File Number 2004-2355
Mr. Ted Lento
US Army Corps of Engineers, New England District
696 Virginia Road
Concord,MA 01742-2751

7 Feb 06

To the Army Corps of Engineers,

I write in the hope that I may more fully develop my arguments as to why the Weaver's Cove project should be rejected, based on statements that I have made on the record in these matters, referencing materials that I have presented at public meetings.

A full containment tank design offers a thermal exclusion zone (TEZ) based on the footprint of the tank, in this case 52,000 sq.ft. With a single wall tank the TEZ would be based on the square footage of the dike, in this case 580,000 sq. ft.

A full containment tank design offers a flammable vapor exclusion zone (FVEZ) based on a specified leak into, and the FVEZ being contained by, the dike. It is not based on the dike being 90% full with the FVEZ roiling over it's edge, as would be with a single wall tank failure.

While the FERC admits in the FEIS that breach of the outer containment is a possibility, only in it's order granting does it mandate a contingency plan (condition #63, FEIS) for such failure of the outer tank, and then only for before it is commissioned, not before construction. This begs the question "What if the USCG and DOT decides that the potential consequences (TEZ/FVEZ) are unacceptable due to a lack of ability to respond appropriately?"

Uncontained marine releases are exponentially more severe than contained leaks, with Sandia saying that structural steal will fail, about 1500 Degrees Fahrenheit, out to one half mile. Most organic matter will disintegrate at 900 Degrees. The USCG denied Fall River's Request for Rulemaking to create TEZs and FVEZs for marine releases, the minimal protections which are offered by the Department of Transportation.

The Risk Management Plan (RMP), which contains the Off-site Consequence Report (OCR), is considered privileged information by the FERC. The EPA offers a RMP/OCR as public information, unless the LNG is held as fuel, in which case no RMP/OCR is required. Neither is one required by the USCG for LNG ships.

Sandia predicts a greater chance of explosion in turbulent conditions, such as the hurricane force winds that would feed such a conflagration, drawing air from miles around. The ghosts of Nagasaki that suffered no blast or flame, but suffocated in the valleys miles away, could tell you about this.To say that a major marine incident lasting more than an hour can be referred to in Hiroshima's per minute may seem like grand standing, but scientist cannot refute that statement. The fuel load of the city must be added to the equation, with firestorm a given.

Neither the USCG or Department of Transportation have developed "contingency plans" for worst case scenarios, marine releases or outer tank failure.

When Congress authorized the FERC to enforce more stringent regulations than those enforced by the Department of Transportation, EPA or USCG, it can only be assumed that it was with the intent that they may someday need to use that authority.The Weaver's Cove proposal does rise to the level of needing more stringent controls than are called for by these government agencies and I propose to you that these circumstances do indeed call for greater controls and that the FERC has abrogated its responsibility to protect the public by recklessly licensing this plant.

To allow the FERC to move ahead is to allow situations with potentially horrendous, unprecedented consequences to come to fruition. The precedent that would be set by allowing this dangerous proposal would have far reaching affects, as this would be the first urban placement of one of these post 9/11.

When the LNG safety record is touted the fact that the odds are coming against the industry is ignored. It is not a question of if, but when, and where. We cannot choose the if or the when, but we can choose the where. Hoping that it won't be an urban incident is not good enough. We must not allow such possibilities, tempting fate while inviting disaster.

If not denial then at least postpone decision until after the conclusions drawn from the forums* mandated by The Energy Policy Act of 2005, Section 317, have been published and considered relative to the Weaver's Cove proposal.

Praying that you see the folly and danger of the course that has been set,

David W. Frederick
261 Mt.Pleasant St.
Fall River, MA 02720

*Comprised of the Secretaries of Energy, Transportation and Homeland Security, in conjunction and co-ordination with FERC and the Governors of coastal states with pending proposals, local officials, independent experts and the general public, meant to identify and develop "best practices" for addressing the "issues and challenges" associated with LNG, to be convened by August 2006.

ANDERSON & KREIGER LLP

DOUGLAS H. WILKINS
dwilkins@andersonkreiger.com

February 7, 2006

By Federal Express

United States Army Corps of Engineers
New England District
696 Virginia Road
Concord, Massachusetts 01742-2751
Attention: Ted Lento

Re: Weaver's Cove LNG Project, Fall River, MA and Rhode Island
Dredging, filling and construction
ACOE File Number 2004-2355

Dear Mr. Lento:

Thank-you for the opportunity to comment on the application of Weaver's Cove Energy, LLC (""Weaver's Cove") and Mill River Pipeline, LLC ("Mill River") for permits to conduct dredging in an existing Federal navigation channel, install structures and discharge fill material in wetlands and waterways for the construction of a liquefied natural gas ("LNG") import terminal and natural gas pipeline facilities on a 73 acre site adjacent to the Taunton River, primarily at One New Street, Fall River, Massachusetts ("Project"). This letter conveys the comments of Merchants Mills Limited Partnership ("MMLP"), owner of the Border City Mills Apartments and River Grove Apartments located in Fall River, Massachusetts regarding the Project. As an abutter to the Project, MMLP strongly opposes the Project, both for public safety and economic reasons arising from impact on its property values and attractiveness of its properties to renters. See 33 CFR 320.4(9)(economic factors).

Numerous comments from the City of Fall River, federal agencies and agencies of Massachusetts and Rhode Island have and will highlight the inadequacy of WCE's analysis of dredging and water quality, wetlands, drainage, water supply, waterways/Chapter 91, marine fisheries and transportation. MMLP incorporates those comments by reference and relies upon the presentation by those other commenters, rather than repeating them here. MMLP concentrates on the issues that most uniquely and directly affect it and the residents living in its buildings: public safety and security, historical and archaeological resources, and the insufficient examination of alternatives. For convenience, it also attaches and incorporates by reference its comments on WCE's final environmental impact statement, because those comments are still relevant.

Because WCE's latest environmental filing is the Second Supplemental Draft Environmental Impact Report, filed under state law ("SSDEIR") will be in the Corps' record, MMLP keys its comments to WCE's position as most recently stated therein.

PUBLIC INTEREST FACTORS

The regulations implementing Section 404 (33 CFR 320-331) provide in relevant part that:

> The decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity and its intended use on the public interest. Evaluation of the probable impact which the proposed activity may have on the public interest requires a careful weighing of all those factors which become relevant in each particular case. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments.

33 CFR 320.4(a)(1). That section also sets forth numerous factors to consider, known as the "public interest factors," including, among other things, economics, aesthetics, general environmental concerns, historical and cultural values, safety and the needs and welfare of the people. MMLP concentrates on those particular factors, as others will focus upon the fisheries and water pollution impacts, as well as the dredging and dredged material disposal aspects of the project.

Previous comments have already highlighted the major safety concerns raised by the Project, in light of the 1,960 residential structures[1] within 1 mile, 290 residences within ½ mile, four bridge crossings, and ongoing threats of terrorism against LNG facilities.[2] DEIS, pp. 4-103, 5-8. Residents of the Border City Mills Apartments are among those who would be most at risk from these threats. In addition, those apartments are listed on the National Register of Historic Places.

Other Subsequent Developments Affecting Alternatives

In addition to the Sandia Report, the Brightman Street Bridge statute, the NUWC conflict and the advancement of other projects, Weaver's Cove should have analyzed the importance of other developments affecting the project.

Yet, it is also obvious from references, such as the supposedly future date of April 2005 (SSDEIR, p. 3-27) and the "final outcome of this [Canadian LNG] open season . . . expected something in June 2005," (SSDEIR, p. 3-42) that WCE has not updated its evaluation of alternatives, but has relied upon stale information and data.

It appears that Weaver's Cove does not reflect currently available information and is little more than a rehash of old materials from the FEIS, without a serious effort to comply with state law.

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[1] Since these figures count structures, and an apartment building counts as only one structure, the number of people living within these radii is much greater.

[2] See Statement by the Department of Homeland Security (November 21, 2003)(citing "Al-Qaeda's continued interest in aviation . . . to carry out attacks on critical infrastructure as well as targeting liquid natural gas, chemical and other hazardous materials facilities.").

SAFETY:

One indication of the proper safety precautions is the "minimum 1,640 foot safety and security zone" proposed for the off-shore LNG operations. SSDEIR, p. 3-25. If that is the safety zone for off-shore activity, where few people are likely to congregate, what possible justification is there for a smaller safety zone in Fall River? The Weaver's Cove's documents provide no answer. Yet, the 1,640 foot zone would extend well beyond MMLP's property, and would preclude this project. Again, WCE's filings raise serious questions without answers.

In addition, WCE should have fully reported upon, and analyzed, the significance of the Sandia National Laboratories Report (December 2004) ("Sandia Report"), already submitted as part of the record in this matter by the Massachusetts Attorney General. Yet, WCE virtually ignores that crucial report, making only selective allusions to its most serious conclusions at SSDEIR Appendix 3-1, p. 3-10 to 11. – and then only with respect to tanker "transit impacts". To be sure, even this cursory discussion recognizes (SSDEIR Appendix 3-1, p. 3-11) that 417 to 936 people would be at risk from an "average most probable worst [sic] case" "incident" and that 4,780 to 5,190 would be at risk from a "credible worst case". It would, to say the least, be helpful to compare these statistics not only to on-shore alternatives, but to all alternatives. Yet, Weaver's Cove only presents an extensive grid for the on-shore alternatives, preferring not to acknowledge the comparison to other alternatives, including off-shore facilities. Compare SSDEIR Appendix 3-1, p. 12 to SSDEIR Appendix 301, pp. 4-11 to 4-12. On the contrary, it admits that its "analysis makes no provisions for measuring the reliability and associated safety of the two [offshore] proposals." SSDEIR, App. 3-1, p. 4-13.

The Sandia Report

Section 1.3.2 of the Sandia Report establishes a "Zone 1" for Intentional LNG Spills (e.g. terrorism, sabotage, infiltration, etc.) where "LNG shipments occur in narrow harbors or channels, pass under major bridges or over tunnels, or come within approximately 500 meters [1,640 feet] of . . . population and commercial centers."

> Within this zone, the risk and consequences of a large LNG spill could be significant and have severe negative impacts. Thermal radiation poses a severe public safety and property hazard, and can damage or significantly disrupt critical infrastructure located in this area.

Id. Other studies, cited in the Sandia Report (at p. 41) support even larger distances for harmful personal injury effects (second degree skin burns within 30 seconds of exposure), up to 1290 or 1900 meters. Depending upon the circumstances of an intentional breach, the 5 kW/m^2 radius can range from 784 meters to 1920 meters, while the more destructive 37.5 kW/m^2 radius (sufficient to damage steel) can range up to 602 or 630 meters. Id., p. 51.

Vapor dispersion hazards "could extend to beyond 1600 m, depending on spill location and site atmospheric conditions." Id., p. 46. While early ignition of a vapor cloud could be likely in congested or populated areas (id.), the fact that most of the cloud's route to the proposed facility would be over water may reduce that likelihood. Site specific analysis, lacking in WCE's submissions, is required.

Summing the results up in a chart, Sandia (pp. 20, 54) shows that intentional LNG release would have a "high" potential impact on public safety within 500 meters (1640 feet), by which it means "major injuries and significant damage to structures." WCE should not ever allow such a severe risk to citizens and their homes or businesses. In the alternative, it should not allow such a risk to people and property where alternatives exist, as previously argued by MMLP and others, and as supported by the filings of Excelerate Energy, L.L.C.

Public Safety Risks to Merchants' Residents and Others

The WCE proposal triggers many of the criteria for Sandia's Zone 1 classification along much of its marine route along the Taunton River. Most troubling to Merchants is that the Border City Mills Apartments and the people who live there lie within the Zone I. Scaling from the map provided at the first page of Appendix G of the Draft EIS, the Border City Apartments are well within the 1640 foot danger zone of the marine route and appear to be between 1,600 and 1,700 feet from the dock itself.[3] WCE's map shows that most of that distance is over water, making the Sandia Report particularly relevant.

The Sandia Report also shows the inadequacy of WCE's analysis of risks of accidental or intentional releases over water. Not only are the risks greater than WCE assumed, but WCE's assumptions appear overly optimistic. For instance, the DEIS assumes a "worst case" hole size from an intentional breach of 2.5 meters in diameter, but Sandia establishes a range of 2 to 12 square meters. To be sure, "in most cases" a tank breach of 5 to 7 square meters, is "a more appropriate value" (Sandia Report, p. 49), but it is not a worst case. Moreover, Sandia considers breach of more than one tank at a time, which WCE appears to ignore. Id., pp. 50, 73.

Other Comments

Since Merchants' original comments, many parties have made voluminous additional filings. Merchants notes that the comments of Dr. Havens further support Merchants' original demonstration that WCE uses exclusion zones, including vapor cloud exclusion zones, that are too small to protect the public.

WCE also has purported to address Merchants' comments. See Responses of Weaver's Cove Energy, LLC and Mill River Pipeline, LLC, SSDEIR Appendix 15-1b, pp. K-157 to 159 ("Response"). Merchants takes this opportunity to reassert its original comments, submitted September 23, 2004, which WCE has not successfully rebutted. Particularly in light of subsequent filings and reports, WCE has failed to answer the basic question: given the correct observation in the DEIS/R (p. 4-191), that a so-called full containment tank cannot protect against all contingencies (including sabotage or terrorism), is there any public safety justification at all for failing to calculate exclusion zones from the secondary containment system (a/k/a dike), which is required to address such contingencies? While WCE faults Merchants' supposed lack of expertise, the question calls for common sense and consistent analysis, based upon conclusions already drawn by the experts.

[3] The Sandia Report uses a Zone I distance of approximately 500 meters, which equals 1640 feet (1 meter = 3.2808 feet). The Border City Apartments lie adjacent to viewpoints 5 and 6 of Appendix G to the DEIS. In fact, viewpoints 5 and 6 are slightly farther from the proposed facility than the apartments themselves.

WCE's emphasis on the 5 KW/m^2 standard is now quite ironic. As discussed above, Sandia's calculations used precisely that standard; based upon the present record, this establishes that the Border City Mills Apartment Complex– at 1,100 feet (DEIS, p. 4-104) over land and 1600 to 1700 feet over water according to WCE's exhibit G -- is well within the 5 KW/m^2 exposure area for an intentional breach, which ranges from 784 to 2118 meters (2,572 to 6,949 feet). Sandia Report, p. 51. WCE's endorsement of that standard, applied evenhandedly, should therefore preclude its proposal.

Yet, WCE reiterates its position that the mandatory "diked impoundment area around the LNG storage tank to contain the entire contents of the LNG tank" does not trigger any protective measures at all, in the event of a fire or other incident involving LNG that may discharge into the diked area in a credible accident or terrorism scenario. SSDEIR, App. 3-1, p. 1-2.

In short, there is no justification for failing to protect against credible scenarios of a breach in the full containment tank or a release over water of the type analyzed by Sandia. WCE may "take[] exception" to Merchants' view that WCE's analysis is "shockingly superficial", (WCE Reply to comments on the DEIS, p. 159), but public safety is a serious matter. The Sandia Report and recent filings once again show WCE's shocking willingness to subject the public to unjustifiable risks. Merchants speaks for those who would bear the risk of WCE's lack of concern.

HISTORICAL IMPACTS

The Final Environmental Impact Report ("FEIR") for the LNG project reports (at pp. 4-199 to 200) that "additional consultation with the Massachusetts SHPO is required" regarding this project. The Border City Mills Apartment Complex is acknowledged to be an historic property "listed in the NRHP" at page 4-199 of the FEIR. It is shown on a plan dated November 11, 2003, recorded November 12, 2003, in the Fall River District Registry of Deeds in Plan Book 129, Page 18. The legal description appears in the Amendment to Master Deed of Border City Mills Condominium and Border City Mills Condominium Trust, dated October 15, 2003 and recorded on November 26, 2003 in Book 5216, Page 122 of said Deeds. These documents were provided in MMLP's comments on the DEIS.

The FEIR acknowledges that the proposed LNG tank would have its "most prominent views . . . from the back of the Border City Mill Complex Apartments" and on the Somerset side of the Taunton River. FEIR, p. 4-173. See SSDEIR, p. 14-3. This would alter the setting of this historic property and constitute an adverse effect upon this historic property.

WCE's discussion of historic issues is deficient, even when cumulated with information previously provided. It is not acceptable to reprint portions of the FEIS, with the caveat that "some of the information reported in the FEIS is out of date". SSDEIR, p. 14-2. Further explanation is required, to avoid confusion and to provide timely information for consideration of environmental effects. For instance, there is no report on whether the "additional consultation is occurring, has occurred, or will occur" regarding historic effects at some foreseeable time. The ACOE should require a full discussion of historic impacts, including on the Border City Mills Apartments, as well as public disclosure of any discussions that have occurred since the last report.

In addition, the Project's alternatives analysis (and related grids) should (and is legally required to) include an evaluation criterion for historic and archaeological impacts.

LEAST ENVIRONMENTALLY DAMAGING ALTERNATIVES:

In issuing permits, the Corps may only approve the least environmentally damaging practicable alternative ("LEDPA"):

> For all proposed projects, the guidelines prohibit issuance of a permit if there is a "practicable alternative" -- defined as one that "is available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes" -- that would have "less adverse impact on the aquatic ecosystem." [40 C.F.R.] § 230.10(a).

Hough v. Marsh, 557 F.Supp. 74, 82 (D. Mass. 1982). See Conservation Law Foundation v. Federal Highway Administration, 24 F.3d 1465, 1476 (1st Cir. 1994); Town of Norfolk v. U.S. Army Corps of Engineers, 968 F.2d 1438, 1446 (1st Cir. 1992). See 33 U.S.C. §1344.

Alternatives such as off-shore facilities have very different impacts on the aquatic ecosystem. They would avoid the environmental consequences associated with dredging the Taunton River and other jurisdictional waters in the Federal Channel at issue, as well as the impacts resulting from construction of the proposed on-shore terminal. Impacts to anadromous fish migration, spawning, flounder eggs and larvae and other near-shore impacts would be reduced or eliminated. They would likely avoid nearly all of the impacts to the intertidal zone (with the exception of small impacts for pipelines, common to both projects). The off-shore alternatives and other alternative disposal sites would avoid the on-shore disposal of dredged material. On the face of it, these alternatives would appear to have less impact on the environment than the Project.

To be sure, off shore facilities would have their own impacts on the marine environment, as well as impacts associated with underwater pipelines. The Corps should carefully scrutinize any claim that the off-shore facilities now proposed (including information that has become available since the FEIS) have greater impacts than the major effects of the WCE facility, given the effects on miles of river, intertidal areas, and sensitive fisheries resources.

In any event, WCE largely depends upon its assertion that the off-shore facilities are not really feasible. In rebuttal, MMLP first relies upon and incorporates its comments on the draft and final environmental impact statements to show the insufficiency of WCE's alternatives analysis. As a general proposition, FERC's issuance of the final environmental impact report does not relieve the Corps from making its own decision based upon current information. See Sierra Club v. Babbitt, 15 F.Supp.2d 1274, 1284 (S.D. Ala. 1998)(unlawful to rely upon stale information). This principle is particularly important, because the post-FEIS events in this case indeed require considering new facts, and revisiting prior determinations regarding alternatives in light of the new information.

The recent events also confirm the demonstrable bias in WCE's alternatives analysis, which does not reflect a fair assessment of the relative merits of the various proposals. In addition to the pro-project bias, WCE's analysis is based upon tailor-made criteria, which

exclude equally feasible alternatives. The Corps has an independent duty to define relevant screening criteria and may not simply adopt applicant's criteria. See Simmons v. U.S. Army Corps of Engineers, 120 F.3d 664 (7th Cir. 1997).

Particularly striking is WCE's failure to scrutinize the feasibility of its own proposal, even as Weaver's Cove faults off-shore options for alleged feasibility issues arising from "the most severe offshore weather" or the timetable for construction of vessels by later this year -- October 2006. SSDEIR, p. 3-33. None of the decision grids seem to reflect "feasibility",[4] although the discussion of alternatives other than the WCE preferred alternative certainly tries to highlight such issues. An even-handed evaluation of feasibility requires acknowledging problems that Weaver's Cove ignores.

The WCE proposal has long been at risk of serious postponement from the construction schedule for the Brightman Street Bridge. It will be altogether infeasible in light of recent federal legislation, which has now has made reconstruction of the Brightman Street Bridge highly unlikely and problematic. See Section 1948 of the Transportation Bill of 2005, H.R. 3, enacted August 10, 2005.[5] Without that reconstruction, the Project could not occur, because the LNG tankers could not get to the Site, upstream of the Brightman Street Bridge.

Weaver's Cove does not assess the impact of this statute, apart from the ambitious contention that Congress' choice of how to spend public funds is unconstitutional in this economic/public infrastructure context,[6] and the speculative assertion that the law will change. WCE is within its rights to deem this legislation "ill-advised", but it is out of line in asking public agencies to ignore the law of the land, established by the same United States Congress that created the Corps. See Director, Office of Workers' Compensation v. Newport News Shipbuilding and Dry Dock Co., 514 U.S. 122, 126-130 (1995)("deciding intra-branch and intra-agency policy disputes . . . would be most inappropriate."); United States v. Interstate Commerce Comm., 337 U.S. 426, 430 (1949)(citing the "long-recognized principle that no person may sue himself."). The combative discussion that appears at SSDEIR, pp. 12-6 to 7 does not even begin to state what the implications are for this project if WCE's long-shot constitutional challenges fail. WCE does articulate its position that agencies should continue to process applications, even though the legislation appears to make such processing a massive waste of time and resources. Rather than take WCE's word for it that the law will change, Project feasibility should be analyzed in light of recent developments, so that agencies reviewing the project will not devote resources to a project that is not viable. This is particularly important because numerous

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[4] If the criterion "reliability" is supposed to reflect feasibility as well, then the criterion is plainly misapplied in a biased manner, given the feasibility questions for the WCE proposal, discussed in the text. See SSDEIR App. 3-1, page 3-14, assessing the WCE's feasibility as "superior".

[5] The version of this enactment appearing on the CD version of the SSDEIR is garbled. The provision reads:

> SEC. 1948. EMERGENCY SERVICE ROUTE.
>
> Notwithstanding any Federal law, regulation, or policy to the contrary, no Federal funds shall be obligated or expended for the demolition of the existing Brightman Street Bridge connecting Fall River and Somerset, Massachusetts, and the existing Brightman Street Bridge shall be maintained for pedestrian and bicycle access, and as an emergency service route.

[6] The implicit assumption that WCE has standing even to challenge this point, in the absence of any property interest in the Brightman Street Bridge, or any other interest protected from Congress' spending power, is extremely far-fetched.

alternatives were eliminated because they could not be ready by 2007 – but the Project would have to be eliminated for that reason now. Equal treatment of alternatives demands even-handed review of these alternatives based upon the new information. The Corps therefore should apply its long-standing policy not to spend its time, and the public's, on an application that is not ripe for submission until impediments are removed.

Moreover, as noted in MMLP's original comments on the Draft Environmental Impact Statement (attached and incorporated herein), a deed restriction prohibits use of the proposed project site for storage of any flammable or hazardous material. See quitclaim deed from Shell Oil Company to Jay Cashman, Inc., dated December 14, 2000, recorded on December 15, 2000 in Book 3917, Page 98 of the Bristol County North Registry of Deeds (the "Deed")[7]. Schedule "D" to the Deed limits use of the premises to 11 specified uses, none of which include the proposed LNG facility and provides: "Except for the Permitted Uses, all other uses of the Premises are expressly prohibited." Weaver's Cove does not address how this flat prohibition upon WCE's proposed use affects project feasibility.

Yet, these and other serious feasibility issues regarding the WCE proposal are not weighed against the Project, while similar (or lesser concerns) are weighed against the alternatives.

Meanwhile, Weaver's Cove exaggerates alleged feasibility problems with off-shore LNG projects. It asserts that sea conditions are a problem, but acknowledges that maximum wave heights in the winter do not exceed 26.4, well below the 39-foot maximum unloading requirement, and the average seas are below the 16 foot maximum for connection operations. SSDEIR, p. 3-27. To say only that "unloading conditions **may** also be achievable in **most** years" conjures "increased potential for delays" where none are shown to exist. And, apparently, WCE pays no heed to the fact that the delivery of Excelerate's second vessel was expected by "April 2005", a date that has long since past, without any update by WCE on this question.

Another example of skewed analysis is the claim that the safety zones for the off-shore alternatives "would permanently exclude fisherman" (SSDEIR, p. 3-30), without giving credit for the fact that this can help conserve fish, and for the fact that unloading boats offshore reduces the chances for marine mammal strikes, harbor congestion, disruption of navigation for security reasons, and other benefits of avoiding shore operations.

The Corps, on the other hand, must evaluate the alternatives evenhandedly, according to objective, stated criteria, instead of the subjective and skewed approach that WCE has taken.

To the extent that WCE may claim that some or all of these points are addressed in the amalgam of material amassed in SSDEIR, Appendix 3-1, MMLP disagrees as a matter of

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[7] The property was later conveyed, subject to all restrictions of record, to Fall River Marine Terminal, LLC by deed from Jay Cashman, Inc., dated March 12, 2001, recorded on March 14, 2001 in Book 3965, Page 22 of said Registry, a copy of which is attached as Exhibit 6 to the comments on the DEIS.

Thus, the DEIS, p. 2-1 is not even accurate in reporting that "Shell Oil sold the property in 2001 to Fall River Marine, L.L.C." It was Jay Cashman, Inc. that made the sale to Fall River Marine Terminal, LLC in 2001. It is perhaps a small point, but accuracy in the DEIS matters. On the other hand, if the DEIS's conclusions about the deed restriction are based only upon the 2001 deed, rather than the 2000 deed, the inaccuracy has led to the wrong conclusion about compliance with deed restrictions.

substance, and also notes that the inclusion of contradictory information in the main text and an appendix causes unacceptable confusion.

Sadly, beyond this, Weaver's Cove still suffers from the defective alternatives analysis previously identified by MMLP in its earlier comments.

WCE's analysis continues to suffer from the defect identified by the courts in NEPA cases – by defining the project in a way that only the proponent's alternative can meet, WCE improperly limits consideration of alternatives to the narrow confines of that project definition. See Simmons v. U.S. Army Corps of Engineers, 120 F.3d 664, 669 (7th Cir. 1997)(Environmental review "cannot restrict its analysis to those "'alternatives by which a particular applicant can reach his goals.'"). Here, the stated criteria still include a restrictive requirement that the facility be able to deliver LNG by truck (SSDEIS, p. 3-1) and that any alternative must be (i) a single site (ii) capable of unloading and delivering at least the same capacity as the project, (iii) constructed roughly contemporaneously with the project and (iv) coming on line at the same time as the project. As previously stated by MMLP, each of these explicit and implicit assumptions operates to exclude options that have less environmental impact, including protection of the human environment occupied by abutters of the project.

REQUEST FOR RELIEF

Beyond the above concerns, there are numerous problems in WCE's submission. Those concerns have not been addressed and, along with the concerns in this letter, demonstrate the inadequacy, inaccuracy and incompleteness of the application. The application should be denied under the public interest factors and because there is a less damaging practicable alternative (and WCE has failed to meet its burden to prove otherwise).

We hope you will give due consideration to our comments.

Sincerely,

Douglas H. Wilkins

cc: Theodore A. Barten, P.E., Epsilon Associates
Client

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State of Rhode Island and Providence Plantations

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Executive Director

February 7, 2006

Mr. Ted Lento
US Army Corps of Engineers
696 Virginia Road
Concord, MA 01742

Re: Weavers Cove Energy, LLC

Dear Mr. Lento:

The Rhode Island Coastal Resources Management Council (CRMC), the agency that implements the approved coastal zone management program has the following comments in regard to the revised notice for the Weavers Cove LNG project in Fall River, Massachusetts:

The applicant, as of this date, has not provided the agency with the necessary data and information needed for the CRMC to make a consistency determination on the revised project. We will be unable to find it consistent without submittal of all necessary data and information required under the CZMA. The Corps permitting actions under Section 10 of the Harbors and Rivers Act and Section 404 and 103 of the Clean Water Act are a separate consistency filing than the FERC filing.

This activity directly affects the State's coastal resources both through the dredging and transport of dredge material through State's waters. The data and information submitted has not included any analysis that details the potential impacts to RI coastal resources for the transport and disposal of the dredge material. The transport corridor is heavily utilized by recreational and commercial traffic. We do not know, at this point, what mitigation measures are being proposed to avoid conflicts. This must be part of the application and review.

The data and information available does not have the concurrence of the Northeast Marine Pilots which is a great concern to the CRMC. There are indications that navigation in the proposed channel and berthing areas could be problematic. The proposed dredge depth to -37' MLLW may in fact be insufficient for safe navigation. This is due to the fact that the proposed vessels have a draft of -37.5' which will require them to "ride the tide" up the river. This gives approximately 3 feet of under keel clearance which does not provide adequate steerage for such a

Mr. Ted Lento
February 7, 2006

long transit. This is of particular concern near the major bridges that the LNG tankers must pass under. It appears that the applicant is going for a less contentious dredge depth with a clear need for deeper draft for safe all weather non tide dependent navigation. This very limited steerage appears to give limited options, particularly in heavy winds, based on shipments in excess of one per week. It also reduces the ability of the applicant to propose mitigations measures to address transit conflicts.

The need for the project has not addressed the change in status of the Brateman Street bridge. It is our understanding that the proposed LNG tankers cannot pass through this bridge. This renders the need to dredge mute until resolved.

The proposed dredging around the clock outside of typical windows in this stressed fishery has not been adequately addressed. The RI resource agencies have found that the modeling submitted is not adequate. If the need for the dredging can be established, dredging should be accomplished over two or more seasons within typical windows to be protective of the fishery. This will coincide with the upland construction time frame. These fishery issues of which the council has jurisdiction over as well as DEM would normally be addressed in the State's 401 Water Quality Certification which is a prerequisite for all non-federal dredge disposal project. The state has consistently required the 401 Water Quality Certification for every dredge and disposal project that was not a direct federal activity.

Please don't hesitate to contact this office if you have any questions.

Sincerely,

Grover J. Fugate, Executive Director
Coastal Resources Management Council

cc. Eldon Hout, Director, Office of Ocean and Coastal Resource Management.
Suzan Cater-Snow, Director, Massachusetts Coastal Zone Program
Patrick Lynch, Attorney General State of Rhode Island
FERC Docket Nos. CP04-36, CP04-41, CP04-42, CP04-43
R. Gordon Shearer, CEO Weaver's Cove Energy, LLC
Mike Tikoian, Chair, CRMC
Brian Goldman,

Conservation Law Foundation

February 8, 2006

Via E-Mail (Theodore.M.Lento@nae02.usace.army.mil) and U.S. Mail

Ms. Crystal I. Gardner, Chief
Permits and Enforcement Branch
Regulatory Division
U.S. Army Corps of Engineers
North East District
696 Virginia Road
Concord, MA 01742-2751

RE: Weavers Cove Energy and Mill River Pipeline LNG Proposal (File No. 2004-2355)

Dear Ms. Gardner:

Conservation Law Foundation ("CLF) presents these comments regarding Weaver's Cove Energy, LLC and Mill River Pipeline, LLC ("WCE"), applications to the U.S. Army Corps of Engineers ("Corps") for permits under section 404 of the Clean Water Act, 33 U.S.C. § 1344 et seq. and section 10 of the Rivers and Harbors Act, 33 U.S.S.C. § 403 et seq. CLF's comments specifically address the § 404 permit application.

Founded in 1966, CLF is a nonprofit, member-supported organization that works to solve the environmental problems that threaten the people, natural resources, and communities of Rhode Island, Massachusetts and other New England states. CLF's advocates use law, economics, and science to design and implement strategies that conserve natural resources, protect public health, and promote vital communities in our region.

CLF members live in and use the natural resources that will be affected by WCE's project. CLF members' uses include swimming, kayaking, boating, fishing, and the opportunity to visit and enjoy the aesthetics of these natural resources. The project will cause deleterious impacts upon these natural resources, including; degrading water quality, destroying essential fish habitat, and impeding the propagation of a balanced indigenous community in Mount Hope Bay and the Taunton River. The impacts resulting from the issuance of the § 404 permit will adversely affect CLF members' uses of these natural resources, and therefore, CLF's members will be injured.

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PROJECT DESCRIPTION

The WCE project ("project") proposes to conduct dredging within an existing federal navigation channel, install structures, and discharge fill material in wetlands and waterways for the construction of the LNG import terminal and natural gas pipeline facilities. Specifically, WCE has proposed to dredge approximately 2.6 million cubic yards of material from the Taunton River and Mount Hope Bay within a footprint of approximately 200 acres; replace a pier with jetty structure; and install sheet pilings to stabilize and straighten approximately 2,650 ft of shoreline.

The project's stated "Purpose and Need", is to provide a new LNG import terminal, a competitive source of LNG, storage, and trucking capabilities for peak shaving facilities to serve the natural gas needs of the New England market, particularly in southeastern Massachusetts and Rhode Island.

LEGAL STANDARDS

The Clean Water Act ("CWA"), 33 U.S.C. § 1251 et seq., prohibits the discharge of pollutants, including dredged spoil, into waters of the United States, except in compliance with various sections of the CWA, including section 404. See 33 U.S.C. § 1311(a). Section 404(a) of the CWA authorizes the Secretary of the Army ("Secretary"), acting through the Corps, to issue permits for the discharge of dredged or fill material into waters of the United States ("Section 404 Permit"). See 33 U.S.C. § 1344(a). Section 404(b) provides that in reviewing each permit application the Secretary must apply guidelines developed by the Environmental Protection Agency ("EPA") in conjunction with the Secretary. 33 U.S.C. § 1344(b). The guidelines developed pursuant to section 404(b) ("404 guidelines") are published at 40 C.F.R. § 230.1 et seq.

If the Corps finds that the permit application complies with the 404 guidelines, the Corps must issue the permit "unless the district engineer determines that it would be contrary to the public interest." 33 C.F.R. § 320.4(a)(1). The Corps' "public interest review" evaluates "the probable impacts, including cumulative impacts, of the proposed activity and its intended use on the public interest." Id. The Corps must then balance "benefits which reasonably may be expected to accrue from the proposal" against the proposal's "reasonably foreseeable detriments." Id. Among the factors to be considered by the Corps in its public interest review are: general environmental concerns, fish and wildlife values, water quality, energy needs and, in general, the needs and welfare of the people. Id.

SUMMARY OF ARGUMENT

CLF opposes the issuance of a § 404 dredge permit for WCE, and urges the U.S. Army Corps of Engineers to deny WCE's permit request. As is more specifically set forth below, the impacts to aquatic and other natural resources associated with this project are significant, and WCE has failed in their burden to satisfy several conditions of the 404 guidelines. Additionally, the project's foreseeable detriments to aquatic and other natural resources outweigh the public benefit that might reasonably accrue from the project. Accordingly, the

issuance of the § 404 dredging permit for this project would be contrary to the public interest under § 320.4(a)(1).

In addition to WCE's failure to satisfy the 404 guidelines and the § 320.4 public interest review process, CLF believes that the Corps should terminate its review because it cannot permit a project that violates Section 7(b) of the Wild and Scenic Rivers Act ("WSRA").

I. THE WILD AND SCENIC RIVER ACT PROHIBITS THE CORPS FROM ISSUING A PERMIT

The federal Wild and Scenic Rivers Act, 16 U.S.C. § 1278 et seq., prohibits federal agencies from "assisting" projects that would have an adverse effect on a river that is either formally designated as "wild and scenic" or – like the Taunton River – is under consideration for such designation. The United States Department of the Interior's (DOI) July 5, 2005 comment letter[1] makes clear that the project, as presently designed, is not consistent with the Act and therefore cannot be approved by the Corps. See attachment A - DOI Letter.

Pursuant to the Act, all federal agencies are precluded from authorizing water resources projects that would have a direct and adverse effect on the values for which a river has been designated as wild and scenic. 16 U.S.C. § 1278(a). The Act also prohibits the Corps or any other department or agency from taking actions that might affect *the ability of a river to achieve designation* as wild and scenic once it is formally under consideration for such designation. Specifically, the Act mandates that once a river is under consideration for inclusion in the national wild and scenic rivers system,

> [N]o department or agency of the United States shall assist by loan, grant, license, or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which such river might be designated, as determined by the Secretary responsible for its study or approval. . .

16 U.S.C. § 1278(b).

Courts have recognized that the Act vests the Secretary of Interior or Agriculture with the responsibility for determining whether a proposed project is consistent with the Act. See, Sierra Club North Star Chapter v. Pena, 1 F.Supp. 2d 971 (D.Minn. 1998) ("Once the National Park Service's (NPS) determined that project would have a 'direct and adverse

[1] Note that the although the Department of the Interior's most recent comments were made part of the FEIS record some ten days prior to the issuance of Federal Energy Regulatory Commission's July 15 Order, they were submitted *after* the Commission had convened its June 30, 2005 hearing on the Project where it took action to approve the Weaver's Cove LNG project. It therefore appears that the Commission did not previously have an opportunity to fully consider the merits of the Department's comments regarding the project's impacts to the Taunton River's designation and therefore, Department's inability to provide the statutorily required letter of concurrence.

effect' on the scenic and recreational values of a National Wild and Scenic Rivers System (WSRS) river, and thus under Wild and Scenic Rivers Act (WSRA) federal agency could not assist in construction and United States Army Corps of Engineers (COE) could not grant dredge and fill permits necessary for construction.") Id. at 972. Courts have also recognized that the Act provides similar safeguards for rivers under consideration for inclusion in the river system. See, Hughes River Watershed Conservancy v. Glickman, 81 F.3d 437 (4th Cir. 1996). ("The same protections that apply under § 1278(a) to rivers in the System also apply to potential additions to the System designated in WSRA.") Id. at 449.

The Federal Energy Regulatory Commission's (FERC) Final Environmental Impact Statement (FEIS) appropriately acknowledges that the "final determination on whether the Weaver's Cove LNG Project would have a substantial adverse affect on the Taunton River's potential designation as a Wild and Scenic River would be made by the U.S. Department of the Interior." FEIS at 4-168. Condition 25 of FERC's July 15 Order (Order) (See attachment B) sets forth a similar acknowledgement of the requirement to comply with the Wild and Scenic Rivers Act, and requires that the project file,

> "documentation of concurrence" from the Department of the Interior indicating that the project would not have a substantial adverse affect on the Taunton River's potential designation as a Wild and Scenic River (WSR) and that the project would be consistent with the Wild and Scenic River Act if the Taunton River were designated as a Wild and Scenic River."

Order at 50.

As stated by the Corps in its comments to FERC on September 17, 2004 (see attachment C) "...a Corps permit cannot be issued until we have determined the proposed work in our jurisdiction complies with these Acts [referring to the WRSA]..." Finally, WCE's application to the Corps acknowledges the Corps' responsibility to seek concurrence from the DOI/NPS. **See, Attachment E** - WCE Corps application at 66.[2]

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[2] WCE argues that the project does not affect the River's potential designation because Congress only authorized the study of the upper Taunton for potential designation in the WRSA System. The WSRA provides that Congress may authorize the Secretary of Interior or the Secretary of Agriculture to study additional rivers for inclusion in the wild and scenic rivers system. See, 16 U.S.C. § 1275. On October 19, 2000, Congress authorized the National Park Service (NPS) to study the upper Taunton for inclusion in the wild and scenic rivers system (Public Law 106-318). In the fall of 2002, the NPS "administratively" extended the study to include the Lower Taunton pursuant to a request by the Massachusetts Congressional Delegation. (Conversation with Jamies Fosburgh, National Park Service; August 11, 2005). The reality is, the entire Taunton River was studied and is currently being considered for designation. This fact is demonstrated by the NPS study and the DOI July 2005 comments to the FEIS (see page 3 of attachment A). Moreover, congressional legislation has been proposed which reflects that the entire river is being considered for designation – see attachment D. Even if WCE's assertion is correct, the DOI comments clearly show that impacts to fishery resources at the lower stem of the Taunton will impact the fishery values in the upper stem; as such, the Project can be deemed to have a substantial adverse affect on the Taunton River's potential designation as a Wild and Scenic River. *See* 16 U.S.C. § 1278(b); "Nothing contained in the foregoing sentence, however, shall preclude licensing of, or assistance to, developments below or above a potential wild, scenic or recreational river area or on any stream tributary thereto which will not invade the area or diminish the scenic or recreational, and fish and wildlife values present in the potential wild, scenic, recreational river area on the date of designation of a river for study as provided for in section 1276 of this title.

In its comments on the FEIS, the Department of Interior expressed two primary reasons why the WCE project as proposed can not be found to be compatible with the WRSA:

A. Inadequate protection of fishery resources; and
B. Unavoidable impacts to fishery habitat.

A. Protection of Fishery Resources

As determined by the Department of the Interior, the Taunton River's outstanding fishery values are critical to potential designation of the Taunton River as wild and scenic, and the project is likely to have a direct adverse affect on these values.

> "It does not appear that the conditions proposed as part of the FEIS adequately address protection of the fishery resource. Of particular concern to the NPS [i.e., National Park Service], the failure to require recommended dredging time of year restrictions to protect anadromous fish resources could result in a direct and adverse impact to the values for which *any portion* of the Taunton River would be designated as Wild and Scenic. *(Emphasis added).*
>
> . . . In the absence of satisfactory fishery resource protection, *we will not be able to provide the statutorily required affirmative statement of no adverse impact to the values for which the Taunton River may be included in the National Wild and Scenic River System. (Emphasis added).*

July 5 DOI Comments.

As shown in WCE's application to the Corps on pages 27 and 66 (Attachment E), WCE proposes dredge time of year (TOY) restrictions of January 15 – April; the Department recommends dredge TOY restrictions January 15 – July 31. WCE proposal is to dredge in the months of May, June and July, which is in direct contravention of the Department's recommendations. In sum, unless the Corps' permit includes time of year restrictions to protect fishery resources, it is unlikely that the project can be deemed compatible with the WRSA § 1278(b).

No department or agency of the United States shall, during the periods hereinbefore specified, recommend authorization of any water resources project on any such river or request appropriations to begin construction of any such project, whether heretofore or hereafter authorized, without advising the Secretary of the Interior and, where national forest lands are involved, the Secretary of Agriculture in writing of its intention so to do at least sixty days in advance of doing so and without specifically reporting to the Congress in writing at the time it makes its recommendation or request in what respect construction of such project would be in conflict with the purposes of this chapter and would affect the component and the values to be protected by it under this chapter." (Emphasis provided).

B. Unavoidable Impacts to Fishery Habitat

Even if the Department's time of year (TOY) dredge restrictions were required in the Corps' permit, the Department is also concerned about unavoidable site impacts to the lower Taunton River.

> "The relevant State and Federal fishery agencies, in their comments on the DEIS, have indicated that there may be *unavoidable adverse site impacts* related particularly to the enlargement of the turning basin and development of the Weaver's Cove site. These include the permanent loss of 11 acres of winter flounder habitat and 1.15 acres saltmarsh and intertidal/subtidal habitat. The FEIS appears to agree that these impacts to this portion of the Lower Taunton River are *unavoidable. (Emphasis provided).*
>
> In addition, the proposed development of the Weavers Cove site for LNG purposes appears to be contrary to the goals and intentions of the City of Fall River as it relates to the desire to seek Federal Wild and Scenic River designation and endorse the Taunton River Stewardship Plan. Development of this site would foreclose opportunities for the City to connect a significant portion of their waterfront to the Taunton River through redevelopment, emphasizing public access and recreation as an important aspect of economic revitalization and quality of life improvement."

July 5 DOI Comments.

For the reasons cited by the Department of Interior, the proposed project cannot be made compatible with Wild and Scenic River designation of the Taunton River, and therefore the Department was not able provide the statutorily required documentation of concurrence. Accordingly, the Corps cannot issue a § 404 dredge permit to WCE, because to do so would contravene 16 U.S.C. § 1278(b) and the Corps' policy of insuring that projects satisfy the Wild and Scenic River Act.

II. THE PROJECT DOES NOT SATISFY THE 404(B) GUIDELINES

The Clean Water Act ("CWA"), 33 U.S.C. § 1251 et seq., prohibits the discharge of pollutants, including dredged spoil, into waters of the United States, except in compliance with various sections of the CWA, including § 404. See 33 U.S.C. § 1311(a). Section 404(a) of the CWA authorizes the Secretary of the Army ("Secretary"), acting through the Corps, to issue permits for the discharge of dredged or fill material into waters of the United States ("Section 404 Permit"). See 33 U.S.C. § 1344(a). Section 404(b)(1) provides that, in reviewing each permit application, the Secretary must apply guidelines developed by the Environmental Protection Agency ("EPA") in conjunction with the Secretary. 33 U.S.C. § 1344(b).

The guidelines developed pursuant to § 404(b)(1) ("404 guidelines") are published at 40 C.F.R. § 230.1 et seq. The purpose of these guidelines is to restore and maintain the chemical, physical, and biological integrity of waters of the United States through the control of discharges of dredged or fill material. § 230.1(a). Fundamental to these guidelines is the precept that dredged or fill material should not be discharged into an aquatic ecosystem, unless it can be demonstrated that such a discharge will not have an unacceptable adverse impact either individually or in combination with known and/or probable impacts of other activities affecting the ecosystems of concern. § 230.1(c). The guiding principle should be that degradation or destruction of special sites may represent an irreversible loss of valuable aquatic resources. § 230.1 (d). To ensure the purpose and policies described in § 230.1(a)-(d) are satisfied, §§ 230.10, 230.11 and 230.12 (titled, Subpart B- "Compliance with Guidelines") define conditions that must be satisfied before a § 404 permit can be issued.

As more thoroughly described below, the impacts associated with the WCE project will contravene § 230.1(c)-(d) and several prohibitions of §§ 230.10, 230.11 and 230.12; therefore, the Corps must deny the § 404 permit application.

A. Practicable Alternatives Exist That May Have Less Adverse Impact on the Aquatic Ecosystem

Section § 230.10(a) states that, "[n]o discharge of dredged or fill material shall be permitted if there is a practicable alternative to the proposed discharge which would have less adverse impact on the aquatic ecosystem, so long as the alternative does not have other significant adverse environmental consequences. For the purpose of this requirement, practicable alternatives include, but are not limited to discharges of dredged or fill material at other locations in waters of the United States or ocean waters." § 230.10(a)(1)(ii). "An alternative is practicable if it is available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes. If it is otherwise a practicable alternative, an area not presently owned by the applicant which could reasonably be obtained, utilized, expanded or managed in order to fulfill the basic purpose of the proposed activity may be considered." § 230.10(a)(2).

The following discussion describes several alternatives, both alone or in combination, that could satisfy the basic purpose of the WCE project[3], and that might have less adverse impacts on the aquatic ecosystem. However, because the FEIS alternatives analysis was so flawed,[4] whether the alternatives would have other significant adverse environmental

[3] The FEIS concluded in its system alternatives section of the FEIS, "[w]hen considered independently, none of the LNG import projects in the region would be capable as serving as an alternative." "However, when considered together, several of the projects in or outside of the region could meet many of the project objectives." FEIS at ES-11. Unfortunately, the Commission did not evaluate or consider the environmental impacts of these combined alternatives.

[4] From the inception of the Project to the present, the FEIS alternatives analysis has been wholly inadequate. The FEIS rejected alternatives based on the erroneous assumptions that new LNG supplies from other sources/projects were too indefinite, by stating: "it is not possible at this time to foresee which (if any) of the LNG import projects proposed in the New England region will move forward and be constructed." FEIS 3.2.4. Based on the information presented below, it is now possible to foresee which of the LNG import projects are likely to move forward.

consequences is unanswered. The WCE application to the Corps is even less helpful in resolving this issue, because § 5.0, titled "Alternatives Analysis," is devoid of any discussion related to off-site alternatives, and merely provides a superficial analysis of the potential alternatives at the Fall River location. The inadequacy of the alternatives analysis results in three (3) possible findings for the Corps:

1. Deny the permit pursuant to §230.10(a) because WCE failed to demonstrate that the proposed project is the least environmentally damaging practicable alternative; or
2. Deny the permit pursuant to section 230.12(a)(3)(iv) because, there does not exist sufficient information to make a reasonable judgment as to whether the proposed discharge will comply with these Guidelines; or,
3. Pursuant to § 230.10(a)(4), require WCE to conduct a new, updated analysis of site and system alternatives for LNG facilities and pipelines, consistent with concerns raised by the Corps, the City of Fall River, EPA and NOAA. The Corps should also conduct an additional public hearing to address these significant issues, to ensure that the public has a full and fair opportunity to understand, assess and comment upon the technical bases upon which WCE seek to justify their proposed project.

The Corps has recognized the importance of alternatives to the WCE project, and expressed concerns about the inadequacy of the alternatives analysis. In the Corps September 17, 2004 comments to FERC, the Corps requested that the EIS …

> "more fully describe and evaluate an off-shore LNG alternative with the characteristics of the Excelrate Energy LLC's proposed Northeast Gateway Project to construct an offshore LNG facility…"

The EPA's comment to FERC's FEIS also expressed concerns about the inadequacy of the alternatives analysis, by stating,

> Offshore LNG
> "Our comments on the DEIS noted that offshore LNG facility development was inappropriately eliminated as a reasonable alternative and that Weaver's Cove's potential for significant and avoidable direct and cumulative marine impacts to the Taunton River ecosystem underscores the need to include an evaluation of an offshore alternative to bring a new natural gas supply to the New England market. The DEIS concluded that environmental, economic and technical factors made the offshore LNG options impractical. We disagreed with those conclusions and note that the FEIS now includes a partial analysis of offshore LNG technology including the projects proposed by Neptune LNG and Excelerate Energy, L.L.C. in Massachusetts Bay.

> The FEIS highlights FERC concerns about the reliability of the LNG supply from deepwater port projects, such as those proposed by Neptune and Excelerate.[5] It concludes that neither project could provide an additional source of LNG to meet the needs of existing peak shaving facilities. We continue to believe there is sufficient information based on actual experience with the buoy system technology to understand how well the buoy system can be expected to perform in unfavorable weather/rough seas and what types of "severe weather" would cause the facility to go "offline". We accept that the offshore LNG facilities would by design not be able to satisfy the peak shaving market but continue to view offshore LNG as a potentially significant means to bring LNG to the New England market–albeit with a different set of environmental impacts that must be evaluated."

EPA comments ADC at 1.

By adopting the view that the WCE project is superior to other LNG facility alternatives, the FEIS failed to consider whether these viable alternatives can actually meet the project's basic purpose of increasing the natural gas supply to the region, in a quicker time frame than the WCE project. More importantly, recent applications and natural gas supply contracts, which were not available for FERC consideration in July 2005, make the Corps review of these alternatives even more important. As discussed below, the Corps should consider project alternatives including:

1. New Canadian Maritime LNG supplies and infra-structure improvements;
2. Proposed offshore facilities such as the Neptune LNG and Northeast Gateway LNG projects;
3. Any *combination* of alternatives, including other LNG facilities, efficiency, conservation, and renewables.

1. Canadian Maritime LNG Supplies and Infra-Structure and Pipeline Improvements Were Not Considered

On July 15, 2005, Repsol YPF entered into an agreement with Maritimes and Northeast Pipeline to transport 750,000 MMBtu/d from Canaport LNG by 2008. In September 2005, Canaport LNG, the LNG receiving and regasification facility proposed by Irving Oil and Repsol for Saint John, New Brunswick, Canada, commenced construction, with an anticipated in-service date of 2008. Attachment F at 4.

On July 15, 2005, Anadarko Petroleum Corp. entered into an agreement with Maritimes and Northeast Pipeline to transport 813,000 MMBtu/d from Bearhead LNG by 2008. Bear

[5] From the inception of the Project to the present, the FEIS alternatives analysis has been wholly inadequate. The FEIS rejected alternatives based on the erroneous assumption that new LNG supplies from other sources/projects were too indefinite, by stating: "it is not possible at this time to foresee which (if any) of the LNG import projects proposed in the New England region will move forward and be constructed." FEIS 3.2.4 - Existing or Proposed System Alternative Conclusion.

Head KNG awarded the first construction contracts for its marine offloading, LNG storage and regasification project in August 2005, with an anticipated in-service date of 2007. Attachment F at 4.

In September 2005, Maritimes and Northeast Pipeline (which notably brings natural gas from the Canadian Maritimes to the New England region) submitted its pre-filing to the Commission for its Phase IV Expansion. The expansion would provide 1,563.00 MMcf/d of additional pipeline capacity into the New England region, with subscribed supply as described above. Attachment G. See, also October 14, 2005 notification from the Federal Energy Regulatory Commission (FERC) concurring with the proposed schedule of February 2007 for FERC approval of the Maritimes and Northeast Pipeline expansion under Docket Number PF05-17-000. Attachment H at 3.

Admittedly, the FEIS was published prior to these announcements. However, it is certainly not too late for the Corps to consider these alternatives in its §404 review process, especially because the new Canadian Maritimes LNG projects already underway may well meet the Project Purpose of meeting local demand for natural gas, without need for the WCE Project.

2. Offshore Alternatives Such as the Neptune and Northeast Gateway LNG Projects Were Eliminated as Viable Alternatives on Inappropriate Grounds

The FEIS unreasonably rejected the Northeast Gateway and Neptune LNG offshore facilities as reasonable alternatives to Weaver's Cove on the basis of unreliable in-service times and questionable reliability. As discussed below, these bases for elimination are inappropriate.

Given that the WCE project has an unreliable in-service time and could not reasonably be expected to go into service before 2010 even if it could be built at all[6], it is illogical for the

[6] The enactment of SAFETEA-LU § 1948 on August 10, 2005 prohibits WCE's project from being successfully constructed and thus constitutes a fatal flaw for the Project. This new federal law requires the maintenance (and improvement of) the existing Brightman Street Bridge, which makes locating the LNG terminal at the proposed project site impossible because LNG tankers can not pass under the existing Brightman Street Bridge. This federally mandated restriction thereby renders useless any LNG terminal at the project site, and clearly leaves the Project unable to meet its own purpose and need. To date, WCE has not adequately addressed how the Project can proceed in the face of § 1948. The Massachusetts Executive Office of Environmental Affairs' (EOEA) Certificate ("Certificate") (See Attachment I) underscores the need for WCE to articulate, with specificity, how the Project will proceed in light of § 1948.

> ...The FEIR must address the issue posed by the recently passed federal legislation...that prohibits the use of federal funds for the demolition of the Brightman Street Bridge....the entire Weaver's Cove project has been called into question as a result of this legislation, and certainly the ability of the project to meet its originally stated purpose. The FEIR should thoroughly address this issue by either demonstrating that the existing Brightman Street Bridge will be able to accommodate the passage of LNG tankers if it is not demolished, or by presenting another viable alternative for delivering LNG to the project site.

Certificate at 1 and 6.

FEIS to dismiss the offshore facilities as viable alternatives on the basis of unreliable in-service times or on the basis that the technology is supposedly unproven. While the FEIS does provide a cursory description of these projects, it omits several material facts that have come to light in recent months. First, Northeast Gateway received notice, on August 19, 2005 (published in the September 2, 2005 Federal Register; 70 FR 52422) from the United States Maritime Administration that its application, submitted on June 13, 2005, was deemed complete. The Deepwater Port Act of 1974 requires that the Maritime Administration issue a decision on the license application not later than July 31, 2006. The Northeast Gateway Project anticipates an in-service date by Q1 2008.

The FEIS also does not reflect the fact that the Neptune LNG LLC project also received notice from the Maritime Administration, on September 30, 2005 (published in the October 7, 2005 Federal Register; 70 FR 58729) that its application, submitted to the Maritime Administration on February 17, 2005, was deemed complete, requiring that a decision on the license application be issued not later than September 5, 2006. The Neptune LNG Project anticipates an in-service date of Q4 2008 – Q1 2009. Both of these projects anticipate the ability to provide additional sources of natural gas to the region well in advance of any date when the WCE Project might possibly be complete, if it could be constructed at all.

The primary basis upon which the FEIS premised its rejection of a full consideration of these projects as viable alternatives has been the claim that offshore facilities cannot withstand harsh weather conditions in New England and that only one project using similar technology to the Northeast Gateway Project; the Energy Bridge Project located in the Gulf of Mexico; has been deployed and remains untested in the face of severe storms.

Last year's hurricanes dispelled any notion that offshore technology such as that proposed for the Northeast Gateway project is unproven. As set forth in Attachment J, the Energy Bridge facility not only withstood these massive storms, it did not even suffer an interruption in service, unlike many of the fixed platform facilities.

3. The Alternatives Analysis in the FEIS and WCE Application is Inadequate Because it Fails to Explore Alternatives Taken in Combination With Each Other.

Having improperly dismissed the proposed offshore terminals as alternatives, the FEIS then failed to consider whether the offshore terminals when combined with pipeline expansions and other sources of natural gas may partially or fully meet the region's LNG demands. In other words, the FEIS fails to consider whether these alternatives, when combined with other resources, will provide better long-term solutions and options for our region's natural gas supply, and thus meet the needs and welfare of the public. The proper range of an alternatives analysis should include not only alternatives that will meet the "objective" of the WCE Project; rather the range should include alternative ways to meet the *underlying need or*

If the Corps chooses to continue its review, the Corps should also require WCE to address the project's viability as it relates to § 1948.

objective of bringing a new LNG supply to New England to serve the natural gas needs of the New England market, particularly in southeastern Massachusetts and Rhode Island.

Because the FEIS prematurely dismissed these alternatives on inappropriate grounds and because WCE's application to the Corps failed to address off-site alternatives, there is insufficient information for the Corps to reach a reasoned conclusion as to which of these alternatives is environmentally preferable to the WCE project. Given the significant inadequacy of the alternatives analysis, we urge the Corps to deny WCE' § 404 permit application pursuant to §230.12(a)(3)(iv), and require WCE to conduct a new, updated analysis of off-site and system alternatives for LNG facilities and pipelines.

B. The Project Will Cause or Contribute to Violations of Water Quality Standards

Section 230.10(b)(1) provides, "No discharge of dredged or fill material shall be permitted if it causes or contributes, after consideration of disposal site dilution and dispersion, to violations of any applicable State water quality standard." Information contained in the FEIS coupled with the comments provided by EPA, it is clear that the WCE project cannot satisfy the prohibitions of 230.10(b)(1)[7], therefore, the application must be denied.

The Project has never been able to meet state water quality standards for zinc or copper and does not pretend to do so. The FEIS states expressly that elutriate test results for copper and zinc exceed water quality criteria for both acute and chronic exposures; see, FEIS at 4-40 and 4-41. As discussed more fully below, EPA cast significant doubt that the Applicant's dredging activities will meet state water quality standards. In their comments to FERC, EPA stated,

> "EPA's comments on the DEIS noted that Mount Hope Bay and the Taunton River do not meet state water quality standards and are on the Commonwealth of Massachusetts' Clean Water Act § 303(d) list (a list of water bodies not meeting state water quality standards).... Our comments also described our expectation that dredging and the discharge of liquid from dewatered dredged material will exacerbate existing water quality problems... EPA is concerned that the discharges are not likely to meet state water quality standards in Mount Hope Bay and the Taunton River since those water bodies are currently impaired.
>
> The FEIS indicates that copper concentrations in the Taunton River exceed EPA water quality criteria by a factor of 12 (chronic) and 7 (acute). The FEIS argues that water quality modeling shows that inputs of copper from the dredging will result in a relatively small area with levels elevated over these background concentrations. Additionally, the analysis claims that the elevated copper concentrations in the river

[7] The prologue of § 230.10 in part states, [all] requirements in §230.10 must be met.

represent the "natural" condition of the river and that organisms have adapted to these conditions.

We do not agree that elevated copper concentrations in the Taunton River are "natural"; elevated levels are the result of anthropogenic influences. Furthermore, we question the validity and basis (scientific evidence or rationale) for the unsupported assertion that organisms adapt to this degraded environment. Currently, ambient copper concentrations are well above the applicable copper criteria that have been established to protect aquatic organisms against acute and chronic toxicity. Therefore, sensitive marine organisms are already at risk of lethal and sublethal effects. Even a small addition of copper to this system would likely increase this risk. If the slope of the dose-response curve for copper is steep, small incremental changes in copper concentrations can produce substantial differences in toxicity.

The Massachusetts DEP has indicated that in order for a § 401 water quality certification to be issued for the dredging, it is likely that site-specific criteria for copper and zinc will need to be developed (Yvonne Unger, Massachusetts Department of Environmental Protection, personal communication, 6/13/2005). While we would support exploration of site-specific criteria, it is premature to say whether such criteria would result in the current ambient levels being in attainment.

The instream exceedances of copper criteria will also have implications for the NPDES permit for dewatering discharges from onsite processing of any dredged material to be disposed on the site. Pursuant to 40 C.F.R. §§ 122.4(d) and (i), an NPDES permit may be issued for a discharge into impaired waters where it can be demonstrated that the discharge will not cause or contribute to a violation of water quality standards. (Emphasis provided).

EPA Comments; June 28, 2005 at ADC-6 and ADC-7.

It is clear from EPA's comments that the additions of copper and zinc will likely cause a violation of water quality standards and is expected to contribute to a violation of water quality standards, and at a minimum will exacerbate existing water quality problems. Of equal concern, is the FEIS's admission that dredging activities will result in exceedances of water quality standards for copper and zinc. Given that the Project cannot satisfy § 230.10 (b)(1), the Corps must deny WCE's 404 permit application.

C. The Project Will Cause or Contribute to Significant Degradation of the Taunton River and Mount Hope Bay

Section 230.10(c) provides "[n]o discharge of dredged or fill material shall be permitted which will cause or contribute to significant degradation of the waters of the United States.... [E]ffects contributing to significant degradation considered individually or collectively, include:

> (c)(1) Significantly adverse effects of the discharge of pollutants on human health or welfare, including but not limited to effects on ...fish, shellfish, wildlife...
>
> (c)(2) Significantly adverse effects of the discharge of pollutants on life stages of aquatic life and other wildlife dependent on aquatic ecosystems, including the transfer, concentration, and spread of pollutants or their byproducts outside of the disposal site through biological, physical, and chemical processes;
>
> (c)(3) Significantly adverse effects of the discharge of pollutants on aquatic ecosystem diversity, productivity, and stability. Such effects may include, but are not limited to, loss of fish and wildlife habitat...."

As described below, the WCE project will have significant impacts upon the ecosystem, cause the loss of valuable aquatic resources, and adversely affect fish and shellfish. The impacts of the project violate the prohibition of § 230.10(c), and therefore the § 404 permit application must be denied.

The Corps' analysis should be informed by recognition of the valuable resources present in the Taunton River and Mount Hope Bay aquatic complex. The Massachusetts Department of Fish and Game/Division of Marine Fisheries identified the complex as "Significant Shellfish Habitat" (See attachment K at 1), the National Marine Fisheries Council classifies the complex as "Essential Fish Habitat" and the Atlantic States Marine Fisheries Council classifies the complex as "Habitat Areas of Particular Concern" (Id. at 2). NOAA/NMFS identify the complex as "Aquatic Resources of National Importance" and "Essential Fish Habitat." **(See attachment L at 1)**

1. WCE's Proposed Dredging Will Adversely Impact Fishery Resources

As noted by the National Park Service (NPS), the failure to impose sufficient dredging time of year (TOY) restrictions is likely to result in a "direct and adverse impact" on the fisheries (DOI letter at 2), including upstream spawning migrations that the National Marine Fisheries Service (NMFS) considers to be "aquatic resources of national importance." Id. (quoting NMFS comments – See attachment L). As discussed supra, NOAA/NFMS recommends TOY restrictions of January 15 – July 31; WCE's Corps application proposes dredging during May, June and July.

The EPA also shared NMFS' and NPS' concerns about the impact of dredging on fisheries. ("EPA, Comments on Weavers Cove FEIS at ADC 2-3 (June 28, 2005) – See attachment M"). As noted by the EPA,

> [t]he Project is expected to have a significant detrimental impact on already-declining winter flounder populations, the importance of which "extends well beyond the boundaries" of the spawning grounds of Mount Hope Bay and the Taunton River.

> Id. at 3. The Commission's suggested dredging method and its "turbidity plumes, noise, and light" threaten passage of juvenile anadromous fish, which could further threaten commercial fish stocks in offshore waters. Id. Conditions placed on the operation of nearby Brayton Point Station have been unsuccessful in stemming the decline of the flounder populations and, as noted by the EPA, dredging activities at Weaver's Cove would exacerbate the problem. Id.

The Massachusetts Department of Fish and Game/Division of Marine Fisheries (DMF) expressed concerns about the impacts of the project, in particular the effects from dredging. See attachment K. Specifically, the DMF set forth time of year (TOY) restrictions on dredging activities from mid-January – November 30. DMF comments, December 9, 2005 at page 3[8]. WCE's Corps application proposes dredging during the prohibited months of May – November.[9]

2. WCE's Project Will Impact the Diversity, Productivity, and Stability of the Taunton River and Mount Hope Bay Ecosystem

The FEIS properly recognizes the adverse affects that entrainment and impingement (associated with LNG ship ballast water) have upon the diversity, productivity, and stability of an aquatic ecosystem, by stating,

> These withdrawals [referring to ship ballast water] could entrain and/or impinge larvae and eggs.... Impacts attributable to impingement mortality and entrainment include losses of early life stages of fish and shellfish, reductions in forage species, and decreased recreational and commercial landings. FEIS at 4-108.

The EPA considered the FEIS's examination of entrainment and impingement issues to be inadequate, and described the project's impacts regarding entrainment/impingement of fish larvae associated with ballast and cooling water intake required for the ongoing operations of the LNG terminal and tankers as follows:

---

[8] **Diadromous Species**: Alewife, Inward migration: Mid-March through Mid-June/Outward migration: Mid-June through September; Atlantic sturgeon, Inward migration: April through June/Outward migration: June through November; Blueback herring, Inward migration - April 15 through July 30/Outward migration: September through early November; Rainbow smelt, Inward migration -March 1 through May 15; White perch, Inward migration – Mid February through May; American eel – Elver (juveniles) inward migration -March 15 through June 15
Shellfish: American oyster, Spawning (may occur twice per year) Mid-June through September 15; Quahog, Spawning (may occur twice per year) Mid-June through September 15; Soft-shell clam, Spawning (may occur twice per year) May through October.
Winter Flounder: Spawning and larval development -Mid-January through May 31; Juvenile settlement and development - May through September.

[9] By not adopting NMF and DMF TOY restrictions, i.e., not taking steps to minimize impacts, WCE cannot not satisfy § 230.10(d), which provides, "[no] discharge of dredged or fill material shall be permitted unless appropriate and practicable steps have been taken which will minimize potential adverse impacts of the discharge on the aquatic ecosystem."

> "EPA appreciates efforts in the FEIS to quantify impingement and entrainment losses and FERC's recognition that fish populations in Mount Hope Bay are in serious jeopardy. However, FERC's analysis ultimately dismisses any losses associated with the project as minor in comparison to other sources (Brayton Point Power Station in particular). It has recently come to EPA's attention, after much work on the offshore LNG facilities, that water usage, and the potential for correspondingly greater impacts, by the LNG vessels is much more significant than those assigned to address entrainment losses for the withdrawal of ballast water. The FEIS water usage estimate does not include cooling water used for the ship boilers that power the vessel and its propulsion system. Thus, while the vessels are transiting Narragansett Bay, Mount Hope Bay and the Taunton River, they will represent a source of entrainment for aquatic resources.
>
> The projected level of entrainment may well be small in comparison to current levels at Brayton Point Station, but unlike Brayton Point, this represents a new source of entrainment that adds to the cumulative burden on the ecosystem. In addition, Brayton Point Station has offered to reduce their water usage by 33% and EPA is attempting to reduce their water usage by substantially more. Thus, the relative importance of this new source would only increase with substantial reductions of water usage at Brayton Point Station. Given the numerous substantial efforts in place to improve the condition of the Mount Hope Bay ecosystem, EPA is concerned about any activity in the Taunton River and Mount Hope Bay that has the potential to offset gains from the reduction of impacts attributable to other sources or to make conditions worse.

EPA 2005 FEIS comments at ADC-5.

The Massachusetts Division of Marine Fisheries expressed similar concerns associated with the "potential impacts from withdrawal of millions of gallons of river water from ballast and hydrostatic testing..." The cumulative impact of 50-70 annual withdrawals of as much as 14-million gallons of water needs should have been discussed within the contest of other similar activities within the embayment..." DMF December 9, 2005 comments to EOEA.

These impacts, both individually and collectively, are contrary to guiding principles of § 230.10(c), and will significantly affect fish, shellfish and wildlife. Given these facts, the Corps should find that the foreseeable detriments of the Project will not satisfy § 230.10(c)(1)-(3), and deny the permit application.

D. The Corps Must Make a Finding of Non-Compliance

Section § 230.12 provides that the Corps must make a findings of compliance or non-compliance with the restrictions on discharge, or in the alternative, find that there does not exist sufficient information to make a reasonable judgment as to whether the proposed

discharge will comply with these Guidelines. These findings shall include the factual determinations required by §230.11. See generally, 40 CFR §230.12.

Section 230.11, titled "Factual Determinations," directs the Corps to, ...[d]etermine in writing the potential short-term or long-term effects of a proposed discharge of dredged or fill material on the physical, chemical, and biological components of the aquatic environment... . Such factual determinations shall be used in § 230.12 in making findings of compliance or non-compliance with the restrictions on discharges described in § 230.10.

Pursuant to § 230.12(a)(3)(ii), the Corps should make a factual determination and find that the WCE project fails to comply with the requirements of the 404 guidelines because the proposed discharge:

1. Is not the least environmentally damaging practicable alternative under § 230.10(a).
2. Will result in significant degradation of the aquatic ecosystem under §230.10(b) or (c).

Additionally, pursuant to § 230.12(a)(3)(iii), the Corps should find that the WCE project fails to comply with the requirements of the 404 guidelines because the proposed discharge does not include all appropriate and practicable measures to minimize potential harm to the aquatic ecosystem pursuant to §230.10(d); i.e., WCE application does not include sufficiently protective TOY restrictions recommended by state and federal agencies.

In the alternative, pursuant to § 230.12(a)(3)(iv), the Corps could find that there does not exist sufficient information to make a reasonable judgment as to whether the proposed discharge will comply with these Guidelines, based on the failure of the alternatives analysis in the FEIS and WCE's application to provide the necessary information to determine if this is the least environmentally damaging practicable alternative under § 230.10(a).

III. WCE'S PROJECT IS CONTRARY TO THE PUBLIC INTEREST

Each of the above mentioned defects in § 230.10 is fatal to the application. However, even if the application is able to overcome those barriers, the application still fails because it is contrary to the public interest.

Pursuant to Corps regulations, if the Corps finds that the permit application complies with the 404 guidelines, the Corps must issue the permit "unless the district engineer determines that it would be contrary to the public interest." 33 C.F.R. § 320.4(a)(1). The Corps' "public interest review" evaluates "the probable impacts, including cumulative impacts, of the proposed activity and its intended use on the public interest." Id. The Corps must then balance "benefits which reasonably may be expected to accrue from the proposal" against the proposal's "reasonably foreseeable detriments." Id. The decision whether to authorize a

proposal, and if so, the conditions under which it will be allowed to occur, are determined by the outcome of this general balancing process. Among the factors to be considered by the Corps in its public interest review are general environmental concerns, fish and wildlife values, water quality, energy needs and, in general, the needs and welfare of the people. See generally, § 320.4(a)(1).

A careful and proper balancing of the project's foreseeable detriments against the benefits reveals that approval of the Weaver's Cove LNG terminal is not in the public's interest. The region's need for increased supplies of natural gas is undisputed and the public would benefit from increased supplies and stable/competitive natural gas prices. Indeed, greater use of natural gas as it is a cleaner burning fuel than its fossil fuel cousins; coal and oil. However, given the impacts to fishery resources, water quality (and other impacts discussed by the City of Fall River in their 2.8.06 comments to the Corps) the general needs and welfare of the people will not be served by the WCE project. Suedeen Kelly, FERC Commissioner and the sole dissenter in both FERC Orders, succinctly stated why the Weaver's Cove Project is not in the public interest:

> [u]nder the facts and circumstances of this case, it would not be in the public interest to authorize the Weaver's Cove LNG facility under NGA section 3. In my view, there are reasonable alternatives to this facility for meeting New England's growing demand for natural gas. Given these alternatives, I think that, on balance, the unresolved safety, environmental and socioeconomic concerns raised by this project outweigh the benefit of the additional gas supply that it would provide.

FERC Order (January 2006), Kelly dissent at 1. 114 FERC ¶ 61,058.

CONCLUSION

The Corps cannot issue a permit to WCE, on four independent grounds:

1. To do so would be unlawful pursuant to Section 7(b) of the Wild and Scenic Rivers Act.
2. The WCE project cannot meet the restrictions on discharge, the Corps must make a find that the WCE project does not comply with the 404 guidelines, and deny the permit.
3. Alternatively, the Corps should make a finding of non-compliance because there does not exist sufficient information to make a reasonable judgment as to whether the proposed discharge will be the least environmentally damaging alternative.
4. In the event the Corps deems the application satisfies the 404 guidelines, the Corps should find, that the public's interest in protecting and preserving the natural resources coupled with the viable alternatives discussed, outweigh the benefit accrued from the WCE project.

As always, the Conservation Law Foundation appreciates the opportunity to comment on this § 404 dredging and filling permit application, as well as your attention to the issues raised herein.

Respectfully submitted,

Conservation Law Foundation

By: _____

Christopher A. D'Ovidio, Staff Attorney

THE COMMONWEALTH OF MASSACHUSETTS
GOVERNOR'S COUNCIL
ROOM 184 • STATE HOUSE • BOSTON, MA 02133
(617) 727-2756

CAROLE A. FIOLA
GOVERNOR'S COUNCILLOR
FIRST DISTRICT

February 7, 2006

U.S. Army Corps of Engineers
New England District
Attn: Ted Lento
696 Virginia Road
Concord, MA 01742-2355

Reference File Number 2004-2355

Dear Mr. Lento:

I am writing to you to voice my strong opposition to the issuance of an Army Corp permit to allow Weaver's Cove Energy, L.L.C., Mill River Pipeline, L.L.C. or Hess LNG (project proponents) to dredge, install structures for dredging in the Taunton River and to discharge fill material in wetlands and waterways for the construction of an LNG terminal in Fall River.

As you are aware, the proposed LNG project will have significant short and long term ramifications on the local economy, the delivery of public safety and quality of life for residents of Fall River, Greater Fall River and neighboring Rhode Island. In addition, it is clear that the dredging of 2.6 million cubic yards of sediment from 191 acres will have, despite what is being represented by FERC, a negative and irreversible impact on the region's wildlife and aquatic resources.

Clearly, realization of the proposed LNG terminal in Fall River will dramatically alter the physical ans social landscape of the local community and surrounding areas. While the project continues to move forward from an approval and permitting standpoint, it is evident that this project has significant legal, legislative and environmental hurdles to overcome before it becomes a reality.

One of he most significant hurdles to overcome is the recent adoption of federal legislation prohibiting the demolition of he Brightman Street Bridge and the ramifications of this law on the project in terms of LNG transport to the proposed site. As noted in the May 2005 Final Environmental Impact Statement, "The in-service date of the proposed LNG terminal is dependent on the Brightman Street Bridge project ... Due to their large size, LNG ships could not deliver LNG to the proposed terminal until after the new Brightman Street Bridge is completed and the existing bridge and associated bridge piers are removed."

In light of the recently passed federal legislation prohibiting the demolition of the Brightman Street Bridge and opposition to this project by Governor Romney, Mayor Lambert and the local state and federal legislative delegations, I believe that the Army Corp has a responsibility to ask Hess LNG how they propose to bring their LNG ships to the proposed LNG terminal. Until such time that Hess LNG explains how they propose to overcome this hurdle, I believe any action on their dredging request is premature.

Based upon the above referenced issues of concern, I respectfully request that Army Corp refuse to consider or deny outright the Hess LNG permit for dredging and associated work until such time Hess can unequivocally answer the issue as to how the LNG will be transported with the Brightman Street Bridge still in place and how the project will impact the water quality of the Taunton River and its associated wildlife and aquatic resources.

Sincerely yours,

Carole Fiola
Governor's Councillor

98 Seaver Avenue
Somerset, MA 02726
February 7, 2006

US Army Corps of Engineers
Attn: Ted Lento
New England District
696 Virginia Road
Concord, MA 01742-2751

RE: Weaver's Cove Energy / File #2004-2355

Dear Mr. Lento,

Please listen with your heart. I am asking that you reject the proposal to dredge the Taunton River. I am eighty years old, and I have lived in Fall River or Somerset all of my life. I do not think the residents of this area should have to deal with the many negative effects of this project.

This dredging will have a huge impact on the marine life of the Taunton River and the environment in general. Would any of you like to relocate to this area while the dredging takes place? Would you like to endure for 24 hours a day, seven days a week, three years of the noise and the odor and the health risks of dredging up 100 years worth of contaminants? Would you like to bring your children, your newborn babies, or your pregnant daughters to live at the river's edge?

And when the dredging is completed, would you like to deal with the unending traffic tie-ups and the resulting loss of business to the area, the dramatic reductions in property values, the increase in homeowners' insurance rates? What it you were in cardiac arrest, and your ambulance couldn't get to the local hospital because both bridges were closed? What if your child needed emergency medical attention, and, when every second counted, her ambulance had to head to Providence, R.I., because there was no way to get to Fall River, adding fifteen minutes to the trip? To make matters worse, her ambulance might be tied up in a traffic nightmare because an LNG tanker was making its way to Weaver's Cove. Would you like to be worrying , when President Bush tells us that we are on high alert, that that might mean that the LNG facility could be targeted (as we have been warned)?

What is going on? How could this LNG proposal have gotten this far? Every step of the way any clear-thinking, rational, intelligent, caring person would have nixed this project. Still that has not happened, and we are incredulous.

We are counting on you to be a voice of clarity. The dredging project on its own is a really bad idea with the potential for far-reaching negative results. As a prerequisite for the siting of an LNG facility at either Weaver's Cove or Brayton Point, it is a proposal that must be rejected. I trust that you will let your conscience guide you, and I thank you.

Sincerely,

Helena Rocha

Hélena Rocha

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

Ted Lento
US Army Corps of Engineers
New England District
696 Virginia Road
Concord, MA 01742-2751

FEB -7 2006

Dear Mr. Lento:

This is in response to the US Army Corps of Engineers (ACOE) public notice dated December 27, 2005 (file number 2004-2355) regarding the Weaver's Cove Energy, LLC application for Section 10/404/103 permits for dredging in the Taunton River and disposal at the Rhode Island Sound Disposal Site (RISDS) or Massachusetts Bay Disposal Site (MBDS). Weaver's Cove Energy is proposing to construct a liquefied natural gas (LNG) terminal adjacent to the Taunton River in the city of Fall River, MA. The project facilities are also subject to the jurisdiction of the Federal Energy Regulatory Commission (FERC) pursuant to the Natural Gas Act. As such, FERC is the lead action agency for purposes of section 7 consultation under the Endangered Species Act of 1973 (ESA), as amended, for the construction and operation of the Weaver's Cove facility. However, NOAA's National Marine Fisheries Service (NMFS) is providing these comments for your records.

No species listed as threatened or endangered under the ESA are known to occur in the Taunton River. Therefore, the dredging portion of this project will have no effect on listed species under NMFS' jurisdiction. Sea turtles and/or whales, however, may be encountered at the MBDS and RISDS and on the way to/from these disposal areas. Separate section 7 consultation between the ACOE and NMFS was concluded on the use of the MBDS in a letter dated August 29, 1997. Similarly, a letter dated April 8, 2004 concluded that designation of the RISDS was not likely to adversely affect any listed species under NMFS' jurisdiction. It is the understanding of NMFS that any restrictions prescribed in these consultations will be adhered to during disposal operations for these projects. As such, no further consultation is necessary for the issuance of a permit for the dredging and disposal portions of the proposed Weaver's Cove LNG project. NMFS is currently engaged in discussions with FERC regarding portions of the Weaver's Cove project that may have effects beyond the immediate project location in the Taunton River.

Thank you for the opportunity to comment on this project. If you have any questions regarding these comments, please contact Kristen Koyama at (978) 281-9300, ext. 6531. We look forward to working with your office on future matters involving endangered and threatened species.

Sincerely,

Mary A. Colligan
Assistant Regional Administrator
for Protected Resources

RECEIVED
FEB - 9 2006
REGULATORY DIVISION

File code: Sec 7 FERC Weaver's Cove

787 High Street
Fall River, MA 02720
February 6, 2006

To: US Army Corps of Engineers
Attn: Ted Lento
New England District
696 Virginia Road
Concord, MA 01742-2751

RE: Weaver's Cove Energy / File # 2004-2355

Dear Sir:

I want to briefly state my objections to the dredging of the waterway access to a proposed Weaver's Cove LNG facility. While I recognize the need for additional LNG facilities in New England, the proposed storage location and LNG ship passages represent extreme life threatening danger from a conflagration due to accident or terrorist activity. The potentially affected include school children and thousands of residents. Only a heartless government would allow this proposal to proceed.

Comments for your consideration follow:

The Taunton River was used as a dumping ground for industrial and municipal wastes for more than 100 years. Many of these wastes are toxic (including mercury) and are buried in the ships channels and river bottoms and with dredging would be reintroduced into waterways. Dredging represents an extreme hazard to people, animals, the environment in general, and local and ocean based fish populations. Fisherman would be affected with the possibility of toxic fish being provided to the public for consumption.

There are offshore alternatives to Weaver's Cove that have been proposed and do not represent a danger the general public. These include Boston Harbor (Outer Brewster Island) and an offshore Gloucester facility. There are Canadian LNG facilities under construction that have the capability to help supply New England's needs through a pipeline. Canada represents a more stable source of LNG than many of the world's unreliable suppliers. Look at OPEC and how the world's oil supply is manipulated and envision how the US could be held hostage by the LNG supplying countries.

Current plans are for the Brightman Street Bridge to remain in place. This prevents direct access to Weaver's Cove by an LNG tanker. It is folly to approve a dredging project, as proposed, when such an obstacle to navigation exists.

Sincerely,

John A. Freeman

February 7, 2006
270 Garden Street
Fall River MA 02720

Ted Lento
United States Army Corps of Engineers
New England District
696 Virginia Road
Concord MA 01742-2751

RE: File Number 2004-2355
Weaver's Cover Energy LLC

Dear Mr. Lento:

I am writing to comment on the request of Weaver's Cove Energy for a Section 404 permit under the Clean Water Act for dredging, construction of an LNG terminal and related activities in and along the Taunton River. I'm a resident of Fall River who has enjoyed being on and near the river over many years. I urge you to deny the permit because this project will result in widespread unacceptable adverse impacts to the river and its aquatic populations, and therefore does not comply with the requirements of Section 404.

The Taunton River has historically suffered degradation of various types. Low oxygen levels, elevated water temperature, high bacterial counts and levels of toxins in exceedance of state or EPA standards have contaminated shellfish beds and caused decline of fish populations and stress on aquatic life and natural plant communities in general.

Despite these problems, the river remains a viable and important natural resource in many ways. The Massachusetts Division of Marine Fisheries (MDMF) has stated that the river "provides valuable habitat for a diverse assemblage of finfish and invertebrates" (letter of July 23, 2004 submitted by MDMF to the Fall River Conservation Commission). MDMF also refers to the "extremely productive quahog, soft-shelled clam and American oyster resources." Areas within the footprint of the Weaver's Cover Energy project have been designated "significant shellfish habitat." The footprint also includes winter flounder spawning habitat. The river is also a popular recreational resource, especially for boating and canoeing.

For at least the last two decades environmental groups, community groups, cities and towns and individuals along the Taunton River have worked to abate pollution and improve the water quality. The Combined Sewer Overflow Remediation project undertaken by the city of Fall River at a cost of well over a hundred million dollars is one example of these efforts. Another example is the recent imposition of limits on thermal discharges from the Brayton Point Power Station by the Environmental Protection Agency. Efforts are underway to restore historic fish runs. The river retains stretches of

wilderness along many miles of its banks, and a nomination for "Wild and Scenic River" designation has been approved by the National Park Service and submitted to Congress. A stewardship council has been established as part of this nomination process and a stewardship plan for the river has been developed and approved by eleven municipalities.

Weaver's Cove Energy has failed to demonstrate that the proposed LNG terminal project will not cause deterioration of water quality in the Taunton River. In fact several components of the project appear likely to do just that. The extensive dredging of the federal channel and turning basin will result in sediment resuspension and adversely impact spawning and development of juvenile winter flounder. The transport, storage and dewatering of dredged material will are likely to result in discharges that may have elevated levels of copper or other toxic metals or compounds. Movement of the tankers through the channel and the turning basin will stir up sediment in the water column, as noted by MDMF. Regarding the impacts of suspended sediment, MDMF said, "Increased turbity can greatly hinder fish spawning and larval survival and can retard juvenile development. Benthic invertebrates such as clams and quahogs can become deeply buried or suffer mortality caused by clogging of their respiratory systems" (MDMF letter of 7/23/04).

Throughout this process various agencies have tried to elicit information or plans from Weaver's Cove Energy that would demonstrate that aquatic resources will be protected. For example, the Fall River Conservation Commission during its hearings on the Notices of Intent in fall of 2004 requested specific plans to explain where and how the dredged material would be dewatered. The Commission asked, if dredged spoils were to be stored or handled on the terminal site, what locations would be used, what procedures followed and how water discharges would be handled. Weaver's Cove Energy identified several optional dewatering methods, but did not indicate which would be used or provide any specific site plans. The Commission repeatedly asked Weaver's Cove Energy to consider incorporating "time of year" restrictions into the dredging schedule with no success. The proponent was also asked whether open bucket dredging would be done and, if so what the likely impact on the river would be. To the best of my knowledge, this question has still not been answered.

State and federal agencies, including the Environmental Protection Agency, the Department of Interior, the National Marine Fisheries Service, the Massachusetts Department of Environmental Protection and the Division of Marine Fisheries have urged that time of year restrictions be applied to this project in order to protect fisheries, especially during spawning and migration windows. It is my understanding that the proponent has refused to accept such restrictions for all dredging activities except offshore disposal activities.

Weaver's Cove Energy has stated that the impacts of the dredging will be temporary, and if any damage occurs, fisheries will recuperate and shellfish beds will restore themselves. This argument is fallacious for two reasons. First of all, three years of continuous dredging will cause significant stress on fish and shellfish areas, and is likely to result in significant damage to spawning, juvenile development and migration. Secondly,

maintenance dredging will be required on a regular basis long after the terminal is built because of the depths required for the channel and turning basin. This maintenance dredging will interfere with the ability of fish and shellfish populations to recover.

Finally, it is simply inviting trouble to bring tankers of the proposed size so far inland where they must maneuver in a narrow channel. In order to bring the tankers to the proposed terminal site, the federal channel will have to be dredged to -37', two feet lower than the currently authorized depth. The turning basin at Weaver's Cove will have to be dredged to –41'. The proponent has indicated that tankers will have to be brought on the rising tide to avoid grounding. These arrivals and departures will certainly interfere with recreational boating. They are also likely to have significant effects on water flow and circulation. Such changes could have adverse impacts to shellfish beds and to fisheries, especially fish migration in areas designated as "anadramous/catadramous fish runs.". In addition, with each departing tanker, water will be withdrawn from the river for ballast, also sucking in small fish, eggs and other aquatic species.

The Corps must not allow one project to reverse the progress that is being made to improve water quality and aquatic habitat in the Taunton River. The Corps must not allow Weaver's Cove Energy to degrade water quality, destroy shellfish beds, interfere with fish migration, interfere with spawning, egg deposition and juvenile development in winter flounder and other species, and cause further decline, if not demise of the fisheries.

I urge you to deny the Section 404 permit for dredging, terminal construction and related activities to Weaver's Cove Energy.

Thank you for considering these comments.

Truly yours,

Priscilla Chapman

Priscilla Chapman

244 Chateau Drive
Somerset, MA 02726
February 7, 2006

US Army Corps of Engineers
Attn: Ted Lento
New England District
696 Virginia Road
Concord, MA 01742-2751

RE: Weaver's Cove Energy / File #2004-2355

Dear Mr. Lento,

We implore you to reject the proposed dredging of the Taunton River. We are not alone in our concern for the environment and for the health of the residents of this area if the dredging is allowed to take place.

We have lived in this town for fifty-four years. We grew up with the knowledge that the Taunton River, at least between Fall River and Somerset, was polluted. We witnessed changes in that condition over the years, and it continues to improve. Now, because Weaver's Cove finds it financially favorable to locate their facility here, we are expected to sit back and allow 100 years of contaminants to be stirred up and brought to the surface.

How much more are the people of this area expected to give up or tolerate? We already have a higher than average rate of cancer and respiratory problems here. Might that have anything to do with the fact that we daily take in the very air that has been contaminated by two of the worst polluting power plants in the state? Might it have anything to do with the fact that we live in the shadow of "Mt. Trashmore", a huge dumping site, the contaminants of which might very well be running off into Fall River's drinking supply? So now we are expected to deal with the health risks, environmental impact on marine life, impact on recreational fishing and boating, the possibility of noxious odors and noise pollution for about three years so that we can then deal with ALL THE OTHER SAFETY AND HEALTH RISKS, INCONVENIENCES, AND THE ECONOMIC IMPACT OF HAVING AN LNG FACILITY AT WEAVER'S COVE (OR AT BRAYTON PT.)?

We are relying on someone in a position of power to finally take a firm position on the side of the people. We still believe in these two things: 1.that, as Americans, we have a say in our government and that our voices are heard, and 2.that our government will keep us safe. Allowing this project to continue any further makes those beliefs naive and absurd. LNG facilities DO NOT belong anywhere near residences, several thousand of which are located very close to the Weaver's Cove site.

We understand that your decision has to do only with the dredging, and on that issue alone, we beg you to reject the proposal. But please look at the big picture here. Please

think of us, think of the people. These are our homes. These are our lives. We need someone to finally put his heart into this issue. We hope that you are that someone.

We thank you. Our children thank you. Our grandchildren thank you.

Sincerely,

Robert + Marian LeComte

Robert and Marian LeComte

51 Kay Blvd.
Newport, R.I.
Feb.7, 2006

Ted Lento
U.S. Army Corps of Engineers
New England District
696 Virginia Rd
Concord, MA. 01742

Mr. Lento,

As a resident of Newport, I am unalterably opposed to the siting of a LNG terminal in Fall River, MA. Newport is the premier tourist attraction in the state, primarily because of Marine activities in Narragansett Bay. The certain disruption of these activities will have a disastrous effect on our major (and virtually only) economy. I will leave it to other objectors to cite the environmental and safety implications. With regards from the "SAILING CAPITAL OF THE EAST COAST, I am

Yours,

Linda S. Hammer

RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
235 Promenade Street, Providence, RI 02908-5767 TDD 401-222-4462

February 3, 2006

Ms. Karen K. Adams
Chief, Permits and Enforcement Branch
Regulatory Divisions
US Army Corps of Engineers
New England District
696 Virginia Road
Concord, Massachusetts 01742-2751

Re: **Revised Public Notice and Announcement of a Public Hearing**
Weaver's Cove Energy, LLC and Mill River Pipe Line, LLC
November 1, 2005
File Number 2004-2355

Dear Ms. Adams:

The Rhode Island Department of Environmental Management (RIDEM) is responding to the above referenced announcement with the following comments. Weaver's Cove Energy, LLC has requested a Section 401 Water Quality Certificate through its submission of a Dredging Permit Application on July 16, 2004 for the activities, which will occur in Rhode Island waters. The RIDEM completed its initial review of this application and issued comments on March 7, 2005 (a copy is included for the record) requiring clarification of certain issues and the submission of additional information. As of this date, RIDEM has not received a response to the comments nor the additional information requested.

RIDEM appreciates this opportunity to comment on the activities proposed in Massachusetts's waters, which have the potential to impact water quality and designated uses in Rhode Island waters. The RIDEM is providing these comments with the understanding that its review of the Rhode Island application request is ongoing and that these comments in no way indicate that a permit or approval for the requested work in Rhode Island will be issued or denied. Please note that once RIDEM has determined that the Weaver's Cove Dredging Application for Rhode Island waters is complete, a 30-day public notice will be issued and comments on the subject application will be solicited and accepted.

The RIDEM has a number of specific concerns with the proposed dredging operation in Massachusetts's waters. Of significant concern is the impact of dredging and the associated loss of habitat on the populations of winter flounder and other species in Mt. Hope Bay and Narragansett Bay. Adequate analysis was not undertaken to estimate the loss of juvenile flounder due to the loss of more that 11 acres of shallow water habitat. It has been well documented in the literature that shallow water habitat provides juveniles fish a refuge from predators. There are also data and methodologies available to calculate the expected loss of juvenile fish production associated with this habitat loss. The annual estimated economic loss to the commercial and recreational fishery should be calculated. The estimated adverse impact on fish population recovery, health and future fecundity must be determined.

The current proposal of a $500,000 contribution to the Fall River CSO abatement plan in our opinion does not now, nor will it in the future, adequately compensate for the permanent loss of habitat, recreation and the associated loss of income expected by Rhode Island fishermen. A more appropriate mitigation plan should be required based on the estimated loss of fish and the associated economic impacts to the fishery. The mitigation should provide adequate compensation to improve and maintain fishery production. The plan should provide for habitat improvements to low value areas that will result in preserving and improving current fish populations. Furthermore, the City of Fall River is currently required to abate CSO impacts and a financial contribution by Weaver Cove energy will not result in any environmental improvements beyond those currently mandated by state and federal laws and regulations. .

The RIDEM is also concerned with the cumulative impacts of this project and others on winter flounder, shellfish and other important species. As noted in the 2004 RI 303(d) list, Mt. Hope Bay is not meeting the fishable/swimable goals of the Clean Water Act due to nutrients, dissolved oxygen, thermal modifications, biodiversity impacts and pathogens. The MA 2004 303(d) list, also indicates that Mt. Hope Bay is not meeting Clean Water Act goals due to unknown toxicity, nutrients, organic enrichment/low DO, thermal modifications and pathogens. The Brayton Point Power Station has already adversely impacted winter flounder populations in Rhode Island and Massachusetts waters. Additional negative impacts from the proposed dredging (including but not limited to the effect of increasing water depth on circulation patterns and dissolved oxygen levels), loss of habitat, and the intake of ballast water have not been adequately addressed in the applicant's analysis of project impacts. These impacts should be carefully evaluated and if found acceptable be addressed by an adequate mitigation plan. Without this plan, long-term negative impacts to future populations will continue.

The dredging project will also impact important shellfish habitat that will result in the loss of substantial quantities of quahogs. These quahogs provide forage for other species and serve as brood-stock for downstream areas, including Rhode Island. A one time seeding and transplant does not provide adequate compensation for the long-term loss of productive shellfish grounds. A mitigation strategy must be developed to compensate for the expected resource loss and associated economic loss to the shell fishing industry.

RHODE ISLAND
DEPARTMENT OF ENVIRONMENTAL MANAGEMENT
235 Promenade Street, Providence, RI 02908-5767 TDD 401-222-4462

March 7, 2005

Mr. Ted Gehrig
President/COO
Weaver's Cove Energy
One New Street
Fall River, Massachusetts 02720

Re: Weaver's Cove LNG Facility
Water Quality Certificate File Number 04-062
Docket Nos. CPO4-36-000; CP04-41-000

Dear Mr. Gehrig:

The Rhode Island Department of Environmental Management (RIDEM) has completed its review of the materials submitted in support of the Water Quality Certificate Application and the Draft Environmental Impact Statement (DEIS) for the above noted project. This review is limited to potential impacts to water quality and fisheries habitat in Narragansett Bay and Mt. Hope Bay.

The Departments has determined that additional information is needed to complete its review and offers the following comments.

General

In order to review this proposal for compliance with the States' Water Quality Regulations, all the sediment and water quality sampling and results must be discussed in the context of the Rhode Island Water Quality Regulations and Rhode Island's water quality standards and criteria.

The Water Quality Certification Program remains concerned about the potential of resuspended sediment and the resulting turbidity and dissolved metals in the water column.

Water Quality Sampling and Sediment Characterization

RIDEM is concerned with the topic of resuspension of sediment and the attendant turbidity and dissolved metals fields in the water column that result from the dredging operation. The analysis contained in the EIS also does not address turbidity explicitly: TSS is modeled instead.

Prolonged elevated turbidity that consistently exceeded the RI WQS for at least a one-week period was observed during the Providence River Dredging Project.

Elutriate test results need to be completely documented. The document provides us with no information to separately evaluate the results of the testing. Results for copper on page 4-27 need significant elaboration. Why would an additional burden be allowable when the background (Cu) already exceeds the standard? A similar discussion should also be conducted for zinc. RIDEM needs significant additional information on both of these issues. For example, is the document discussing dissolved Cu and Zn? What concentrations were observed?

Provide all of the Rhode Island sediment chemistry and water quality sampling results, including ellutriate testing in table form with comparisons to the appropriate Rhode Island water quality criteria. All Rhode Island water quality criteria for each metal must be addressed in terms of aquatic life and human health.

Provide an explanation as to why silver was not tested in the sediment or the ellutriate testing.

Clarify how it was determined that the sediment sample results are "acceptable" and identify what/which RIDEM water quality standards were used to base this determination.

For the liquids characterization, provide an explanation as to why chronic values are not shown or used in the screening.

For all the constituents tested, the statement is made "therefore, the aggregate dredged materials are unlikely to cause aquatic ecological risk." Provide an explanation of the context: does this mean while suspended in the water column or after settling that there would not be an ecological risk? If there are metals adsorbed to even the fine-grained sediments, there could be ecological risk that has not yet been addressed.

SS Fate Model

The SS fate model source input strength assumption used in the model is of concern. For the Providence River, the ACOE used 2% loss. Here, 0.66% was used. The model must be run over using the more conservative assumption of 2%, especially since the type of bucket and dredging methods are not yet determined.

In-Situ Sediment Characterization

If MCZM's sampling indicated presence, as noted on page 16, it seems clear that there is a presence, not a "potential presence."

Statistical Bulk Sediment Chemistry

Again, not all of the metals were tested. Provide an explanation as to why this was the case. Further testing may be required in order to determine compliance with the State Water Quality Regulations.

Provide all RI Sample results, not just the summaries

Liquids Characterization Summary

Provide an explanation as to why chronic values are not shown/used in the screening?

River Water Samples

Provide an explanation as to why the river water sample results are the same as the results for the turning basin and channel sediment values on previous table?

Division of Fish and Wildlife Comments

The applicant states in many instances that the dredging operation will have adverse impacts on the life history stages of various fish and invertebrate species as well as their habitat. Yet they offer little in the way of avoidance or mitigation of the impacts. Generally, they state that the impact will be minimal and the habitat and fisheries will recover in time. This is not adequate considering the resources and habitat forgone in both the short and long term. The economic costs of the proposed project to fisheries from resource and habitat loss needs to be estimated.

Page 4-73. The proposed mitigation for the loss of shellfish and the loss or impact to 84 acres of quahog habitat is not adequate. A one-time seeding and transplant is not adequate compensation for the long term losses or impacts to the fisheries resulting from the permanent loss of productive shellfish grounds and the loss of spawning stock that currently inhabits these impacted areas. Both short term and long term resource losses and economic losses should be estimated with a mitigation strategy developed taking these factors into consideration.

Page 4-73-74. The issue of bioaccumulation of re-suspended contaminates in fish and shellfish utilizing the project area must be addressed. Possible human consumption of these resources also needs to be addressed. The economic impact of the forgone resource and the potential human health risks needs to be evaluated.

The applicant used the SSFATE model to predict the behavior of various suspended sediment concentrations in the water column that are generated by the dredging operation. We are not aware that this model has ever been field calibrated or validated for the accuracy of predicted outputs. Without this exercise the assumptions derived from the model are only that, assumptions, and may or may not indicate what occurs in the

field. Resource impacts estimated from these models could be more severe than outlined in the document.

Pages 4-74-75. The applicant also uses the SSDOS model to predict the affect of various suspended sediment concentrations on fisheries resources and habitat. Again, we are not aware that this model has been field calibrated or validated. Because of this, the model outputs may or may not represent what will actually occur. This needs to be resolved with a calibration and validation study.

Most of the conclusions about the potential impacts of suspended sediment on various life history stages of fish and shellfish have been arrived at as a result of modeling outputs lacking field calibration and verification. Because of this it is difficult to evaluate the predicted outcome from these models. Lacking this information, and considering the status of fish stocks like winter flounder, a more conservative and risk averse approach in permitting dredging activities should be taken. Dredge windows to protect winter flounder spawning, as permitted in the Providence River Dredging Project, should be proposed for this project.

Page 4-77. The permanent loss of 23 to as much as 144 acres of potential winter flounder spawning habitat and the forgone flounder resource as a result of this loss needs to be assessed. The long-term economic loss to the fishery and public needs to be addressed. Since specific winter flounder spawning areas in Mt. Hope Bay and the Taunton River have not been located and only generic winter flounder spawning habitat has been delineated there is no guarantee that the lost habitat, no matter how small, might be the critical spawning habitat for this species. Winter flounder spawning habitat in both the bay and river need to be identified and delineated. Without this the most conservative approach to habitat loss (avoiding the habitat) should be taken.

Page 4-78. Considering the amount of sediment to be dredged is only 2.5 million cubic yards it is difficult to understand why the applicant says the project will take 3 years when the Providence River project with 5+ million cubic yards of sediment to dredge is estimated to take only 20 months. Three years should be adequate time to dredge using protective dredge windows.

Page 4-83. The table on this page should include the egg and larval stages of black sea bass. Recent ichthyoplankton data indicates that this species probably spawns in the upper bay.

Overall the entire DEIS lacks any site-specific or current fisheries or habitat data. Fisheries data used in the report were taken from a 1998 study done by Marine Research Inc.; their work is ongoing and more current data are available. Current ichthyoplankton data should also be used to evaluate temporal and spatial distribution of egg and larval stages of important species. These data along with juvenile and adult data from other studies combined will provide a better basis for evaluation of project impacts and develop mitigation strategies, including dredging windows. The most current fisheries data available should be used in this document. There are data from ongoing fisheries surveys

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

Ted Lento
US Army Corps of Engineers
New England District
696 Virginia Road
Concord, MA 01742-2751

FEB -7 2006

Dear Mr. Lento:

This is in response to the US Army Corps of Engineers (ACOE) public notice dated December 27, 2005 (file number 2004-2355) regarding the Weaver's Cove Energy, LLC application for Section 10/404/103 permits for dredging in the Taunton River and disposal at the Rhode Island Sound Disposal Site (RISDS) or Massachusetts Bay Disposal Site (MBDS). Weaver's Cove Energy is proposing to construct a liquefied natural gas (LNG) terminal adjacent to the Taunton River in the city of Fall River, MA. The project facilities are also subject to the jurisdiction of the Federal Energy Regulatory Commission (FERC) pursuant to the Natural Gas Act. As such, FERC is the lead action agency for purposes of section 7 consultation under the Endangered Species Act of 1973 (ESA), as amended, for the construction and operation of the Weaver's Cove facility. However, NOAA's National Marine Fisheries Service (NMFS) is providing these comments for your records.

No species listed as threatened or endangered under the ESA are known to occur in the Taunton River. Therefore, the dredging portion of this project will have no effect on listed species under NMFS' jurisdiction. Sea turtles and/or whales, however, may be encountered at the MBDS and RISDS and on the way to/from these disposal areas. Separate section 7 consultation between the ACOE and NMFS was concluded on the use of the MBDS in a letter dated August 29, 1997. Similarly, a letter dated April 8, 2004 concluded that designation of the RISDS was not likely to adversely affect any listed species under NMFS' jurisdiction. It is the understanding of NMFS that any restrictions prescribed in these consultations will be adhered to during disposal operations for these projects. As such, no further consultation is necessary for the issuance of a permit for the dredging and disposal portions of the proposed Weaver's Cove LNG project. NMFS is currently engaged in discussions with FERC regarding portions of the Weaver's Cove project that may have effects beyond the immediate project location in the Taunton River.

Thank you for the opportunity to comment on this project. If you have any questions regarding these comments, please contact Kristen Koyama at (978) 281-9300, ext. 6531. We look forward to working with your office on future matters involving endangered and threatened species.

Sincerely,

Mary A. Colligan
Assistant Regional Administrator
for Protected Resources

File code: Sec 7 FERC Weaver's Cove

United States Department of the Interior

FISH AND WILDLIFE SERVICE
New England Field Office
70 Commercial Street, Suite 300
Concord, New Hampshire 03301-5087

REF: Public Notice NAE-2004-2355

February 7, 2006

Ms. Christine Godfrey, Chief
Regulatory Division
U. S. Army Corps of Engineers
New England District
696 Virginia Road
Concord, MA 01742-2751

Dear Ms. Godfrey:

We have reviewed the Public Notice on the liquefied natural gas (LNG) import terminal and natural gas pipeline facilities in Bristol County, Massachusetts proposed by Weaver's Cove Energy. These are the comments of the Department of the Interior. The following comments are provided in accordance with the Fish and Wildlife Coordination Act (948 stat. 401, as amended; 16 U.S.C. 661 et seq.) and the Wild and Scenic Rivers Act (16 U.S.C. 1271-1287, as amended).

The proposal is for the development of a LNG terminal on the site of a former Shell Oil Facility along the Taunton River in Fall River, Massachusetts. Site development will include over one acre of permanent wetland and waterway fill. Moreover, the dredging of 2.6 million cubic yards of material from the navigation channel and turning basin will have significant impacts to fishery and shellfishery resources.

We previously addressed our concerns for anadromous fish, and the Wild and Scenic Rivers issue, in our letter of September 22, 2004 to the Corps of Engineers, and the Department's July 5, 2005 comment letter to FERC.

Protection of Fishery Resources

As we have stated previously, the Taunton River provides important habitat for anadromous fish, including the blueback herring, alewife, American shad and rainbow smelt. These species use all or some of the Taunton River for passage, spawning, nursery and foraging. To protect these resources, we have previously recommended time-of-year restrictions for both upstream and downstream migrations. Subsequent to our recommendations, the applicant has decided to use ocean disposal of dredge material and to institute time-of-year restrictions for the spring

upstream migrations. However, the applicant has refused to incorporate restrictions to protect downstream migrations.

We recommend a time-of-year restriction of March 1 – July 31 for the protection of the incoming anadromous fish migration. To adequately protect the downstream migration, we continue to recommend a time-of-year restriction of July 1 through October 31. If this is unacceptable, we recommend that no dredging take place upstream of the I-195 bridge from July 1 to October 31.

Taunton Wild and Scenic River Study

Public Law 106-318, the Taunton River Study Act of 2000, authorized a study of the Upper Taunton River from its headwaters at the confluence of the Town and Matfield Rivers to its confluence with the Forge River in Raynham.

Interim Protections of Study Rivers

Resource values contributing to the potential designation of such congressionally-authorized study segments are afforded statutory protection under the Wild and Scenic Rivers Act.

The pertinent language from Section 7(b) of the Wild and Scenic Rivers Act is:

"...and, no department or agency of the United States shall assist by loan, grant license or otherwise in the construction of any water resources project that would have a direct and adverse effect on the values for which such river might be designated, as determined by the Secretary responsible for its study or approval..."

(and)

"Nothing in the foregoing sentence, however, shall preclude licensing of, or assistance to, developments below or above a potential wild, scenic or recreational river area or on any stream tributary thereto which will not invade the area or diminish the scenic, recreational, and fish and wildlife values present in the potential wild, scenic or recreational river area..."

Protection of the Wild and Scenic River Values of the Taunton River

The significance of the anadromous fish resources of the Taunton River is well documented, and is one of the values for which the upper Taunton River would be designated by Congress as a component of the National Wild and Scenic Rivers System. The statutorily required resource protections of the Wild and Scenic Study legislation, as cited above, therefore apply to the protection of anadromous fish resources. In order to comply with the required protection standard, no diminishment of this resource value may be allowed. It is the Department's determination that the time-of-year restrictions stipulated in this letter will ensure that this standard is met.

Considerations Related to the Lower Taunton River

In September, 2002, responding to petitions from the five lower Taunton River communities from Taunton to Fall River, U.S. Representatives Barney Frank, James McGovern and Stephen Lynch formally requested that the study area be extended to include all of the Taunton River to its confluence with Mt. Hope Bay. In the spring of 2003, the National Park Service agreed to expand the study area as requested. The expanded area is not subject to the statutory protection of the study legislation.

Current Status of Wild and Scenic River Study

Between November 2004 and July 2005, all ten communities abutting the mainstem of the Taunton River voted through Town Meeting or City Council (Cities of Fall River and Taunton) to endorse the Taunton River Stewardship Plan and to seek federal Wild and Scenic River designation. Such community votes are the final step required by the National Park Service's Study process. Since that time, the Commonwealth of Massachusetts, through a letter from the Secretary of the Executive Office of Environmental Affairs, has written to express support for Wild and Scenic River designation of the entire Taunton River, as have many non-governmental and citizen groups. Legislation has also been filed in both the U.S. House of Representatives and the U.S. Senate to designate the entire mainstem of the Taunton River. A Draft Report to Congress is under preparation that will document study findings and the expressed public support for designation.

Lower Taunton Site Impacts

Consistent with the Department's July 5, 2005 comment letter to FERC on the Final EIS for this project, we continue to believe that there are likely to be unavoidable site impacts associated with this project that render its construction and operation incompatible with Wild and Scenic River designation of the lower-most portion of the mainstem of the Taunton River (below Steep Brook in north Fall River). While this incompatibility is not subject to the same statutory protection requirement afforded the Upper Taunton Study area, there has been a substantial demonstration of the public interest in seeing the entire mainstem protected as a National Wild and Scenic River. This demonstration has been noted elsewhere in this letter. The Department believes that this expression of public interest needs to be fully considered by the Corps of Engineers in its own weighing of the public interest.

Conclusion

As currently proposed, the dredging for this project would have unacceptable adverse impacts to the anadromous fishery resources in the Taunton River. Without time-of-year restrictions for both upstream and downstream migrations, we continue to recommend that this application be denied. If you have any questions please call me at 603-223-2541, or Jamie Fosburgh, of the National Park Service, at 617-223-5191.

Sincerely yours,

William J. Neidermyer

William J. Neidermyer
Assistant Supervisor, Federal Activities
New England Field Office

cc: Reading File
NMFS
EPA
MA Marine Fisheries
J. Fosburgh, NPS
ES: WNeidermyer:2-7-06:603-223-2541

7 February 2006

Mr. Ted Lento
U. S. Army Corps of Engineers
New England District
696 Virginia Road
Concord, MA

Dear Mr. Lento,

Please find attached below as part of this FAX transmission my comments of the permit requests of Weaver's Cove Energy, LLC and Mill River Pipeline, LLC to conduct dredging in an existing federal navigation channel (i.e., the Taunton River and Mount Hope Bay), and other associated activities. U. S. Army Corps of Engineers, New England District File Number 2004-2355.

My input is made as a private citizen living in one of the communities that would be impacted by the proposed dredging.

Six pages of written comments follow this cover letter. It is my intent to forward the original of this correspondence, with signature, to you by U. S. Mail but wanted to be sure you received these comments by the deadline of 8 February.

Yours truly,

Guy F. Borges
72 Duke ST
Somerset, MA 02726

Comments of Guy F. Borges, Somerset, Massachusetts on the Permit Requests of Weaver's Cove Energy, LLC and Mill River Pipeline, LLC to Conduct Dredging in an Existing Federal Navigation Channel (i.e., the Taunton River and Mount Hope Bay), and other Associated Activities. U. S. Army Corps of Engineers, New England District File Number 2004-2355

My comments are focused directly on the probable impact of the proposed activity on the public interest.

OVERVIEW

Dredging of any body of water constitutes an activity with strong potential to adversely impact the body's ecosystem in the immediate vicinity. Dredging of the magnitude of the proposed has a potential for profound direct and negative impacts on the ecosystem of the Taunton River and Mount Hope Bay. Undoubtedly, these impacts would pose the greatest potential negative impacts of any sort since the construction of support piers and pilings for the Braga Bridge in the early 1960s. Since that time, virtually every human action relative to the waterways, with the exception of ongoing condenser water cooling discharges from the Brayton Point Power station, has resulted in substantial improvement in the water quality and the health of the ecosystem of the affected waterways. Regulatory action has mandated an abundance of difficult and costly actions to achieve these results in a fashion that substantially constrained all the communities, businesses and persons in the watershed. The actions have included municipal sanitary sewer treatment upgrades, the Federally-mandated CSO project in Fall River (costing nearly $200 Million), storm water management initiatives, restrictions on ISDS systems throughout the watershed, strict hazardous waste management regulations, widespread and mandatory Spill Prevention Control and Countermeasures programs. There have also been restrictions on wide varieties of excavation and development activities embodied in typical Coastal Zone management regulations aimed at precluding increases in stormwater runoff rates, volumes, and the entrainment of suspended solids and appurtenant pollutants. Without any conceivable dispute, the proposed dredging action holds potential to negate much, if not all, of the positive impact of decades of actions that have not only cost taxpayers extraordinarily large sums of money but have formed the basis of Government constraint on the use and property rights of businesses, communities, and persons all along the Taunton River & Mount Hope Bay that would have been considered oppressive and tyrannical before the mid 1960s. Substantial future regulatory constraints on activities by private parties in the Taunton River & Mount Hope Bay watersheds appear to be a certainty. The United States Environmental Protection Agency proposes to implement regulatory restrictions on the Brayton Point Power Station that will force them to abandon decades-long practice, that was perfectly legal during those decades, and modify their cooling water discharges to return to conditions having impacts comparable to those that existed in the mid 1960s, prior to the expansion of the plant's capacity (fully approved by regulatory authorities). Even before detailing the specific issues associated with the proposed dredging, the proposal must be viewed in a context described. Over the last 40 years, the towns, cities, states, and populations along the Taunton River and Mount Hope Bay have achieved very

substantial and meaningful improvements to those waterways at considerable expense and curtailment of discretionary actions, often extending inland to a considerable physical separation from those waterways. The impacts of the proposed dredging and the associated construction can only have negative impacts on the affected waterways, potentially severe, or, at very best, moderately negative. Over a 40 year projected lifetime of the proposed LNG terminal, there are no conceivable arguments that can be advanced that the irretrievable consequential impacts of the physical presence of the terminal and its operation, the inevitable maintenance of the shipping channel, and the relentless traverse of some of the largest vessels in the world through that channel, will have anything but negative impacts. Again, possibly mild to moderate impacts, at best, but certainly with potential to be severely negative. The core operative questions for the Corps of Engineers in considering the specific applications in question are these:

Is there such a profound likelihood the proposed LNG terminal will ever actually be built and put into service to justify the CERTAIN negative impacts of dredging? (There is substantial likelihood that other competing proposals for LNG terminals serving the New England market will come online ahead of the proponents', obviating the need and viability of the proposed LNG terminal, moreover the Fall River city Government has publicly expressed a clear intent to exercise its constitutionally-based right of eminent domain to take the proposed site for other public purposes)

If built, will the LNG terminal remain sufficiently viable, economically to deliver on the promised mitigation (associated with its consequential impacts of its operations) on the waterways for the **next 40 years**? (Case in point, 40 years ago, the proposed site was a thriving petroleum shipping terminal, now abandoned as a result of unforeseen economic changes, with all necessary environmental mitigation now occurring at the site being an involuntarily mandate imposed upon the former owners by the Federal and State Governments).

Over the next 40 years, will the LNG terminal be subject to regulatory evolutions that could force its closure, outright, or force it into an unsustainable economic condition? (Case in point, the nearby Brayton Point power station is being forced to adhere to condenser water temperature mitigation that was not even remotely foreseen as necessary or legally enforceable 40 years ago, mitigation that has been cited by the power industry as a threat to the plant's economic viability.)

If the proposed LNG terminal is actually built and actually operated, will its operation be LIKELY to result in consequential benefits that exceed and offset the negative impacts of dredging to a degree even remotely approaching those positive impacts on the Taunton River & Mount Hope Bay ecosystem that have been achieved by 40 years of costly efforts that included widespread and intrusive constraint on the use and ownership prerogatives of public and private property owners in the communities forming the watershed?

More colloquially, with absolutely every entity along the Taunton River & Mount Hope having endured significant property rights curtailment over the last 40 years to achieve improvement in the waterways and, incidentally, having funded numerous large and costly

projects to achieve those improvements, why should we risk having 40 years of improvement undone to perform dredging for an end purpose that may never be built, may never operate if built, is highly unlikely to remain viable for the next 40 years, and which is far more likely to result in short term economic benefit for narrow private interests than in the widespread public benefit that accrued from the efforts over the last 40 years?

SPECIFIC COMMENTS

- The construction and operation of an LNG terminal, the intended purpose justifying the proposed dredging, is unlikely. The City of Fall River has publicly stated an intent to take the proposed site by eminent domain to be used for public purposes not involving an LNG storage tank. Given that exercising this constitutionally-affirmed authority would be quite costly, the City has also stated its intent to exhaust other, less costly avenues to preclude siting of the proposed LNG terminal before exercising its sovereign eminent domain authority. In view of the recent Supreme Court of the United States ruling affirming the right of state and local governments to apply eminent domain authority for even quasi-public purposes, it must be presumed that the City has full constitutional authority to execute its stated intent and, therefore, there is substantially unlikely the project will never be built than the inverse. Given the likelihood that the terminal will never actually be built, the proposed dredging has no usefulness for any known or likely purpose and the application must be denied. Even if the probability of numerous separate and discrete future events is presumed to be much more favorable to the applicant than is now evident, a presumption that is almost purely speculative, the application for a dredging permit is premature. All issues that hold significant potential to preclude not only the construction of the proposed terminal but its long term economic viability (e.g. ability to receive large LNG vessels) must be conclusively and irrevocably resolved in the applicants' favor before approving dredging. Since dredging is the constituent part of the overall proposed action that is almost exclusively negative in it direct impact, it must not be approved until there is clear, convincing, and objective evidence to conclude that a terminal WILL be built; it's operation has a substantial likelihood of remaining economically viable for 40 or years or more; and the LNG terminal's existence and operation will deliver positive benefits, in the aggregate, that will equal or exceed the negative impacts of the dredging.

- The Corps of Engineers has no legal basis for granting approval for dredging for either no purpose or for purposes that are essentially speculative in nature. To justify dredging, there must either be a public purpose, or a private purpose consistent with law governing Federal shipping channels, with direct and consequential impacts that are positive, neutral, or negative but de minimis . The current state of applicable Federal law that is relevant to the proposed project, prohibits the demolition and removal of the existing Brightman Street Bridge. Moreover, the lead agency with the clear jurisdictional prerogative to contest that Federal law, the United States Coast Guard, has publicly stated that it has no intent to seek to repeal the law. The Corps of Engineers must treat the existing Federal law with respect to the Brightman Street Bridge as dispositive, particularly in light of the Coast Guard's stated intent to accept the law. As governing Federal law now stands, the existing Brightman Street Bridge will remain in place. There is no legal basis,

whatsoever, to presume that the status of the existing Brightman Street Bridge under Federal law will change, especially given that the specific Federal law was recently enacted by the United States Congress in full knowledge of the proposed LNG terminal and with the support and urging of all duly elected governmental bodies in the proximity of the project. The Corps of Engineers would be abusing its discretion and acting in an arbitrary and capricious manner, and more likely in a manner exhibiting prohibited bias in favor of the applicants (i.e., Weaver's Cove Energy, LLC and Mill River Pipeline, LLC) if it assumes anything other than the continued existence and physical presence of the Brightman Street Bridge, a fact that would limit the width of vessels that could pass through it. Consideration of the long term operability of the Brightman Street Bridge as a vehicle transport route is irrelevant, even if it is closed for that purpose, its piers and supports would still constrain the width of the shipping channel. Since the existing Brightman Street Bridge regularly permits the passage of a coal ship to and from the Montaup Station power plant (directly across the river from the proposed LNG terminal) there must be a presumption that the existing dimensions of the channel are already fully adequate to support a substantive and meaningful Federal mission of the shipping channel to support energy-related commerce. Representatives of Weaver's Cove LLC have repeatedly and publicly stated that the LNG terminal can be placed into operation even if the existing Brightman Street Bridge remains in place. Having made that assertion, the Corps of Engineers should compel Weaver's Cove LLC to conclusively demonstrate the existence and availability of LNG transport ships that are narrow enough to pass through the existing Brightman Street Bridge but which require dredging for vertical clearance. Absent a showing by Weaver's Cove LLC that dredging is necessary to accommodate a class of vessel that actually exists (which can pass through the existing horizontal opening) but which requires greater channel depth, the application for dredging should be denied.

- With respect to the evaluation criterion of protection and utilization of important resources, the direct impacts of the proposed dredging would clearly and inarguably pose a significant and substantial threat to the protection of the Taunton River & Mount Hope Bay ecosystem. This ecosystem is an important resource for a variety of concerns, including marine habitat, human recreation, and facilitation of commerce. The only impact of the dredging that is in any way positive is a consequential impact, not a direct impact, and this positive impact would never occur, at all, or vanish entirely if several other more likely circumstances arise. The sole positive impact of the dredging would be the facilitation of enhanced commerce in the form of movement of LNG vessels MUCH LARGER IN SIZE than the coal ships that routinely traverse the river to the Montaup Station power plant. As noted above, this particular impact cannot occur, at all, if the LNG terminal is not built or the existing Brightman Street Bridge is not demolished. Moreover, even if an LNG terminal is put into operation, the enhancement of shipping impact would be negated with respect to the traverse of LNG vessels, of any size, if and when the terminal closes and/or becomes economically not viable.

- If the population of the affected communities are to rely on the veracity of repeated public assertions by senior officials working for the applicants, the realization of the goal of greater utilization of the shipping channel as a resource is met substantially without any

dredging by making use of vessels that can pass through the existing Brightman Street Bridge. If these statements are sincerely and accurately advanced, and not merely self-serving manipulations aimed at influencing various regulatory entities, dredging will cannot be justified as a necessary condition to meet a goal of enhancing use of the waterway resource to increase commerce.

- Current practice in Boston Harbor, only about 50 miles from the site of the proposed dredging, is for the Coast Guard and State of Massachusetts security agencies to strictly enforce maritime security exclusion zones in all directions around the LNG vessels while they are underway inbound, or moored while still substantially laden with fuel. Since this practice is actually occurring within the very same state and Coast Guard jurisdiction as the proposed LNG terminal, and has been the practice for many years, the enforcement of onerous maritime security zones around LNG vessels servicing the proposed terminal MUST BE REGARGED AS A REASONABLY FORESEEABLE consequential impact of the dredging, as an absolute minimum. I assert that is much more appropriate and justified to project that, over a 40 year period, it is LIKELY that onerous maritime security exclusion zones on the Taunton River & Mount Hope Bay around LNG vessels will be a regular and recurring impact that would not otherwise occur if not for the dredging. Without regard to any claims by the applicants or the Coast Guard, the Corps of Engineers may not regard this as a de minimis consequential impact of the dredging unless it can independently conclude that, over a 40 year period of time, the establishment and enforcement of maritime security exclusion zones comparable to those enforced in Boston Harbor for many years, is so remote and unlikely as to fall below the threshold of reasonably foreseeable. Admittedly, the causality of dredging to the impacts of maritime exclusion zones is weakened in the unlikely event that the applicants can demonstrate the existence of LNG vessels capable of passing through the existing Brightman Street Bridge.

- The above comments addressed the probability and plausibility of maritime security exclusion zones as a consequential impact. The nature and extent of the impact of maritime security exclusion zones associated with LNG tankers moving in the Taunton River, or moored at the proposed terminal, are profound. Because of the location of the shipping channel and the narrowness of much of the river in the area of proposed traverse, the exclusion zones will absolutely preclude movement of any other vessels past the LNG tanker. This will effectively result in the recurring closure of the river as navigable waterway connecting the upper Taunton River to Mount Hope Bay, Narragansett Bay, and the Atlantic Ocean. Clearly and inarguably, this impact would, as a minimum, completely offset a consequential benefit of increasing commerce on the river associated with approximately 50 LNG tanker round trips per year. While the utilization of the river would increase on about 50 occasions per year, to the benefit to just a single private entity in a narrow sector of commerce, the direct impacts of the particular utilization would result in reduction in transits of the river by other vessels 2-3 orders of magnitude greater in frequency than the increased use, affecting a diverse community of recreational and commercial boaters. I assert that it is obvious and irrefutable that no net positive enhancement of shipping channel utilization by users, of all types, will result from any dredging to support a LNG terminal and that there would a very substantial reduction in

the utilization of the river as a true fully navigable waterway connecting the upper Taunton River with Narragansett Bay and the Atlantic Ocean.

- Maintenance Dredging. Consideration of the application must include the direct impacts of maintenance dredging over a 40 year period. Deep draught LNG tankers pose the greatest physical risks from grounding or striking submerged objects of any class of non-military vessel. It is both reasonably foreseeable and likely that compromise of clearances between the shipping channels and hulls of LNG vessels will be tolerated less than for any other class of vessel, especially as the LNG tanker fleet ages and margins of safety for hull integrity diminish. This will inevitably result in a much more frequent need for maintenance dredging of the Taunton River and Mount Hope Bay than has occurred over the last 40 years. Consideration of the application eeds to presume that maintenance dredging will occur at the minimal projected interval and be at the highest end of projected extent.

- Ecological impacts of dredging. The draft and final Environmental Impact Statements (DEIS and FEIS) advanced by the Federal Energy Regulatory Commission (FERC) with respect to the proposed LNG terminal must not be relied upon by the Corps of Engineers as a fair and credible evaluation of the direct impacts of dredging. I personally and carefully reviewed the DEIS and FEIS and found them to them to be riddled with bias that could not be explained as simple honest error and which were almost entirely devoid of full, fair and objective evaluation meeting the requirements of the National Environmental Policy Act (NEPA). From contact I have had with other interested commentors, including the City of Fall River and the State of Rhode Island, I fully expect that one or more of those parties will file suit under NEPA to challenge the fairness and adequacy of the FEIS. While I make no claim of expertise about dredging and the aquatic environment, based on my formal training on NEPA procedures, I did find an abundance of evidence of bias in other areas of the DEIS and FEIS to raise doubt about the accuracy and fairness about any conclusions relating to the direct impacts of dredging. I urge the Corps of Engineers to disregard any conclusions and interpretations contained in the FEIS with respect to impacts of dredging, and rely entirely on your own expertise in assessing those impacts or simply defer any action on the application until after the expected litigation challenging the adequacy of FERC's NEPA review is resolved.

********** END OF COMMENTS **********

Revere Copper Products, Inc.
U.S.A.

1/31/2006

Ms. Christine Godfrey,
Chief, Regulatory Division,
US Army Corps of Engineers,
New England District,
696 Virginia Rd.,
Concord, MA 01742-2751

RE: Weaver's Cove Energy and dredging the Taunton River.

Dear Ms. Godfrey,

My name is Chris Bale. I am the General Manager responsible for the New Bedford Division (South East Massachusetts) of Revere Copper Products. This plant is a non-ferrous rolling mill that makes plate and sheet exclusively in copper alloys. This business started in 1862 and was based on the rolling of copper sheets used to sheath the hulls of whaling ships. Our markets today are worldwide, but very much a niche. We are the last dedicated copper and copper alloy plate mill in the U.S., and as such we probably represent a certain importance to the US Navy which uses our products in shipbuilding applications.

As we are all aware, a manufacturing business today must be able to compete globally in order to survive. I constantly tell my staff that all we need to do is make the best quality product in the world at the lowest cost. These are easy words, but from a practical standpoint, very hard to implement.

In my 16-year tenure at this facility, I have long railed against the high cost of energy in Massachusetts. Indeed, our plant is disadvantaged to be in the utility territory on Commonwealth Electric (now N. Star). This Utility made many poor decisions over the last three decades, the consequence of which, 15 years ago, we found ourselves paying the third highest price for electricity in the country. Naturally, I was a strong supporter of de-regulation of the electric industry. Subsequent to de-regulation in Massachusetts, one of the principle objectives was achieved with the construction of new power generation and the up-grade of some existing generating facilities. However, in most if not all of this extra generating capacity, natural gas was the fuel of choice.

24 North Front Street • New Bedford, MA 02740 • U.S.A. • Phone: (508) 999-5601 • Fax: (508) 990-2954
www.revereplate.com

Ironically, we are now paying significantly more for electricity then we were prior to de-regulation ($0.15/Kwh in December). This is caused by the escalating price of natural gas.

It is clear that New England, and certainly Massachusetts needs a more competitive gas supply in order to drive down costs. Revere cannot achieve the "lowest cost in the world" criteria with the current state of energy markets in Massachusetts. LNG offers a remarkable opportunity to increase supply and to remove Massachusetts from the "end of the pipeline" handicap. However, it is very clear that no politician will support this initiative. "Nimbyism", the lack of political will and red herring security issues, if left unchecked, will cause us to lose an historic opportunity.

There are issues that transcend local politics. The security of energy supply, and the consequent economic benefits, obviously fit these criteria. The US Army Corps of Engineers should approve the dredging of the Taunton River so this project can proceed with the utmost speed. Timing is critical. The gas markets currently support the major investments that will be required. The Energy companies will bear the risk, not government. We need to get on with it.

Sincerely,

Christopher S. Bale
VP and General Manager

Somerset Marina & Yacht Sales

"A Full Service Marina"

Est. 1960

2/5/06
U.S. Army Corps of Engineers
Mr. Ted Lento
File # 2004-2355

I, Don Ranger, am the Owner of the "Somerset Marina". I represent the company above, and in part, the customers and owners of the 100 recreational boats presently at this facility.

I attended both of the Army Corps of Engineers public meetings addressing the LNG facility on 12/14/05 and 12/15/05. Although the meetings were conducted well, they certainly did not answer many of my greatest concerns. These concerns namely arise from my business and personal livelihood along with the practicality and utmost safety for the constituents of the community. Perhaps, as representative of the Army Corps Engineers, you can answer some more of these pertinent questions I had not had enough time to formulate during the meetings.

First; How long will my business have to suffer and lock down my boats to the northern end of the river as you dredge the river, build the bridge, construct the LNG facilities and practice water runs? Will my customers be allowed/able to pass the equipment at work?

Second; One of the greatest concerns is the need to know what impact the "Security Zones" will have on my customers. You mentioned a level of distance in mile ratio from tanker and facility to commercial/residential boater. Are you FULLY aware my marina resides no more than 2 miles from your proposed site along with three other major commercial/recreational marina's and many privately owned docks just north or this proposed site, this totals around 800 independent boaters. What specific limitations are going to be enforced on the navigation of these waters if this project is completed?

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Also, since living on this land for so many years, I feel I should make the obvious note to the safety issue of tanker landing times... even in the middle of the night it does not take a 20/20 astute vision to watch actions on the opposite shores. Heck, I was watching a family of deer walking down the Fall River water front from my Somerset marina at about 2:30am the other day... without a moon. How can you honestly justify that special "unannounced" tanker arrival times will be "safe", efficient and efficient in an area this small... regardless! It serves our local waterway businesses best if we can at least offer a communicative time to our customers when best to take out the boats so we do not get stuck in front of, or behind an incoming tanker.

I NOW request, in full, the plan that proclaims and draws out the safe distance measurements of private and public boats to LNG tankers... the PLAN, after all, is something the coast guard and corps should have prepared at such a close time to final proposal/litigation of LNG. As much as I was paying attention to what ratio of distance and at what time a boat can be in relation to a moving and stationed tanker, I was immediately aware many inconsistencies.

What guarantee do I and my customers have sanctioned before this project commences. What guarantee do I have to maintaining my livelihood once this plant is in place? How can my customers navigate this channel that can't meet the proposed distance already mentioned?

This new LNG facility will have a major impact on the future of my business and the other businesses on the river, what about my /our personal life(s) and family(ies). There was no mention of the massive increase in land traffic. Does the infrastructure presently exist to support an additional 80 Tanker trucks a day across route 24 & 195? It is obvious the water traffic study is incomplete if I need to ask questions of the existence of businesses after the project completes and sharing of water ways.

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What plans are in place to accommodate minimizing pollution? What are the men made geological impacts (i.e. Similar to levies in New Orleans)? Most importantly, what is the plan to mitigate the perpetually constant terror threat that IS MOST CERTAINLY NOT UNDER CONTROL?

Let's examine for a brief moment the long history of the human fallibility when dealing with a new and volatile concept and/or substance. To start we do have the definitive human error explosions of other LNG facilities, something that was proclaimed by the Army Corps of Engineers had NEVER happened... HOW DO YOU FIGURE THAT? One HISTORICAL incident right within this country causing 20 years of delay in LNG onshore proposals was The Cleveland Disaster (first LNG facility accident on US soil) in the year 1944 causing 79 homes destroyed, 680 homeless, and 131 KILLED. Later, two accidents made know in New York during the 1970's were clouded by more corporate litigation to proclaim it was not LNG fault, but human error... HUH? Also plenty of loading and tanker accidents across the world and a well published offshore tanker in the Pacific causing over 70 deaths and a fight in congress from California.

I don't know, but the words: "Safe", "Indestructible", and "The Convenient" seem to be a conversation tag line for many great ideas ... Hindenburg, Titanic, and war in sovereign countries funded by corporations that gain... "HHMMMM"

Note to the "NEW Big Dig - part II". What recent studies are being done and have been done by the environmental hazards and health sciences branch to core the depth of samples proposed to be within the dredging depth? What local and government bipartisan group of scientists can state that this river is, yet again, "SAFE" to dredge, in full knowledge, the history of chemical and industrial waste that have been covered by the natural flow of biological matter through tides in order to cover this waste?

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Why is it, whenever leaders seem to say anything is a 100% "Safe (or otherwise denoted)" so many people end up hurt, lost, maimed or even dead. Why is the human condition so historically fraught with this irony... and on so many levels?

I act for the true safety of this area that if all is going to come about, the plans will need to entertain the safety of the surrounding residence of the Commonwealth of Massachusetts and Rhode Island as the TOP PRIORITY. Secondly the size of the storage and distribution facility needs to be adjusted to fit within the community to coexist with the growing population, established businesses and existing infrastructure for continuing growth.

I along with the people of the surrounding cities will not allow for such a major construction project to rob the resources of our community to cause its inevitable demise!!

Thank You,

Don Ranger

Donald J Ranger

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Somerset **Marina** & Yacht Sales **(508) 678-0040**
3828 Riverside Ave, Somerset, MA

Some of the other businesses and friends that depend on the Taunton River to survive also have concerns...

2. East Coast Marine Surveyors **(508) 678-0040**
3828 Riverside Ave, Somerset, MA

3. Captain O'Connell Incorporated **(508) 672-6303**
180 River St, Fall River, MA

4. Storage-All **(508) 672-5360**
75 Weaver St, Fall River, MA

5. Shaw's Boat Yard Incorporated **(508) 669-5714**
86 Main St, Dighton, MA

6. Borden Light **Marina** **(508) 678-7547**
1 Ferry St, Fall River, MA

7. Point Gloria Management Office **(508) 679-1100**
750 Davol St, Fall River, MA

8. Swansea **Marina** Incorporated **(508) 672-8633**
161 Calef Ave, Swansea, MA

9. Silva Marine Associates **(508) 822-4214**
80 S Main St, Berkley, MA

10. Cedar Tree Point **Marina** **(508) 884-7335**
Taunton, MA

The Council of Seven / Royal House of Pokanoket
Pokanoket Tribe / Wampanoag Nation

400 Metacom Avenue Bristol, Rhode Island 02809
Tel (508) 414-2926 Fax (401) 253-5890

Ted Lento
Army Corps of Engineers
New England District
696 Virginia Rd
Concord, MA 01742-2571

5 February 2006

Re: LNG / Mount Hope Bay, File # 2004-2355

Dear Mr. Lento

This letter is delivered in protest of the proposed dredging of Mount Hope Bay associated with the proposed Weaver's Cove LNG facility in Fall Massachusetts. I appeal to the Army Corps of Engineers to immediately stop plans and cease any further action regarding the dredging plan of the bay.

The more than 300 adult members of this indigenous Native American Tribe plead with you to defend our Mount Hope Bay against all acts that would further ruin the waters and harm the wildlife dependant on it. As you are aware, the hand-planted eel grasses are just starting to rebound near Potumtuk (Mount Hope). The shellfish and the fish populations that come into the bay for the winter and to spawn in their time are stabilizing and their future depends on the soundness of this delicate ecosystem.

In a report recently published, Mount Hope Bay is listed as one of the most polluted coastal water systems in the U.S.;[1]

> "More than 30 years ago, the Clean Water Act mandated that all point source and non-point source pollution should be eliminated by now in our coastal waterways. Yet there are still numerous coastal rivers and bays on the Atlantic and Gulf coasts where world-class fisheries are taking it on the chin, due to negligence, poor management or downright criminal mishaps.
>
> Rhode Island Saltwater Anglers Association's recent estimates show 400,000 people fish in Rhode Island waters, but the number of anglers fishing in Mount Hope Bay, a nursery area for Narragansett Bay and Rhode Island Sound, has diminished. This decline is directly related to Brayton Point Station in Somerset, Massachusetts, New England's largest fossil fuel-burning power plant.

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[1] http://www.shallowwaterangler.com/conservation/051018, *from* **Shallow Water Angler** October/November 2005, **Coastal Hall Of Shame,** *"Here's a rundown of the most troubled Atlantic and Gulf rivers, bays and their fisheries.",* Ericka D'Avanzo

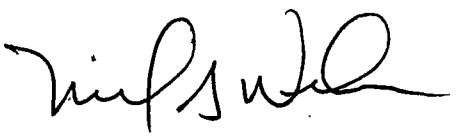
A 1996 Massachussetts Department of Environmental Management (MADEP) report linked the Brayton Point power plant to an 87 percent reduction in biomass. The report cited the plant's increased use of Bay water for cooling in the mid-1980s as the primary cause. The plant uses up to 1 billion gallons per day of Mount Hope Bay water to cool its generators, which destroys millions of fish eggs and larvae. Ninety-five-degree effluent also repels fish and interferes with feeding and migration patterns.

The Environmental Protection Agency, MADEP, and the Save the Bay Foundation concluded that in order for the fishery to recover, stronger controls must be promulgated to restore the health of Mount Hope Bay and greater Narragansett Bay ecosystem. A stringent Clean Water Act permit was issued, requiring the plant to reduce Bay water use by 95 percent. But nearly 10 years after such impacts were conclusively demonstrated, National Energy & Gas Transmission, Inc. continues to appeal."

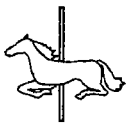
This is just one of the many reports at your discretion that you may attribute legitimacy to. For the last two years there has been no available data to support or even defend the actions being proposed. The findings in the Scandia report give cause for great concern and immediate reaction. The impact to the fisheries of Narragansett Bay and Rhode Islands Territorial waters will be dramatic and long-term.

As spokesman for the Pokanoket Tribe, headquartered in Bristol RI, I urge you to cease all action that would cause the dredging of our bay. Mount Hope, which overlooks the bay, is our most sacred of sites and the bay is as much a part of it as the air and the grass and the breadth of the land. We must join together against the depredation of our home. The earth and all that is in it is under attack. The avarice of man is no different here than it was 350 years ago. Exploitation of those things which are innocent and defenseless must cease if we are ever to successfully manage our natural resources.

Stand with the communities, legislators, and indigenous people of Rhode Island and Massachusetts. The Army Corps of Engineers can and should exercise all of its available resources toward alternatives that will not damage the ecosystem any further both now and for all time.



Michael S. Weeden
White Eagle Deer
Pokanoket Tribe
President



CAROUSEL PROPERTIES

130 Rock Street
Fall River, MA 02720
Tel (508) 677-3942
Fax (508) 672-3580

January 31, 2006

US Army Corps of Engineers
696 Virginia Rd
Concord, MA 01742-2751

Dear Sir:

I am writing as the owner of a small real estate company with my office located in downtown Fall River. Part of the excitement of people moving into the area is that they can enjoy water activities on the Taunton River and Mt Hope Bay: boating, fishing and swimming. Many residents originally came here from Portugal or Cambodia and they bond with this area through fishing.

To dredge the bay would be detrimental, to the waterway, including the fish and shellfish, as well as to the people who use the bay. After years of industrial waste from textile mills and sewing shops being dumped into the Taunton River, it is finally showing signs of improvement. Now along comes big business again...with no thought about the disasterous impact on the people, the bay, or the local economy.

I would like to see the Taunton River remain a place where sailboats, fishing poles and families come together, not where we fearfully exist in the shadow of LNG supertankers.

Yours truly,

Anne Reed
Owner/Broker

Re: Red Zone
File # 2004-2355

February 1, 2006

This is a quick note to express my disapproval of dredging the Taunton River. I own a small boat and since I'm retired, I spent some time fishing. This project is not in the best interest of the river or the fish or people who use the water.

I have lived in this area all my life, but would consider moving quickly to another area if this project is approved.

Walter Reed
1427 Meridian St.
Fall River, MA. 02720

January 30, 2006

US Army Corps of Engineers
Attn: Ted Lento
New England District
696 Virginia Road
Concord, MA 01742-2751

RE: Weaver's Cove Energy / File# 2004-2355

Dear Sir:

I oppose the dredging of the Taunton River. The river has had its share of factories that have added to the pollution of the river. Years ago, it was the ICI (a chemical dye company) in Dighton, the Park Shellac Co. which produced shellac, etc. Both companies are now gone. The Montaup Power Co. had many deliveries of oil and coal that added to the pollutants in the river bottom. Shell Oil, a brownsfield, also contaminated the soil. I fear the dredging of the Taunton River will only bring up the contaminants in the river bottom. Along with this, the odor from the dredging will make life and activity in the area unpleasant for a long time.

Many towns have made great strides to clean up the Taunton River. We now have many species of waterfowl feeding in the estuaries of the Taunton. It is now awaiting the designation of a Wild and Scenic River. Please don't take this away from our beautiful Taunton River by allowing a greedy company to build an LNG facility on the river. By allowing this to happen, it will not only affect the Taunton River but, more importantly, affect the lives of the many people who live near the proposed site of the LNG facility.

I have attended the Army Corps. of Engineers hearings and heard the testimony of knowledgeable people who spoke against the LNG facility. Please do not let all of this testimony fall on deaf ears. Do not let a corrupt system and corporate greed affect your decision. I urge you to think of the many lives you will forever change.

Thank you.

Sincerely yours,

Margaret M. Soroka

Margaret M. Soroka

142 Cherry St.

Somerset, Ma. 02726

Raymond P. Leary III

♦ ♦ ♦

1264 Riverside Avenue
Somerset, MA 02726

January 27, 2006

Ted Lento
US Army Corps of Engineers
New England District
696 Virginia Road
Concord, MA 01742-2751

RE: File Number 2004-2355

Dear Mr. Lento:

I am writing in response to the Weavers Cove Energy (WCE) proposed liquefied natural gas (LNG) facility in Fall River. WCE has made some disturbing statements in its previous reports and disagreed with some of the opponents of the proposal. Some of the figures, studies and calculations really are not justifiable in reality.

WCE states that dredging 0.4 miles of the Taunton River for the western lateral pipeline will only impact ½ of an acre of habitat. The queuing of the bridges, WCE states that a 20 minute closing of the Braga Bridge would result in a 13.3 minute delay. Examining the formula that they endorse, you can see why. After the initial stop of traffic, instead of the vehicle gradually accelerating up to the normal capacity of the bridge, they show that all vehicles, bumper to bumper will accelerate instantaneously to the maximum capacity of the bridge.

WCE also states that by their figures, dredging would be acceptable for the proposed project yet several federal agencies disagree. WCE states that they have reviewed reports and also consulted agencies on the habitants of the river. Have they done an actual review of the area? I know they have not done a complete review. Besides other species, they have not listed the horseshoe crab. I have lived on the Taunton River all my life and every year horseshoe crabs migrate to this area to spawn. Is there a time of year restriction for these crabs?

WCE states that this will be good for this area because they will give $3,000,000.00 in tax revenues to the city of Fall River. In Everett, MA, they figure the total cost of protecting a LNG shipment to that facility costs approximately $97,000.00 per delivery and that is a 5-mile trip inland. The proposed tanker would navigate 26 miles inland and effect several communities, what would the total cost be for the protection be in this situation? It is outrageous for WCE to state, as a private company, that the communities, even though they are opposed to the siting of this facility, will have to bear the financial burden to protect shipments to the site without any compensation from the company.

RE: File Number 2004-2355

The Wild & Scenic River Act is in the final stages for the Taunton River, this should be recognized in your evaluation of this proposal. The dredging and disturbance of wetlands around the proposed site and pipelines is unacceptable and would be devastating to the huge ecosystem of the river. The Taunton River has been making a comeback for years especially with the fish habitants, to allow the dredging would be a travesty. WCE supposedly has acquired several core samples of the river and say it will not effect any habitants of the river with the sediment released from the dredging. I feel though this is incorrect. The river was polluted before and the polluted soil has been covered over many years thus capping the soil. If this is dredged, it would release the toxins into the river and bay.

The Brightman Street Bridge situation has a tremendous impact with this proposed project. Federal law now states that this bridge will stay for pedestrian and bicycle traffic and also emergency vehicle access to Fall River. This scenario will change the entire dredging proposal, with the bridge remaining the vessels will not be as massive, which would result in less dredging of the channel and turning basin. WCE should be required to supply a new dredging proposal because of this new turn of events.

The United States Coast Guard states they will enact a security zone 2 miles ahead, 1 mile behind and 1,500 feet to the sides of the proposed tankers. Also, that three bridges would probably have to be closed to traffic as this tanker navigates to the proposed site. The closure of these bridges would effect the commerce in these areas and also the safety to these communities. Currently if there is an accident or breakdown on either the Brightman Street Bridge or the Braga Bridge, there is a substantial delay because of the ensuing traffic. The two closest hospitals in the area re located in Fall River and the traffic situation of these bridges in an incident directly effects at least 4 communities. If the proposal goes through, the closure of the Braga Bridge would cause hours of traffic. WCE states the closures of these bridges are unlikely except in high alert situations. Currently the Newport (Pell) Bridge is closed when a LPG tanker navigates to Providence, RI and the Tobin Bridge is closed when a LNG tanker ports in Everett, MA. The Tobin Bridge is comparable to the Braga Bridge in traffic volume, why would the Braga Bridge not be closed?

Businesses and communities depend on sound infrastructure (e.g.) reliable highways and roadways. This proposal would deter new businesses from coming to this area because of unscheduled weekly closure of these bridges. Businesses rely on transporting products to make revenue and if they cannot determine how long it will take, why would they locate to a situation like that? Resident do not want the inconvenience or safety concerns that the proposal presents, some may leave, but persons contemplating living in this area would not think about living in the area if there is a LNG facility here.

Also, thousand of resident commute to work in Rhode Island via the Braga Bridge and vice versa resident to the West of the Bridge commute to Fall River and communities to the East of the Bridge. During the summer months, there is a huge influx of tourist that traverse the Braga Bridge and Newport Bridge to vacation on Cape Cod this would effect even those communities.

RE: File Number 2004-2355

This proposal will disrupt almost all of the water recreational activities from Dighton, MA to Newport, RI, where this proposed site is located there are at least 3 marinas to the north. The members of these marinas will be extremely impacted if the tanker would be off loading its product because they would not be allowed to navigate to the south. The river and bay also has a lot of people fishing the area from shore and boat. The dredging would directly impact this activity. The majority of the boaters along this 26 miles of waterway does not listen to marine radio and would be in potential danger if they approach the security zone not knowing that the Coast Guard is protecting the tanker.

In conclusion, the impact of this proposal would devastate the economy of these communities abutting the Taunton River, Mount Hope Bay and Narragansett Bay and have an indirect impact of several other communities. The dredging proposal is flawed, and they should not be allowed to transfer the dredged material on the proposed site. Have any other agencies conducted core samples or are all the results based only on the WCE findings? The Federal government is now increasingly worried about terrorist attack, WCE will not release any information to the public about evacuation or security plans, and this is unacceptable. This is our community, these details should be released prior to construction. Recently a concerned citizen spoke with a representative of WCE to find out approximately how close one of the proposed underground gas lines would be located to her property or if it would be on it. The spokesperson stated that since security issues after September 11th, he could not release that information. Yet, WCE proposes to cross above Steep Brook, the pipe "might be" encased, but will still be exposed, if they are concerned about security, this pipe would be placed underground. Currently, there are other proposals in the New England area especially in Maine. The proposed sites are being welcomed by those communities because they are in sparsely populated areas. The siting of these facilities should not be done on a first come, first serve basis but by an assessment of sites in the region based on isolated areas, safety, security and the environment. If there were to be an incident, intentional or unintentional (e.g.) mechanical failure, human error, thousands of lives would be in jeopardy. I hope your agency will use their best judgment on this proposal and not make a decision based on the current administrations policies.

A Concerned Citizen,

Ray Leary

1/27/06

Mr. Ted Lenito
U.S. Army Corps of Engineers
New England District
696 Virginia Road
Concord Road, Ma. 01742

Re: 200202231 Mt. Hope Bay Dredging Plan

Mr. Lenito

I am in protest of and in opposition to the proposed plan for dredging of the area known as Mt.Hope Bay.

1) This body of water already suffers from the negative effects of the Brayton St. Power Plant.

2) The level of contaminants resulting from disturbing the bottom soil sediments will have a long lasting effect on the area.

3) The potential for increasing a great area to be more vulnerable to severe coastal disturbances will be compounded by this dredging process and will have long lasting effects.

With these and many other facts I here by object to this dredging proposal.

Respectfully Submitted
Karl H Lyon
90 Mussel Bed Shoal Rd.
Portsmouth, R.I. 02871

Karl H Lyon

401-683-0774
An Abutter to Mt. Hope Bay

January 31, 2006

To Whom It May Concern:

As you are employees of the government, you are forced into a position where you must filter out from all the ideas of all the interested parties only the most important issues. Now what is important? Everyone thinks their issue is the most important, buti believe the issues that affect the greatest number of citizens are those that deserve the greatest attention. With the tiered system of local, state, and federal government agencies to oversee what is their responsibility, each covers a base and in the end most every issue is well cared for. The current issue of Weavers Cove LNG is an issue that spans all three governing sectors. Thus we need to reach a compromise on whose interests are represented.

I know that you and many other interested parties have heard many opinions about the various causes and interests in the area. Some are viable, some immature and reactionary. I would like to make the case for a reasonable cause and effect outline for our area if the Weavers' Cove project is allowed to operate under the current proposal.

I do not claim to be a perfect expert on all of the associated factors, this is extemporaneous, but I feel realistic. Here are some assumptions of the project: Based on the guidelines set up by homeland security, all water traffic will need to be halted whenever a tanker passes through Narragansett Bay. I have also come to learn that this will occur on the tide cycle. As this will be a different time of day for each delivery.

Based on this, a shut down will have among many, this one domino cause and effect: the recreational use of the bay will be disrupted. One of the largest groups of people using the bay recreationally are the competitive regattas held every week from may to October, both weekdays and weekends. These will not be able to operate smoothly. There are several regattas on the bay every summer. Recreation, you may suggest is not a priority over heating supply and larger commercial endeavors. I have to agree. But there is such an impressive amount of money coming in, and it all stems from the keystone element of recreational watersports. It is the loss of corporate sponsors for the regattas, then the diminished regatta activity on the bay, the loss of interest in the shipyards and sailing centers like Newport shipyard, Sail Newport, the Museum of Yachting, and IYRS. This in turn makes the greater boating community less attractive here, and the businesses associated with it will slow to an agonal crawl: the marinas, charters and tours, waterfront lodging, and even the waterfront residential property will see a diminished future. It is a tourist town because of its waterfront location, a tourist state, the Ocean State, with little else to keep it going. A forest is not a forest without the trees; a waterfront is not a waterfront without the boats.

An already short season, the cycle will shorten for the tourist town of Newport. The growing, areas of Bristol and Tiverton will also be affected; and the revitalization of Fall

River will be given a band-aid, not a cure. With these businesses and towns failing, the other industries like manufacturing will have no incentive to stay, let alone move here.

Sometimes it's the little things that you enjoy, maybe just one weekend a year in Newport, like the waterfront concerts the historical Folk festival and Jazz festival held at Ft. Adams State Park. Will the park have to be closed? What about the 200+ boats attending, are you going to evacuate them? I don't think JVC and the other national sponsors will associate with that event much longer. The interstate navigation companies will likely end their ferry service if they can no longer have a guarantee to their arrivals and departures. The weekend vacation traffic over the bridge will only get worse, scaring away the day trippers (again, tourism is the No 1 business in Newport).

I hope you haven't labeled me and stopped reading by now. I have a rational compromise that addresses one of the sources of the conflict, the security shutdown of the bay. Can we restrict the deliveries to only nighttime entry from May 1- November 1? This will protect the local interests of the bay, the security program will be in place just as needed, and the gas companies and pipeline companies can proceed with their project. This solution addresses the greatest number of citizens with the greatest attention. Now the manner to which Weaver's Cove is operating to gain their agenda is another issue for another letter, some of their arguments are weak at best, but that does not fit into this letter today. I don't object to commercial business, but I do object to the lack of genuine concern for the livelihood of an entire state.

Kurt Edenbach
Newport, RI

Lento, Theodore M NAE

From: Mark Johnson [mj1@cog.brown.edu]
Sent: Wednesday, February 08, 2006 10:55 AM
To: Lento, Theodore M NAE
Cc: Mark Johnson
Subject: Comments on Proposed LNG terminal (File # NAE-2004-2355)

Dear Mr Lento,

I am writing to express my views on the proposed LNG terminal in Fall River (File # NAE-2004-2355).

I am opposed to any LNG terminal facilities in Fall River. The environmental and safety concerns involved with transporting LNG through Narragansett Bay lead me to favor alternative solutions, such as an off-shore LNG terminal. As a recreational sailor on Narragansett Bay, I am afraid that the LNG terminal and associated dredging may spoil the unique natural environment of the Bay. I am also afraid that the security necessary for LNG shipments will completely change the character of the Bay, making it much less attractive for recreational purposes, both for locals and tourists.

Thus it seems to me that the negative impacts of the proposed LNG terminal greatly outweigh its economic benefits. An off-shore LNG terminal is the more reasonable alternative, as it would offer the economic benefits and avoid the negative impact on Narragansett Bay.

Sincerely,

Mark Johnson

Lento, Theodore M NAE

From: Katherine Demuth [Katherine_Demuth@Brown.edu]
Sent: Wednesday, February 08, 2006 11:23 AM
To: Lento, Theodore M NAE
Subject: LNG Terminal - Fall River

Dear Mr Lento,

I am writing to express my opposition to the proposed LNG terminal in Fall River (File # NAE-2004-2355).

As a frequent user of the Bay, I am extremely concerned about the environmental and recreational impact that both dredging and LNG terminal trafice will have on Narraganset Bay. Efforts to improve water quality, fish stocks and overall attactiveness
of the Bay are finally making great strides. Citing an LNG terminal in Fall River would
be a serious set back to all of these efforts.

I am also deeply concerned about the security issues involved for
all of use that live in close proximity to the Bay. Taken together, this will have a large negative environmental and economic impact on the entire Bay area - including
much of southern New England.

Siting an LNG terminal off-shore would significantly aleviate these concerns, while at the
same time addressing the energy needs of the region. I strongly urge you and others to
investigate these an other possibilities.

Sincerely,

Katherine Demuth