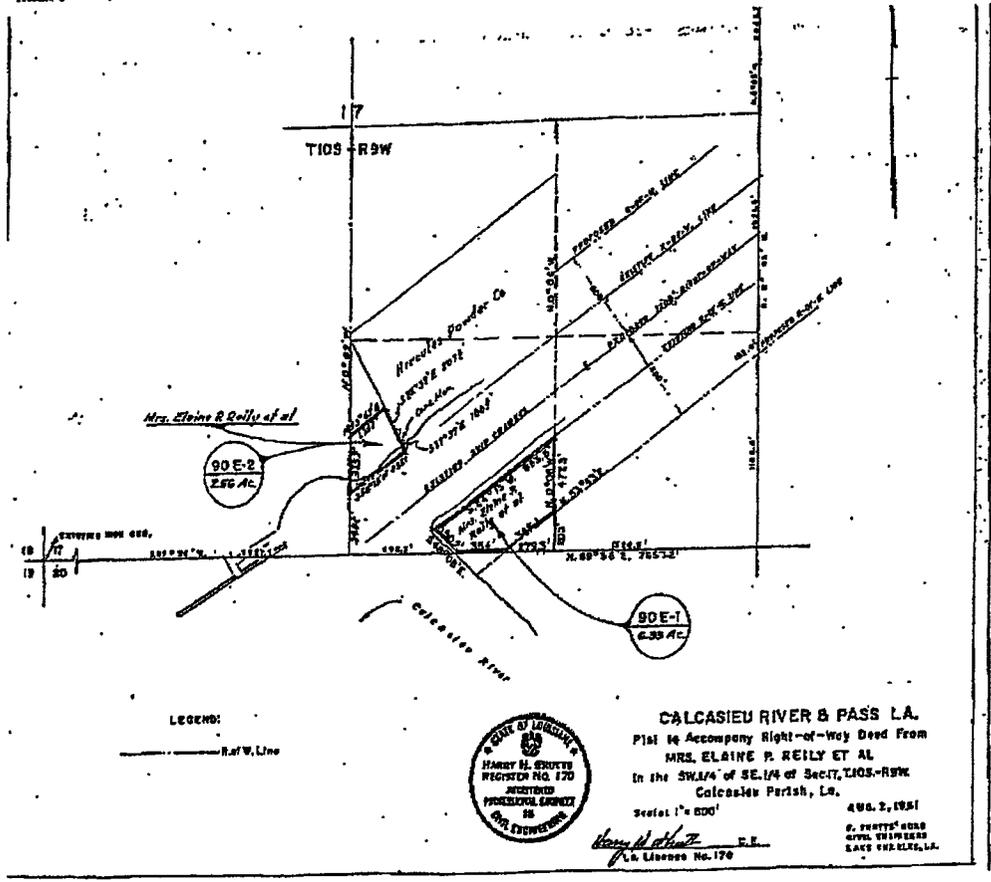
Armand E. Gussen


SWORN TO AND SUBSCRIBED before me

April 5th

19 62

Notary Public for the State of Pennsylvania

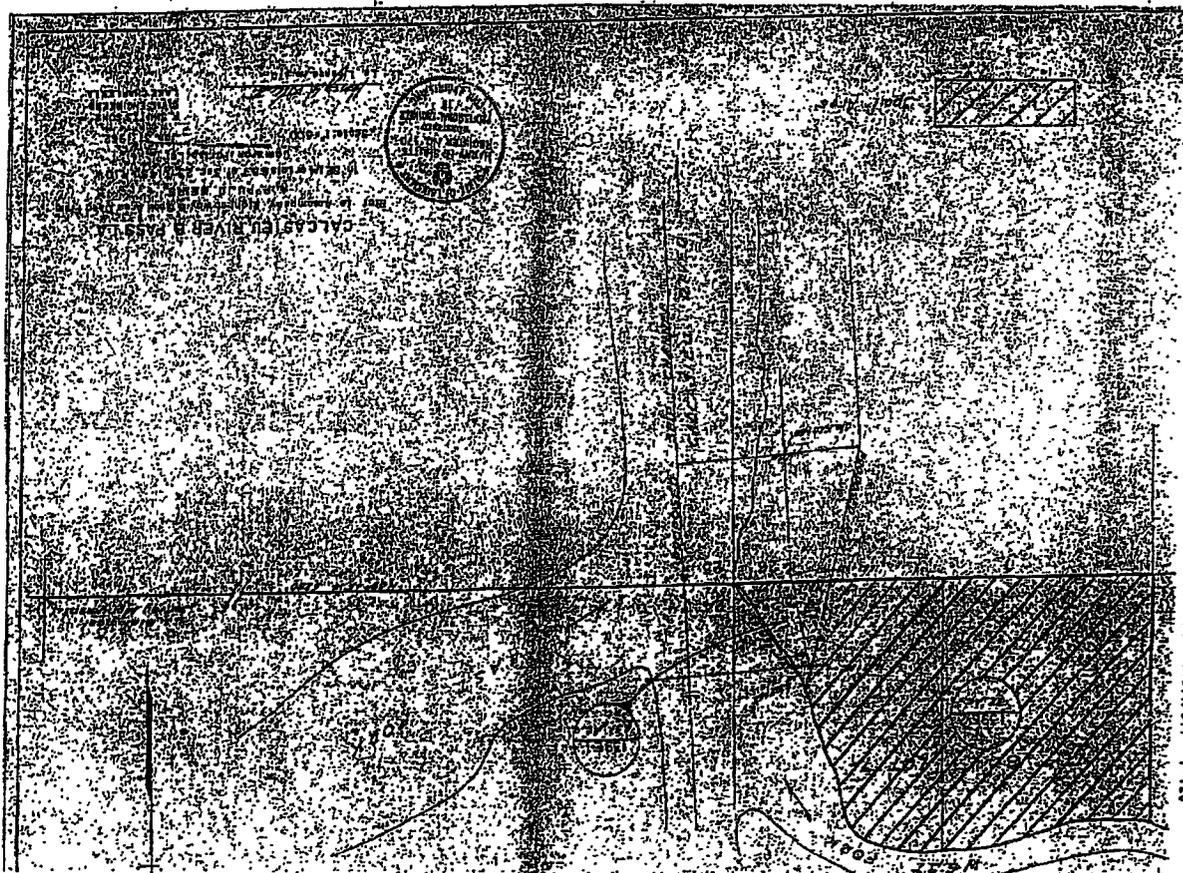


10-06-05 12:41 pm

FROM: ANDREWS & KURTH LLP

+3124773625

T-820 P. 01/1/011 P-723



POOR QUALITY

Exhibit E

**Section 133 of Energy and Water Development
Appropriations Act, Pub. L. 109-103**

(c) **REPEAL.**—Section 374 of the Water Resources Development Act of 1989 (113 Stat. 321) and section 304 of the Water Resources Development Act of 2000 (Public Law 106-541) are repealed.

SEC. 133. CALCASIEU SHIP CHANNEL, LOUISIANA.—(a) **IN GENERAL.**—At such time as Pujo Heirs and Westland Corporation convey all right, title, and interest in and to the real property described in paragraph (b)(1) to the United States, the Secretary shall convey all right, title, and interest of the United States in and to the real property described in paragraph (b)(2) to Pujo Heirs and Westland Corporation.

(b) **LAND DESCRIPTION.**—The parcels of land referred to in paragraph (a) are the following:

(1) **NON-FEDERAL INTEREST IN LAND.**—An easement for placement of dredged materials over a contiguous equivalent area to the real property described in subparagraph (2). The parcels on which such an easement may be exchanged is all of the area within the diked or confined boundaries of the Corps of Engineers Dredge Material Placement Area M comprising Tract 128E, Tract 129E, Tract 131E, Tract 41A, Tract 42, Tract 132E, Tract 130E, Tract 134E, Tract 133E-3, Tract 140E, or some combination thereof.

(2) **FEDERAL INTEREST IN LAND.**—An easement for placement of dredged materials over an area in Cameron Parish, Louisiana, known as portions of Government Tract Numbers 139E-2 and 48 (both tracts on the west shore of the Calcasieu Ship Channel), and other tracts known as Corps of Engineers Dredge Material Placement Area O.

(c) **CONDITIONS.**—The exchange of real property under paragraph (a) shall be subject to the following conditions:

(1) **DEEDS.**—

(A) **NON-FEDERAL LAND.**—The conveyance of the real property described in paragraph (b)(1) to the Secretary shall be by a warranty deed acceptable to the Secretary.

(B) **FEDERAL LAND.**—The conveyance of the real property described in paragraph (b)(2) to Pujo Heirs and Westland Corporation shall be by a quitclaim deed.

(2) **TIME LIMIT FOR EXCHANGE.**—The land exchange under paragraph (a) shall be completed not later than six months after the date of enactment of this Act.

(3) **INCREMENTAL COSTS.**—As determined by the Secretary, incremental costs to the Lake Charles Harbor and Terminal District associated with the preparation of the area and the placement of dredge material in the new disposal easement area, paragraph (b)(1), including, site preparation costs, associated testing, permitting, mitigation and diking costs associated with such new disposal easement over the costs that would have been incurred in the placement of dredge material in the old disposal easement area, paragraph (b)(2) (comprising all of Corps of Engineers Dredge Material Placement Area O) up to the disposal capacity equivalent of the property described in paragraph (b)(2), shall be made available by the Owners. Owners shall make appropriated guarantees, as agreed to by the Secretary, that funds will be available as needed to cover such incremental costs. The Lake Charles Harbor and Terminal District, as local sponsor for the Calcasieu Ship Channel Project,

shall not be assessed or caused to incur any costs arising out of, associated with or as a consequence of the land exchange authorized under paragraph (a).

(d) **VALUE OF PROPERTIES.**—If the appraised fair market value, as determined by the Secretary, of the real property conveyed to Pujo Heirs and Westland Corporation by the Secretary under paragraph (a) exceeds the appraised fair market value, as determined by the Secretary, of the real property conveyed to the United States by Pujo Heirs and Westland Corporation under paragraph (a), Pujo Heirs and Westland Corporation shall make a payment to the United States equal to the excess in cash or a cash equivalent that is satisfactory to the Secretary.

SEC. 134. PROJECT MODIFICATION.—(a) **IN GENERAL.**—The project for flood damage reduction, environmental restoration, recreation, Johnson Creek, Arlington, Texas, authorized by section 101(b)(14) of the Water Resources Development Act of 1999 (113 Stat. 280–281) is modified—

(1) to deauthorize the ecosystem restoration portion of the project that consists of approximately 90 acres of land located between Randol Mill and the Union Pacific East/West line; and

(2) to authorize the Secretary of the Army to design and construct an ecosystem restoration project on lands identified in subsection (c) that will provide the same or greater level of national ecosystem restoration benefits as the portion of the project described in paragraph (1).

(b) **CREDIT TOWARD FEDERAL SHARE.**—The Secretary of the Army shall credit toward the Federal share of the cost of the modified project the costs incurred by the Secretary to carry out the project as originally authorized under section 101(b)(14) of the Water Resources Development Act of 1999 (113 Stat. 280). The non-Federal interest shall not be responsible for reimbursing the Secretary for any amount credited under this subsection.

(c) **COMPARABLE PROPERTY.**—Not later than 6 months after the date of enactment of this Act, the City of Arlington, Texas, shall identify lands, acceptable to the Secretary of the Army, amounting to not less than 90 acres within the City, where an ecosystem restoration project may be constructed to provide the same or greater level of National ecosystem restoration benefits as the land described in subsection (a)(1).

SEC. 135. Funds made available in Public Law 106–62 and Public Law 105–945 for Hudson River, Athens, New York, shall be available for projects in the Catskill/Delaware watersheds in Delaware and Greene Counties, New York, under the authority of the New York City Watershed Environmental Assistance Program.

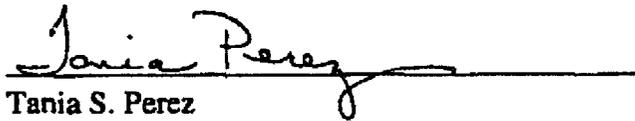
SEC. 136. None of the funds contained in title I of this Act shall be available to permanently reassign or to temporarily reassign in excess of 180 days personnel from the Charleston, South Carolina district office: Provided, That this limitation shall not apply to voluntary change of station.

SEC. 137. The Secretary of the Army, acting through the Chief of Engineers, is hereby authorized and directed to design and construct until hereafter completed, the recreation and access features designated as Phase II of the Louisville Waterfront Park, Kentucky, as described in the Louisville Waterfront Park, Phases II and III, Detailed Project Report, by the Louisville District of the Corps of

Certificate of Service

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at New York, NY this 22nd day of March, 2006.


Tania S. Perez

Attorney for
Creole Trail LNG, L.P.
Creole Trail Pipeline Company

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**COMMISSIONERS
EXECUTIVE STAFF
CONTACTS**

**BOARD MINUTES
FOREIGN TRADE ZONE
HARBOR SAFETY
COMMITTEE
INDUSTRIAL PARKS
MAPS
MARINE SERVICES
MARINE TERMINALS
NAVIGATION INITIATIVES
NEWSLETTER
OTHER TERMINALS
REQUEST FOR
PROPOSALS
REVENUE
SAFETY MANUAL
SAILING SCHEDULE
TARIFFS**

LINKS

HOME



Act 67 of the Louisiana Legislature of 1924 created the Lake Charles Harbor & Terminal District, authorizing the District to call bond elections and to raise funds for the construction, operation, and maintenance of port facilities, and a Board of Commissioners

Since 1924, the District has used its bonding authority to generate revenue for the construction of facilities and to expand the fledging port from two transit sheds and wharves at the City Docks to the 4,000 acre facility it has become

The District and the people of Calcasieu Parish have joined hands in building a deep water port for the movement of cargo and to enhance industrial development along the Calcasieu Ship Channel

Using the District's bonding authorities, industries along the Calcasieu Ship Channel have sold revenue bonds for the construction and expansion of facilities

In December 1998, the Board adopted a \$17 million operating budget and a \$145.8 million capital budget, most of which is funded through self-generated revenue

The Port of Lake Charles funds its operations through self-generated revenue and through a 2.5 mil ad valorem tax, which generates \$1 million annually and with interest on the District's \$87 million investment portfolio expected to generate \$5.2 million in 1998

[\[Commissioners\]](#) [\[Executive Staff\]](#) [\[Contacts\]](#) [\[Marine Terminals\]](#)
[\[Other Terminals\]](#) [\[Industrial Parks\]](#) [\[Foreign Trade Zone\]](#) [\[Tariffs\]](#) [\[Marine Services\]](#)
[\[Sailing Schedule\]](#) [\[Newsletter\]](#) [\[Revenue\]](#) [\[Maps\]](#) [\[Links\]](#) [\[Home\]](#)

PROCEEDINGS

WEST CAMERON PORT HARBOR & TERMINAL DISTRICT

FEBRUARY 22, 2005

The West Cameron Port Harbor & Terminal District met in regular session on Tuesday, February 22, 2005 at the Grand Lake Fireman Center in the Village of Grand Lake, Louisiana at 5:30 o'clock PM.

Present: Cliff Cabell, Jimmy Brown, Howard Romero, Dwight Savoie, Wendell Wilkerson, Ricky Poole, Greg Wicke, Terry Hebert

Absent: J. P. Constance - deceased

Guest: Scott Trahan, Tunie Dunaway, Darryl Farque, Sonny McGee, Randall Theunissen, Chadd Mudd, Leonard Knapp, Adam McBride, Butch Hebert, Tom Barrett, Glenn Alexander, Darron Granger, Carlos Macias, David Bruochaus, Lonnie Harper

The meeting was called to order by Chairman, Cliff Cabell.

Greg Wicke led the Pledge of Allegiance and Jimmy Brown gave the invocation.

On the motion of Mr. Savoie, seconded by Mr. Brown and carried the January 25, 2005 regular meeting minutes were approved.

On the motion of Mr. Savoie, seconded by Mr. Romero and carried Mr. Darron Granger with Cheniere Energy was added to the agenda to address the board.

Mr. Glenn Alexander with Glenn Alexander, A Professional Law Corporation drafted a permit for water bottoms for the West Cameron Port Commission to approve for Sabine LNG. L.P., explained to the board that an opinion was received from the Attorney General's Office granting the West Cameron Port the authority to issue permits on State owned water bottoms within their jurisdiction. Mr. Alexander asked the board to grant a water bottom permit for Sabine LNG L.P. A discussion followed with Mr. Granger explaining the map and modifications of the dredging plans for the Sabine LNG facility if the water bottoms became a major issue. The water bottoms would not be an issue since the West Cameron Port Commission has jurisdiction over the permitting process of them. Discussion took place on fees being charged and who is entitled to the money collected from the permit. Mr. Theunissen informed the board that in reference to fee, wording should be included in the permit that the fee would be agreed upon at a later date.

On the motion of Mr. Romero, seconded by Mr. Wicke and carried the board agreed to grant a water bottom permit to Sabine Pass LNG, L.P. with the stipulation that the fee will be agreed upon and paid within 30 days.

Mr. Carlos Macias explained the new Creole Trail LNG facility Cheniere Energy is planning to locate along the Calcasieu Ship Channel on West Fork. He detailed the process from the berthing of the ships to natural gas entering the pipelines. Mr. Macias informed the board the berthing facility was designed to handle ships with 35-40 foot drafts. A maneuvering study is currently being done for the Federal Energy Regulatory Commission, but since the Calcasieu Pilot's Association assisted with the berthing location and the fact that there is a 100 ft hole nearby they feel optimistic about the maneuvering study. Mr. Darryl Farque asked about the erosion along the ship channel. Mr. Granger informed him that erosion from the LNG ships would be less than zero due to the fact that a tractor tug would be hooked to the ships which would slow them to eight knots so there will



be no wakes. Mr. Butch Hebert, a Grand Lake citizen had some concerns pertaining to where the water will come from that the LNG facility will be using, if it would come from the aquifer, and Mr. Macias explained to him that it would not. The water would be hauled in. Mr. Hebert also had concerns about the radius to nearest populations for catastrophic reasons, and MR. Granger assured him that calculations were made concerning the thermal radiation and the thermal radiation would be maintained within the thermal radiation circles surrounding the LNG facility. Mr. Granger explained to Mr. Hebert that there has never been a fatality or spill pertaining a LNG ship. Mr. Adam McBride with the Lake Charles Port asked Mr. Granger how many ship are they expecting annually? He informed him they expect 300-400 ships annually. Discussion followed concerning hiring local labor and the need for experience gas plant operators.

Under Correspondence Mr. Savoie received an e-mail with the itinerary for the PAL Conference scheduled for May 4-6, 2005 to show to the board so the commissioners could decide on which day they plan to attend. All other correspondence was mail to the commissioners in advance.

Mr. Savoie showed the board the plaque that was designed in memory of port board member J.P. Constance that will be presented to his wife at the March 7, 2005 Police Jury meeting. He also reported that rig activity in the Gulf of Mexico has increased with 90% of rigs working under contract. Pertaining to the Monkey Island Project water issue, he stated that the Cameron Parish Water & Wastewater District #1 needed a right-of-way granted to them to the water well from Gulf Coast Development LLC. Mr. David Brucchaus with Gulf Coast Development LLC stated he's talking with the Cameron Parish Water & Wastewater District #1 to find out where the right-of-way is needed and he would draw up the necessary documents.

Mr. Wicke reported to the board on a bill that needed to be initialed for payment for Allen & Gooch in the amount of \$5,239.40 for professional services rendered. The board discussed the idea of the Police Jury issuing them the check and they in turn pay Allen & Gooch. Juror Sonny McGee informed the board they might need to get errors & omission insurance to handle their own bills and the board stated they could do that.

On the motion of Mr. Romero, seconded by Mr. Savoie and carried the board agreed to set up an account, solicit the amount from the Cameron Parish Police Jury, the Cameron Parish Police Jury in turn pay the amount to West Cameron Port Commission and West Cameron Port Commission pay Allen & Gooch.

Under Old Business, Mr. Theunissen made arrangements with the Lake Charles Port to view the 35,000 documents & select the copies they needed on February 14, 17, 18, 2005. He stated they were cordially treated and requested 995 pages to be copied from the 35,000 documents. He was in the process of making working copies for him and the port board.

On the motion of Mr. Romero, seconded by Mr. Savoie and carried the board agreed to enter into executive session to discuss litigation.

On the motion of Mr. Wicke, seconded by Mr. Hebert and carried the meeting was called back into regular session.

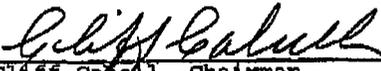
On the motion of Mr. Wicke, seconded by Mr. Romero and carried the board agreed to accept a Public Records Request Fees Schedule Resolution, ("Exhibit A").

On the motion of Mr. Romero, seconded by Mr. Wicke and carried the board agreed to allow two commissioners, Mr. Charles Terry Hebert and Mr. Dwight Savoie authority to sign the resolution for the Memorandum of Understanding and the First Amendment to the Option to Sublease and Lease Agreement, ("Exhibit B"), after completion of the language between the West Cameron Port Commission and Cheniere Energy and not have to have a special meeting.

The next meeting will be at the Holly Beach Fire Station, Tuesday, March 29, 2005 at 5:30 P.M.

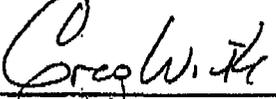
There being no further business and upon motion of Mr. Romero, seconded by Mr. Wilkerson and carried, the meeting was declared adjourned.

APPROVED:



Cliff Cabell, Chairman
WEST CAMERON PORT HARBOR & TERMINAL DIST.

ATTEST:



Greg Witke, Secretary

"EXHIBIT A"

RESOLUTION

**STATE OF LOUISIANA
PARISH OF CAMERON**

On February 22, 2005, at a properly noticed regular meeting of the West Cameron Port Commission, held at Grand Lake, Louisiana, and with a valid quorum being present, a Motion, Second, and official vote approving said resolution, the West Cameron Port Commission did act in the following respects:

WHEREAS, the West Cameron Port, Harbor & Terminal District and the West Cameron Port Commission in its/their efforts to transact and conduct the business of the district hereby resolve:

WHEREAS, the West Cameron Port, Harbor & Terminal District and West Cameron Port Commission have the need to establish a fee and charges policy for responding to and satisfying its obligations to provide copies of public records pursuant to duly made public records requests.

WHEREAS, after due consideration, the District wishes to adopt and implement the fees and charges provided on the attached schedule.

NOW, THEREFORE BE IT RESOLVED, that the West Cameron Port Harbor & Terminal District and West Cameron Port Commission do hereby adopt the fees and charges provided on the attached "PUBLIC RECORDS REQUEST FEES SCHEDULE".

ADOPTED AND APPROVED, this 22 day of February, 2005.

APPROVED:


CLIFF GABEL, PRESIDENT
WEST CAMERON PORT, HARBOR & TERMINAL DISTRICT

ATTEST:


GREG WICKE, SECRETARY

PUBLIC RECORDS REQUEST FEES SCHEDULE

The following fees and charges have been established by the West Cameron Port Harbor & Terminal District (the "District") for making copies and providing documents in accordance with duly issued public records requests made to the District:

- a. Charges for copies of any public record shall be at the minimum charge of twenty five (\$.25) cents per page (the "Standard Copy Charge") for paper copies of standard letter and legal size sheets, if completion of the public records request can be assembled and reproduced within a sixty (60) minute period. A two-sided copy shall be considered two pages.

- b. Charges for copies of public records requiring larger than a standard legal size page (8 ½ x 14) or for public records requests requiring the District to expend greater than 60 minutes in accumulating and duplicating the records, shall include the Districts actual cost for duplicating these records. Actual cost shall include the labor cost involved in accumulating and duplicating the requested records, together with the copy charges provided above, but in no instance a copy charge of less than the Standard Copy Charge.

"EXHIBIT B"

RESOLUTION

**STATE OF LOUISIANA
PARISH OF CAMERON**

On February 22, 2005, at a properly noticed regular meeting of the West Cameron Port Commission, held at Grand Lake, Louisiana, and with a valid quorum being present, a Motion, Second, and official vote approving said resolution, the West Cameron Port Commission did act in the following respects:

Whereas, the West Cameron Port, Harbor & Terminal District (the "District") and the West Cameron Port Commission in its/their efforts to transact and conduct the business of the district hereby resolve:

Whereas, Gulf Coast Development Company, L.L.C. (the "Sublessor"), the District and Cheniere LNG, Inc. are parties to that Option to Sublease and Lease agreement dated as of November 13, 2003, wherein Sublessor and the District granted unto Cheniere LNG ("Cheniere") an option to lease certain property owned by the District (the "Option").

Whereas, Cheniere has generally agreed with the District that it shall lease the property if it is successful in locating an LNG Project on the Calcasieu River Waterway (the "Mandatory Option Exercise Agreement").

Whereas, Cheniere has generally agreed with the District that it shall exercise each renewal term under the lease identified in the Option (the "Lease") if at the time of the expiration of any term under the Lease it is operating an LNG Project at any location on the Calcasieu River Waterway (the "Mandatory Renewal Exercise Agreement").

Whereas, the parties to the Option wish to enter into an Amendment to the Option in order to evidence the terms, conditions and limitations referenced herein.

Whereas, Cheniere has requested that the District enter into a formal agreement to implement the resolution of the District adopted at a special meeting of the West Cameron Port Commission on November 12, 2003 with regard to the wharfage to be charged in association with the operation of any LNG Project located within the District (the "Initial Wharfage Resolution").

WHEREAS, after due consideration, the District wishes to adopt and implement such agreements.

NOW, THEREFORE BE IT RESOLVED, that the District does authorize any one of the following duly-appointed officers:

Charles T. Hebert, Treasurer
(name) (title)

Dwight Savoie, Commissioner
(name) (title)

(the "Authorized Officers") to execute any and all necessary documents to amend the Option, including but not limited to an amendment to the Option in order to evidence the terms of the agreements of Cheniere LNG, Inc. with respect to the Mandatory Option Exercise Agreement and the Mandatory Renewal Exercise Agreement, the amendment to contain such terms, conditions and limitations as the authorized officers, with the aid and assistance of the District's General Counsel, may deem appropriate, necessary and in the best interest of the District.

BE IT FURTHER RESOLVED THAT, any one of the same Authorized Officers, be and are hereby formally authorized to execute any and all necessary documents to implement the terms of the Initial Wharfage Resolution to contain such terms, conditions and limitations as the Authorized Officers, with the aid and assistance of the District's General Counsel, may deem appropriate, necessary and in the best interest of the District.

ADOPTED AND APPROVED, this 22 day of February, 2005.

APPROVED:

Cliff Cabell
CLIFF CABELL, PRESIDENT
WEST CAMERON PORT, HARBOR & TERMINAL DISTRICT

ATTEST:
Greg Wicke
GREG WICKE, SECRETARY

RESOLUTION

STATE OF LOUISIANA PARISH OF CAMERON

On March 28, 2006, at a properly noticed regular meeting of the West Cameron Port Commission, held at Grand Lake, Louisiana, and with a valid quorum being present, a Motion, Second, and official vote approving said resolution, the West Cameron Port Commission did act in the following respects:

WHEREAS, by resolution dated February 22, 2005, the West Cameron Port Harbor & Terminal District and West Cameron Port Commission adopted the Resolution attached hereto as Exhibit "A".

WHEREAS, in the February 22, 2005 resolution, a resolution previously passed by the West Cameron Port Commission on November 12, 2003, attached hereto as Exhibit "B", was inaccurately defined as the "Initial Wharfage Resolution" and references in the February 22, 2005 resolution were inadvertently made which indicated that wharfage may be charged with respect to the Cheniere LNG Project to be located on the Creole Trail.

WHEREAS, no action has been taken by the West Cameron Port, Harbor and Terminal District and the West Cameron Port Commission with respect to the February 22, 2005 resolution.

WHEREAS, there was never any intent by the West Cameron Port, Harbor and Terminal District or the West Cameron Port Commission to charge "wharfage" and no "wharfage" has in fact ever been charged.

WHEREAS, in order to avoid any confusion or question with respect to interpretation of the actions of the West Cameron Port, Harbor and Terminal District and the West Cameron Port Commission with respect to the February 22, 2005 resolution, or otherwise, the following resolution was placed before the West Cameron Port Commission for consideration and adoption.

NOW, THEREFORE BE IT RESOLVED, that the West Cameron Port Harbor & Terminal District and West Cameron Port Commission never had any intent to charge "wharfage" and no "wharfage" has in fact ever been charged with respect to the Cheniere LNG facility to be located on Sabine Pass, the Cheniere LNG Facility to be located on the Creole Trail, or any other LNG facilities located within its territorial jurisdiction and any reference to such term in the February 22, 2005 resolution was inaccurate and inadvertent.

BE IT FURTHER RESOLVED, that to the extent that any references to "wharfage" were made in the February 22, 2005 resolution, such resolution is hereby redacted to remove such references.

ADOPTED AND APPROVED, this 28th day of March, 2006.

APPROVED:



CLIFF LABELL, PRESIDENT

WEST CAMERON PORT, HARBOR & TERMINAL DISTRICT

ATTEST:



GREG WICKE, SECRETARY

RESOLUTION

STATE OF LOUISIANA
PARISH OF CAMERON

On February 22, 2005, at a properly noticed regular meeting of the West Cameron Port Commission, held at Grand Lake, Louisiana, and with a valid quorum being present, a Motion, Second, and official vote approving said resolution, the West Cameron Port Commission did act in the following respects:

Whereas, the West Cameron Port, Harbor & Terminal District (the "District") and the West Cameron Port Commission in its/their efforts to transact and conduct the business of the district hereby resolve:

Whereas, Gulf Coast Development Company, L.L.C. (the "Sublessor"), the District and Cheniere LNG, Inc. are parties to that Option to Sublease and Lease agreement dated as of November 13, 2003, wherein Sublessor and the District granted unto Cheniere LNG ("Cheniere") an option to lease certain property owned by the District (the "Option").

Whereas, Cheniere has generally agreed with the District that it shall lease the property if it is successful in locating an LNG Project on the Calcasieu River Waterway (the "Mandatory Option Exercise Agreement").

Whereas, Cheniere has generally agreed with the District that it shall exercise each renewal term under the lease identified in the Option (the "Lease") if at the time of the expiration of any term under the Lease it is operating an LNG Project at any location on the Calcasieu River Waterway (the "Mandatory Renewal Exercise Agreement").

Whereas, the parties to the Option wish to enter into an Amendment to the Option in order to evidence the terms, conditions and limitations referenced herein.

Whereas, Cheniere has requested that the District enter into a formal agreement to implement the resolution of the District adopted at a special meeting of the West Cameron Port Commission on November 12, 2003 with regard to the wharfage to be charged in association with the operation of any LNG Project located within the District (the "Initial Wharfage Resolution").

WHEREAS, after due consideration, the District wishes to adopt and implement such agreements.

Exhibit
"A"

NOW, THEREFORE BE IT RESOLVED, that the District does authorize any one of the following duly appointed officers:

Charles T. Hebert, Treasurer
(name) (title)

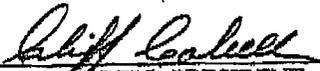
Dwight Savoie, Commissioner
(name) (title)

(the "Authorized Officers") to execute any and all necessary documents to amend the Option, including but not limited to an amendment to the Option in order to evidence the terms of the agreements of Cheniere LNG, Inc. with respect to the Mandatory Option Exercise Agreement and the Mandatory Renewal Exercise Agreement, the amendment to contain such terms, conditions and limitations as the authorized officers, with the aid and assistance of the District's General Counsel, may deem appropriate, necessary and in the best interest of the District.

BE IT FURTHER RESOLVED THAT, any one of the same Authorized Officers, be and are hereby formally authorized to execute any and all necessary documents to implement the terms of the Initial Wharfage Resolution to contain such terms, conditions and limitations as the Authorized Officers, with the aid and assistance of the District's General Counsel, may deem appropriate, necessary and in the best interest of the District.

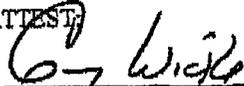
ADOPTED AND APPROVED, this 22 day of February, 2005.

APPROVED:


CLIFF CABELL, PRESIDENT

WEST CAMERON PORT, HARBOR & TERMINAL DISTRICT

ATTEST:


GREG WICKE, SECRETARY

OFFICIAL RESOLUTION OF THE
WEST CAMERON PORT COMMISSION

On November 12, 2003 at a properly noticed special meeting of the West Cameron Port Commission held at the Holly Beach Fire Station with its legal counsel, the District Attorney present, and with a valid quorum being present, a Motion, Second, and official vote approving said resolution, the West Cameron Port Commission did conclude and approve as follows:

Whereas the West Cameron Port Commission did acquire property in Cameron Parish, Louisiana in Section 32, Township 15 South, Range 10 West and the West Cameron Port Commission has leased said property to its General Tenant and Lessee Gulf Coast Development, L.L.C., said lease being dated October 5, 2001, duly filed and recorded;

Whereas Gulf Coast Development, L.L.C. has diligently and aggressively sought industry and a tenant to locate on said property since 2001 and has now located a substantial tenant, Cheniere LNG, Inc., willing and eager to sign an option and potentially a long term lease on the West Cameron Port Commission property and neighboring property owned by adjacent landowners;

Whereas the execution of an option and lease with the prospective tenant, Cheniere LNG, Inc., would provide long term revenue to the West Cameron Port Commission, and the building of an LNG facility by Cheniere would provide a huge positive economic impact, including but not limited to major and substantial improvements to the property, creation of many permanent jobs, influx of much needed tax dollars, and a huge increase to the tax base of the parish;

Whereas the Real Estate Committee of the West Cameron Port Commission has met, discussed the terms, and proposal made by Cheniere and favorably recommends that the West Cameron Port Commission enter into the agreement with Cheniere for a long term lease providing for an adjustable rental of no less than \$3000.00 per acre for 30 years with options of an additional sixty years.

Whereas Cheniere has also agreed by way of correspondence, upon successful start-up of the facility, to pay an additional amount directly to the West Cameron Port Commission equal to \$1000.00 for each LNG vessel that delivers cargo to the Project's facility

Therefore, the West Cameron Port Commission does hereby authorize its duly appointed agent and officer, Charles T. Hebert, to execute any and all necessary documents including but not limited, the Option to Sublease and Lease and the Memorandum of Option to Sublease and Lease, in order to effectuate an Option on the property with Cheniere and if exercised by Cheniere, a long term lease as is contained in said documents.

Thus done and signed this 12 day of November, 2003 in Cameron, Louisiana.

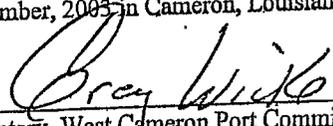

Secretary, West Cameron Port Commission

Exhibit
"B"