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environmental impacts specifically associated with Valdez Delivery Option as opposed to those associated with the Palmer Spur. The 148-mile Palmer Spur is neither a direct project impact nor a reasonably foreseeable indirect project impact, and therefore, is not properly included in the analysis of the Valdez Delivery Option by the Federal Energy Regulatory Commission ("FERC"). Valdez requests that FERC analyze only those project impacts that are reasonably foreseeable for the Valdez Delivery Option and Nikiski Alternative and require production of the data necessary to conduct such a comparison.

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Valdez also incorporates by reference the Comments Regarding Alternative Route and Site Analysis for the Alaska LNG ("AKLNG") Project filed in PF14-21-000 with accession number 20170210-5153 ("Prefiling Comments"), which have not been meaningfully addressed in the DEIS or otherwise. AGDC and FERC have dedicated less than three pages in the DEIS to analyzing the Valdez Delivery Option despite the fact that both FERC and the U.S. Army Corps of Engineers have previously determined it to be the preferred alternative. As set forth in the Prefiling Comments, the Valdez Delivery Option possesses a myriad of advantages over the Nikiski Alternative, which renders it less environmentally impactful, less costly, and safer to both construct and operate.

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LG8-3 Comment noted.

Valdez supports the Alaska LNG Project and its stated purpose, which is to:

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LG8-4 Comment noted.

[T]o commercialize the natural gas resources of Alaska's North Slope (North Slope), primarily by converting the existing natural gas supply to LNG for export and providing gas to users within the State of Alaska. Specifically, AGDC's stated objectives for the Project are to:

- commercialize natural gas resources on the North Slope during the economic life of the Prudhoe Bay Unit (PBU) and the Point Thomson Unit (PTU) fields and achieve efficiencies through the use of existing common oil and gas infrastructure and economies of scale;

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- bring cost-competitive LNG from Alaska to foreign markets in a timely manner; and
- provide interconnections along the pipeline to allow for in-state gas deliveries, benefiting Alaska gas users and supporting long-term economic development.¹

However, Valdez submits these comments to identify legal and technical shortcomings in the DEIS that must be addressed in order to ensure the project can be successfully permitted and constructed in a timely and cost-effective manner. Failure to address the issues set forth herein will inevitably lead to costly delay and litigation from environmental advocacy groups and others. Accordingly, Valdez requests that FERC issue a Supplemental Draft Environmental Impact Statement addressing the issues set forth herein.

II. AGDC HAS A DUTY TO PROVIDE SUFFICIENT DATA TO COMPARE THE VALDEZ DELIVERY OPTION AND NIKISKI ALTERNATIVE

National Environmental Policy Act (“NEPA”) mandates rational decision making based on considerations of impacts and alternatives. The “heart” of the NEPA process is to “present the environmental impacts of the proposal and the alternatives in comparative form, thus sharply defining the issues and providing a clear basis for choice among options by the decisionmaker and the public.”² In furtherance of this purpose, FERC has a duty to “[r]igorously explore and objectively evaluate all reasonable alternatives”³ and “[d]evote substantial treatment to each alternative considered in detail including the proposed action

¹ DEIS at 1-3.

² 40 C.F.R. § 1502.14.

³ *Id.*

LG8-5

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See the responses to comments CM3-1 and CM6-4.

LG8-6

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Comment noted.

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so that reviewers may evaluate their comparative merits.”⁴ Regarding the level of detail required for analysis of reasonable alternatives: LG8-6

It is absolutely essential to the NEPA process that the decisionmaker be provided with a detailed and careful analysis of the relative environmental merits and demerits of the proposed action and possible alternatives, a requirement that we have characterized as the linchpin of the entire impact statement.⁵

In other words, “a thorough discussion of the alternatives is imperative”⁶ and “[w]hat is required is information sufficient to permit a reasoned choice of alternatives as far as environmental aspects are concerned.”⁷ “The degree of analysis devoted to each alternative in the EIS is to be substantially similar to that devoted to the proposed action.”⁸ Thus, the EIS for the AKLNG Project must provide sufficient data and analysis of the alternatives to allow a reasoned choice between the Nikiski Alternative and the Valdez Delivery Option.

Although FERC, as the lead NEPA agency for the AKLNG Project, has the ultimate responsibility for complying with the mandates of NEPA and accompanying regulations, AGDC, as the project applicant, is responsible for providing the information necessary to analyze the project including project alternatives. Specifically, AGDC is required to file resource reports addressing specific subject matter in order to facilitate FERC’s review of

⁴ *Id.*

⁵ *Id.* at 1286-87 (quoting *Nat’l Res. Def. Council v. Callaway*, 524 F.2d 79, 92 (2d Cir. 1975)).

⁶ *All Indian Pueblo Council v. United States*, 975 F.2d 1437, 1444 (10th Cir. 1992).

⁷ *Id.* at 1444 (quoting *Nat’l Res. Def. Council, Inc. v. Morton*, 458 F.2d 827, 836 (D.C. Cir. 1972)).

⁸ Forty Most Asked Questions Concerning CEQ’s National Environmental Policy Act Regulations, 46 Fed. Reg. 18026 (March 23, 1981).

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the project. In Resource Report 10, which addresses alternative analyses, the Project applicants “must describe alternatives to the project and compare the environmental impacts of such alternatives to those of the proposal” and “must demonstrate how environmental benefits and costs were weighed against economic benefits and costs, and technological and procedural constraints.”⁹ FERC uses three criteria when evaluating an alternative: “whether or not it meets the project objective, whether it is technically and economically feasible, and whether it offers a significant environmental advantage over the proposed route.”¹⁰ AGDC is responsible for providing the information necessary to make these determinations, and FERC is responsible for analyzing such data.

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III. THE DATA AND ANALYSIS CONTAINED IN THE DEIS IS INSUFFICIENT FOR NEPA COMPLIANCE

Beginning with the filing of its First Draft Resource Report 10, AGDC has consistently failed to produce or obfuscated the data necessary to conduct an objective comparison of the alternatives. Rather than provide the data required for NEPA compliance, AGDC has elected to provide unsupported assertions overstating impacts and feasibility issues associated with the Valdez Delivery Option while ignoring many of its obvious advantages. AGDC’s posture as an advocate for the Nikiski Alternative has prevented stakeholders, the public, and FERC from understanding and evaluating the respective environmental impacts of each alternative.

LG8-7

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Section 3.8.1.1 of the final EIS has been updated to address this comment.

⁹ 18 C.F.R. § 380.12(l).

¹⁰ RFI-528-FERC-031.

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On February 10, 2017, Valdez filed comments in the prefiling docket for the Alaska LNG Project regarding the failure of AGDC to adequately analyze the Valdez Delivery Option including a failure to provide the data necessary to conduct such analysis.¹¹ Valdez incorporates those comments as if set forth fully herein. In recognition of AGDC's failure to produce the required environmental impact data, FERC requested on October 26, 2016, that AGDC provide some of the basic data and analysis that Valdez requested in its comments. Specifically, FERC requested that AGDC:

Supplement table 10.3.2.4 with a table comparing the pipeline elements of the Valdez Delivery Option with those of the planned Project. Include at a minimum the following factors in the comparative analysis a. length (miles); b. collocation, i.e. within 500 feet of centerline (miles); c. visual resources; d. active fault crossings; e. land use types (miles); f. land ownership, i.e. public (by land managing agency), native lands, private (miles); g. residences within 200 feet of centerline; h. wetland crossings (miles); i. stream crossings >100 feet wide (number); j. wild and Scenic River crossings (number); k. designated critical habitat; l. essential fish habitat; m. AHRs sites (number of sites crossed, number within 2,000 feet); n. contamination areas within 1,000 feet of centerline (number); o. practicability of construction; p. new access roads (miles); and q. compressor stations (number).¹²

In response, AGDC provided some of the FERC requested data and expanded its arguments focused on purported disadvantages of the Valdez Delivery Option.¹³ However, because AGDC aggregated Valdez Delivery Option data with data attributable to the Palmer Spur, it is impossible to actually conduct an objective comparison of the Nikiski Alternative and the Valdez Delivery Option.

¹¹ Exhibit 1, Comments to Alternate Route, dated Feb. 10, 2017.

¹² See RR10 at 10-xiii.

¹³ Exhibit 2, Excerpt from RR 10 in Application (Valdez Delivery Option Analysis), dated April 14, 2017 at 10-101 – 10-107.

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On July 5, 2017, FERC again issued an Environmental Data Request expressly requesting that AGDC address the shortcomings readily apparent in its alternative analysis and provide the environmental impact data required to conduct an objective comparison of the Valdez Delivery Option and the Nikiski Alternative. FERC requested that AGDC “[c]larify if acreage impacts and resource counts in [Table 10.4.3-1], (e.g., wetlands, waterbodies, cultural resources, etc.) are for the proposed and alternative Mainline or if they include the Fairbanks and Palmer spurs”¹⁴ and repeated its request for data contained in the October 26, 2016, request.¹⁵ In response, AGDC confirmed that the table included aggregated data including the Fairbanks Lateral and Palmer Spur and later provided an updated table comparing the Nikiski Alternative and Valdez Delivery Option that does not identify what impacts are associated with the Valdez Delivery Option and what impacts are associated with the Palmer Spur. LG8-7

FERC also requested that AGDC “[p]rovide an environmental and engineering analysis of a pipeline alignment that would follow the Valdez delivery option to avoid crossing designated portion of the Wild and Scenic Rivers,”¹⁶ in recognition that the Valdez Delivery Option may be designed to avoid the Wild and Scenic River Impacts that AGDC claims are an “exclusion factor” for the Valdez Alternative.¹⁷ In response, AGDC provided analysis identifying route deviations that avoided crossing any area designated as a National Wild and Scenic River that posed no “significant construction constraints beyond

¹⁴ Exhibit 3, July 5, 2017 Environmental Data Requests at 31.

¹⁵ Exhibit 3, July 5, 2017 Environmental Data Requests.

¹⁶ Exhibit 4, February 15, 2018 Environmental Data Requests at 8.

¹⁷ Exhibit 2 at 10-102.

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those present with the initial route.”¹⁸ The Valdez Delivery Option, even with these deviations, remains collocated with existing rights-of-way (“ROW”) for 194 more miles than the Nikiski Alternative. LG8-7

FERC’s data request related to the Wild and Scenic River “exclusionary factor” and AGDC’s response thereto reveals the importance of FERC’s role in requiring adequate data and analysis from AGDC to conduct a comparative analysis of alternatives. AGDC has persistently provided data and analysis that ignore or attempt to diminish the environmental impacts of the Nikiski Alternative and, instead, focus on purported disadvantages of the Valdez Delivery Option without adequate evidence that such disadvantages exist. By requesting additional data and analysis from AGDC where none was previously provided, FERC revealed the true nature of the purported impacts and feasibility issues associated with Valdez Delivery Option with regard to Wild and Scenic Rivers. In order to comply with NEPA, FERC must similarly require AGDC to provide adequate support to determine the accuracy of the Valdez Delivery Options impacts as asserted by AGDC.

For each alternative AGDC must provide “environmental comparison tables that include all of the resource data that is pertinent and useful for comparing the alternatives.”¹⁹ Moreover, “data sources used to compare the impacts of an alternative to the impacts of the corresponding portion(s) of the proposal must be consistent, based on either field data

¹⁸ Exhibit 5, May 11, 2018 AGDC Response to February 15, 2018 Data Request re Wild and Scenic Rivers at 3.

¹⁹ Exhibit 1, Appendix B at 4-126, Guidance Manual for Environmental Report Preparation for Applications Filed under the Natural Gas Act, FERC, dated Dec. 2015 (“Guidelines (2015)”).

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for both or desktop data (e.g., aerial interpretation, NWI maps, USGS topographic maps) LG8-7

for both, in order to allow for an objective comparison.”²⁰ NEPA regulations require that:

If a [DEIS] is so inadequate as to preclude meaningful analysis, the agency shall prepare and circulate a revised draft of the appropriate portion. The agency shall make every effort to disclose and discuss at appropriate points in the [DEIS] all major points of view on the environmental impacts of the alternatives, including the proposed action.²¹

Here, AGDC has rendered the DEIS inadequate by failing to provide data sufficient to conduct an objective analysis of the comparative impacts of the Nikiski Alternative and the Valdez Delivery Option.

In the present case, the analysis of the Valdez Delivery Option is *de minimis*, LG8-8
consisting of less than three pages, and is presented in a manner that entirely precludes a meaningful analysis by (1) improperly aggregating Palmer Spur impact data with Valdez Delivery Option impact data, (2) failing to provide adequate documentation and supporting data to establish that impacts associated with Valdez Delivery Option set forth in the DEIS are probable or even likely, and (3) failing to include or consider reductions in project impacts associated with collocation along existing ROWs. Moreover, the data and analysis contained in the DEIS fail to consider the specific data and environmental impact analysis provided by Valdez and other affected parties in the pre-filing docket.

LG8-8 We have reviewed the information provided by the City of Valdez, and where appropriate, incorporated that information into our analysis. See the updates to section 3.8.1.1 of the final EIS.

²⁰ Exhibit 1, Appendix B, Guidelines (2015) at 4-126.

²¹ 40 C.F.R § 1502.9(a).

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IV. INCLUSION OF THE PALMER SPUR IN THE ANALYSIS OF THE VALDEZ DELIVERY OPTION IS IMPROPER

FERC is required to analyze both direct effects, which are “caused by the action and occur at the same time and place”²² and indirect effects, which are “caused by an action and are later in time or farther removed in distance but are still reasonably foreseeable.”²³ Accordingly, AGDC must provide data to allow analysis of the direct and reasonably foreseeable indirect impacts of both the Nikiski Alternative and the Valdez Delivery Option using consistent types of data.

In the present case, AGDC has aggregated data regarding impacts of the Valdez Delivery Option with data regarding impacts of the Palmer Spur with the purported purpose of “analyz[ing] reasonably foreseeable routes that would allow for in-state gas deliveries to major population centers.”²⁴ In other words, AGDC is asserting that the Palmer Spur is a reasonably foreseeable indirect impact and, therefore, must be included in FERC’s analysis of the Alaska LNG Project. Due to the high level of uncertainty regarding whether the Palmer Spur will ever be constructed and what its ultimate configuration, route, size, etc. would be if constructed, the Palmer Spur is not reasonably foreseeable and should not be considered by FERC in this Docket.

The pre-filing process for the Alaska LNG Project commenced on September 14, 2014 but AGDC never suggested analysis of the Palmer Spur was necessary and never

²² 40 C.F.R. § 1508.8.

²³ 40 C.F.R. § 1508.8.

²⁴ Exhibit 2 at 10-102.

LG8-9

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See responses to comments LG8-2 and LG8-8 and the updates to section 3.8.1.1 of the final EIS.

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provided any data related to Palmer Spur until April 14, 2017.²⁵ In fact, it was not until FERC mandated production of the data required to conduct an objective comparative analysis of the Valdez Delivery Option and the Nikiski Alternative,²⁶ that AGDC decided that Palmer Spur impacts should be aggregated with the impacts of the Valdez Delivery Option. AGDC has never provided environmental impact data for the Valdez Delivery Option in a format without including Palmer Spur impacts therein.

With some effort, it is possible to remove Palmer Spur impacts from a limited number of impact categories, thereby revealing impacts associated with the Valdez Delivery Option itself. For example, removing the purported additional land cover impacts associated with the Palmer Spur of 1,370 acres²⁷ reveals that the Valdez Delivery Option impacts 2,184 acres while the Nikiski Alternative impacts 2,619 acres (17% reduction). Moreover, the Valdez Delivery Option crosses 7 fewer major waterbodies (30% reduction) and impacts 27 fewer acres of wetlands.²⁸ Thus, the Valdez Delivery Option is objectively less impactful for key impact categories when the improperly aggregated Palmer Spur impacts are removed from the data. Valdez requests that data for all impact categories be presented in a format that separates impacts attributable to the Valdez Delivery Option and those attributable to the Palmer Spur.

LG8-9

²⁵ Exhibit 2 at 10-102.

²⁶ See Docket No. PF14-21-000, Document No. USAI-EX-SRREG-00-0010 ("First Draft RR10") dated February 2, 2015, and Document No. USAI-PE-SRREG-00-000010-000 ("Second Draft RR10"), dated June 14, 2016.

²⁷ DEIS at 3-32.

²⁸ DEIS at 3-34; Exhibit 6, January 22, 2018 AGDC Response to July 5, 2017 Data Request 4 (Comparison Table).

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A. Legal Standard for Determining Whether an Indirect Impact is Reasonably Foreseeable. LG8-9

Indirect project effects are only reasonably foreseeable if they are “sufficiently likely to occur that a person of ordinary prudence would take [them] into account in reaching a decision.”²⁹ “Whether a particular set of impacts is definite enough to take into account, or too speculative to warrant consideration, reflects several different factors,” including (1) the likelihood the impacts will actually occur, (2) the specificity with which the impacts can be described now, and (3) whether governmental agencies will be able to consider the impacts at a later date if not considered now.³⁰ Even where a memorandum of understanding for a project was in place, courts have held that impacts associated with the project were too speculative. In *Airport Impact Relief, Inc. v. Wykle*, the court held that expansion of an airport was not reasonably foreseeable, despite a memorandum of understanding discussing the airport’s expansion, because the project was “contingent on several events that may or may not occur over an eight-year span” including “the acquisition of permits, the arrangement of funding, the drafting of expansion plans, and other contingencies.”³¹ Similarly, in *Village of Grand View v. Skinner*, a potential bridge project was determined to not be reasonably foreseeable even though it was included as a potential project in a corridor study. In *Village of Grand View*, the court considered whether analysis of impacts associated with a potential second span of the Tappan Zee Bridge was required in the environmental analysis of an interchange development in the

²⁹ *EarthReports, Inc. v. FERC*, 828 F.3d 949, 955 (D.C. Cir. 2016).

³⁰ *Sierra Club v. Marsh*, 976 F.2d 763, 768 (1st Cir. 1992).

³¹ 192 F.3d 197, 206 (1st Cir. 1999).

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Tappan Zee Corridor.³² The Court concluded that analysis of impacts associated with the second span of the Tappan Zee Bridge was not required because such impacts were “neither imminent nor inevitable” where the permitting process for such a project could take up to ten years and the project was “one of a number of alternatives in the Tappan Zee Corridor Study.”³³

LG8-9

In the present case, there is no memorandum of understanding, study, or any other indication that any entity intends to construct the Palmer Spur. Thus, there is less evidence that the Palmer Spur will be constructed than existed in both *Airport Impact Relief, Inc.* and in *Village of Grand View*. Based upon these decisions, the Palmer Spur is not a reasonably foreseeable project that warrants consideration in the EIS for the Alaska LNG Project.

B. The Palmer Spur Is Not a Reasonably Foreseeable Indirect Impact. LG8-10

Unlike the Fairbanks Lateral associated with the Nikiski Alternative, the Palmer Spur is not required to satisfy the Alaska LNG Project’s purpose and is not a reasonably foreseeable aspect of the Valdez Delivery Option. Nowhere in the statement of purpose for the Alaska LNG Project does delivery of natural gas to the greater Anchorage area appear. Instead, the project’s purpose is focused on exporting LNG with an ancillary purpose of providing gas to users within the state. The Valdez Delivery Option fully satisfies the project purpose by allowing LNG exports in a more reliable, safe, and less expensive manner than the Nikiski Alternative and allowing gas deliveries to communities

LG8-10 See the responses to comments LG8-2 and LG8-8 the updates to sections 1.1 and 3.8.1.1 of the final EIS.

³² *Village of Grand View v. Skimmer*, 947 F.2d 651, 659 (2d Cir. 1991).

³³ *Id.*

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such as Fairbanks, Delta Junction, Glennallen, Valdez, and other rural areas which, unlike Anchorage, currently have little to no access to natural gas. In addition to not being required to satisfy the project's purpose, the Palmer Spur is not a reasonably foreseeable project impact because there is no evidence that construction of the Palmer Spur is likely to ever occur. In fact, there is no evidence that the Palmer Spur is or ever will be an economically viable project or a commercially attractive means of providing North Slope natural gas to the Greater Anchorage Area. No commercial or governmental entity has expressed an intent to construct the Palmer Spur, commissioned a cost study to determine the cost of the Project, or conducted the necessary analysis to determine the environmental impacts of the Palmer Spur or its economic viability. Because AGDC has not presented any evidence to suggest that the Palmer Spur is a reasonably foreseeable project, FERC should not consider its impacts when conducting its alternative analysis in this Docket.

LG8-10

First, it is uncertain whether any deliveries of natural gas from the AKLNG Project to the Greater Anchorage Area would ever become necessary in light of the readily available reserves of natural gas in Cook Inlet.³⁴ Current demand for Southcentral Alaska is 214 Million cubic feet per day ("MMcfd") while anticipated future (2040) demand is 243 to 295 MMcfd.³⁵ According to the United States Geological Survey ("USGS") there

LG8-11

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See the responses to comments LG8-2 and LG8-8 the updates to section 3.8.1.1 of the final EIS.

³⁴ <http://dog.dnr.alaska.gov/Documents/ResourceEvaluation/2015CookInletGasReserves.pdf> ("Additional probable reserves that would be recoverable by mitigating well problems and increasing investment in existing fields are estimated at approximately 472 BCF, with a total of 1,183 BCF 2P (proved + probable) reserves remaining in existing fields basin-wide").

³⁵ Exhibit 7, ASAP FSEIS at 1-4.

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is approximately 19 Trillion cubic feet (“Tcf”) of recoverable natural gas in Cook Inlet,³⁶ LG8-11
which is an amount sufficient to meet the State’s high estimate for demand by year 2040
(295 MMcfd) for over 176 years.³⁷ The fact that Cook Inlet is estimated to contain
176 years’ worth of supply for Southcentral Alaska, weighs strongly against AGDC’s
assertion that 148-mile Palmer Spur is a reasonably foreseeable component of the Valdez
Delivery Option.

Even if market forces render delivery of natural gas from Valdez to the Greater
Anchorage Area economically viable, the Palmer Spur is only one of many potential means
of achieving that end. Delivery of natural gas from the Valdez Delivery Option could also
be achieved by rail, truck, or tanker, all of which may be more economically viable than
constructing a 148-mile spur pipeline through mountainous terrain. In fact, Andeavor
recently purchased the existing LNG facility at Nikiski in an apparent plan to accept LNG
imports, which could accept shipments from the Valdez Delivery Option terminal in the
future.³⁸

If and when the Palmer Spur is ever the subject of permitting for construction, it
would be subject to NEPA analysis as it traverses federal land. However, that analysis
would be conducted by the United States Army Corp of Engineers (“COE”), not FERC,
because it is an instate gas line not designed for export. Under the circumstances it is not

³⁶ <https://pubs.usgs.gov/of/2011/1237/of2011-1237.pdf> 2011 USGS study.

³⁷ $(19 \text{ TCF} / (295 \text{ MMcf} * 365 \text{ days})) = 176 \text{ years}$.

³⁸ <http://peninsulaclarion.com/news/local/2018-02-19/andeavor-lets-nikiski-lng-export-license-lapse>.

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appropriate for FERC to consider a speculative project that would otherwise be subject to environmental review conducted by another governmental agency.

LG8-11

For the foregoing reasons, FERC’s reliance on the Palmer Spur as the “primary disadvantage”³⁹ of the Valdez Delivery Option as support for its conclusion that it would “not provide a significant environmental advantage”⁴⁰ over the Nikiski Alternative, unlawfully relies upon analysis of a project impact that is not reasonably foreseeable and therefore fails to comply with NEPA.

V. FAILURE TO PROVIDE ADEQUATE DATA TO SUPPORT COMPARATIVE ANALYSIS OF IMPACTS

In addition to overstating the impacts attributable to the Valdez Delivery Option as a result of improperly including impacts associated with the Palmer Spur, the DEIS also fails to provide adequate impact data and analysis to support its conclusions regarding impacts that are properly considered. As a result, the conclusion that the Valdez Delivery Option “would not provide a significant environmental advantage over the proposed site”⁴¹ is not supported with sufficient data and analysis to comply with NEPA.

LG8-12

LG8-12 Section 3.8.1.1 of the final EIS has been updated to address this comment.

A. Liquefaction Facility and Marine Terminal Impacts.

LG8-13

LG8-13 Section 3.8.1.1 of the final EIS has been updated to address this comment.

The most glaring example of FERC’s reliance on unsupported data is the statement

³⁹ DEIS at 3-32 (“The primary disadvantage of the Anderson Bay pipeline route alternative, compared to the proposed pipeline route, is that it would require constructing an additional 113 miles of lateral pipelines to reach in-state markets in Fairbanks and Anchorage. Assuming a standard right-of-way width of 100 feet, the additional lateral length would affect about 1,370 additional acres of land and associated resources such as forests and wetlands.”).

⁴⁰ DEIS at 3-35.

⁴¹ DEIS at 3-35.

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that “AGDC estimates that about 39 million cubic yards of overburden and rock would need to be removed,” which “would be used to form the base for the Marine Terminal MOF, which would cover about 73 acres of the seafloor.”⁴² FERC relies on these estimates to conclude that “Development of the Anderson Bay site would, therefore, result in much greater marine impacts than the proposed site.”⁴³ AGDC’s estimates of impacts associated with the Valdez Delivery Option liquefaction facility and marine terminal site cannot reasonably be relied upon for several reasons.

LG8-13

First, AGDC has provided no data or engineering analysis to support these estimates instead relying on conclusory statements such as “during the feasibility study for this Project, it was estimated approximately 39 million cubic yards of overburden and rock would be removed.”⁴⁴ These unsupported excavation estimates also contradict FERC-adopted estimates for excavation and fill requirement at the Anderson Bay site for an LNG plant and marine terminal with the same capabilities as that proposed by AGDC, which stated “excavation quantities would be approximately 9.7 million cubic yards” and “[a]pproximately 5.9 million cubic yards of this would be used for onsite fill, including earthwork for the construction wharf and off-loading area in Anderson Bay.”⁴⁵ Thus, AGDC has provided an excavation estimate four times larger than previous, well-supported

⁴² DEIS at 3-32 (“The mainline pipeline required to reach the Anderson Bay site would lie within the TAPS corridor for all or most of its length from Livengood to the TAPS terminal at Valdez.”); DEIS at 3-35.

⁴³ DEIS at 3-35.

⁴⁴ Exhibit 8, Second Draft RR 10 at 10-56.

⁴⁵ Exhibit 1, Appendix A at 4-5.

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estimates adopted by FERC without any supporting evidence of its own. | LG8-13

Similarly, there is no support for the statement in the DEIS that all excavated rock and overburden would be disposed of in Anderson Bay or any explanation why placement of that material in Anderson Bay would be required to build a Marine Offloading Facility resulting in impacts to “about 73 acres of the seafloor.”⁴⁶ Contrary to the assumption that 39-million cubic yards of excavated material would be placed in Anderson Bay, AGDC’s own resource reports indicate that the excavated material “removed from the site would be disposed along the shoreline at the site and on the site to create a dock and to bench the site for the plant.”⁴⁷

Not only has AGDC failed to provide any analysis supporting the amount of excavation purportedly required, it has also failed to provide any analysis setting forth the amount of excavated material to be disposed of in Anderson Bay compared to that which would be used for other purposes. Accordingly, FERC has erroneously relied on the assumption that 39 million cubic yards of excavated material will be placed in the marine environment to conclude “Development of the Anderson Bay site would, therefore, result in much greater marine impacts than the proposed site”⁴⁸ Accordingly, additional data and analysis regarding the excavation quantities and marine impacts of the Valdez Delivery Option is required to facilitate the comparative analysis mandated by NEPA.

The DEIS also fails to identify impacts associated with subsea pipeline construction | LG8-15

⁴⁶ DEIS at 3-35.
⁴⁷ CP 17-178 Resource Report 10 at 10-46 (April 14, 2017).
⁴⁸ DEIS at 3-35.

LG8-14 Section 3.8.1.1 of the final EIS has been updated to address this comment.

LG8-15 Section 3.8.1.1 of the final EIS acknowledges that the Anderson Bay Alternative would avoid crossing Cook Inlet.

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and operation required for the Nikiski Alternative in the context of comparing impacts to marine environments between the Valdez Delivery Option and the Nikiski Alternative. Offshore construction of the Nikiski Alternative's 28-mile subsea pipeline would disturb approximately 5,070 acres of open water marine habitat and result in the permanent loss of 330 acres.⁴⁹ The Valdez Delivery Option entirely avoids impacts associated with subsea pipeline construction and operation required for the Nikiski Alternative, which alone far exceed the marine impacts associated with the Valdez Delivery Option's liquefaction facility and marine terminal.⁵⁰

LG8-15

The massive construction effort required for the subsea pipeline alone is enough to warrant serious consideration of project alternatives that avoid crossing Beluga Critical Habitat. However, impacts associated with construction and operation of the Marine Terminal may result in impacts that exceed even those associated with pipeline construction. The Marine Offloading Facility ("MOF") for the Nikiski alternative will require: (1) construction dredging of 800,000 cubic yards of material to be removed from the sea floor impacting 51 acres of Cook Inlet Beluga whale critical habitat; (2)

LG8-16

LG8-16 Comment noted.

⁴⁹ DEIS at 4-194.

⁵⁰ The Valdez Delivery Option also avoids safety and operational risks associated with the sub-sea pipeline; DEIS at 4-193 ("In general, Cook Inlet poses potential challenges for oil and gas infrastructure and responses to any pipeline leaks that occur due to strong currents and tides. According to PHMSA (2017b), the strength of the inlet's currents can cause a vortex of water to build around a pipeline if the pipeline is not secured to the seafloor, which can cause the pipeline to snap. It is thought that vortex-induced vibrations are one of the driving forces responsible for the relative movement between pipelines and rocks contacting pipelines in areas where pipelines are unsupported by the seabed (PHMSA, 2017b). Rocks can deteriorate the steel pipe wall of pipelines through abrasion. There have been a series of leaks (involving releases of oil and gas) from Hilcorp pipelines within Cook Inlet due to contact between rocks or boulders and the pipelines.")

CC-462

LG8 - City of Valdez (cont'd)

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maintenance dredging of an additional 140,000 cubic yards; and (3) installation of 6,000 feet of sheet piling and 136 piles via vibratory hammer and pile driving.⁵¹ The length of the trestle and loading berths for the Marine Terminal are also concerning because they are permanent structures on pilings located within the Beluga Critical Habitat. The trestle required by the Nikiski Alternative would extend approximately 3,300 feet⁵² in Cook Inlet and require approximately 320 pilings.⁵³

LG8-16

FERC's reliance on unsupported excavation quantities and marine environment impacts developed by AGDC to conclude that the Valdez Delivery Option does not provide "a significant environmental advantage" over the Nikiski Alternative is alone enough to invalidate that determination. However, the DEIS also concludes that the Valdez Delivery Option "results in much greater marine impacts" than the Nikiski Alternative without considering the marine impacts associated with the Nikiski Alternative's subsea pipeline that are entirely avoided by the Valdez Delivery Option. These flaws in the DEIS render it subject to judicial challenge for failing to provide the objective comparative analysis mandated by NEPA and failing to render a decision on a scientific and analytical basis.

LG8-17

LG8-17 See the updates to section 3.8.1.1 of the final EIS.

VI. THE DEIS FAILS TO PROPERLY CONSIDER REDUCTIONS IN IMPACTS ASSOCIATED WITH THE VALDEZ DELIVERY OPTIONS USE OF EXISTING RIGHTS-OF-WAY

Use of existing ROWs is required by law absent a finding that they are impracticable. In the present case, the Valdez Delivery Option utilizes substantially more

LG8-18

LG8-18 Section 3.8.1.1 of the final EIS has been updated to address this comment.

⁵¹ DEIS at 4-193-4-195.

⁵² DEIS at 2-34.

⁵³ Appendix E to Second Draft Resource Report 1 at E-15 – E-21.

LG8 - City of Valdez (cont'd)

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existing ROW (284.75 miles) than the Nikiski Alternative (114.14 miles) and would be constructed within the established TAPS utility corridor specifically designated to accommodate projects like the AKLNG Project.⁵⁴ By occupying the same utility corridor as TAPS, the Valdez Delivery Option also allows for the utilization of existing work pads, camp pads, access roads, airstrips, access roads, work pads, and camp pads. Even AGDC has acknowledged that “[i]n installation of new pipelines along existing ROWs (such as other pipelines and roads) is often environmentally preferable to constructing in a new Greenfield right-of-way, as impacts can normally be reduced by siting within and/or adjacent to previously disturbed utility rights-of-way and roads.”⁵⁵ However, the DEIS fails to adequately account for the reduction in project impacts associated with the Valdez Delivery Options use of existing ROWs.

LG8-18

The DEIS does not include any analysis of the Valdez Delivery Option in the “Mainline Pipeline Route Alternatives” section, instead stating it “is interdependent with the various Port Valdez LNG terminal alternatives, and so is discussed with those alternatives in section 3.8.1.”⁵⁶ However, discussion of advantages associated the Valdez Delivery Option’s collocation with existing ROWs in section 3.8.1 is limited to the following statement “[t]he mainline pipeline required to reach the Anderson Bay site would lie within the TAPS corridor for all or most of its length from Livengood to the TAPS terminal at Valdez.”⁵⁷

LG8-19

LG8-19 Section 3.8.1.1 of the final EIS has been updated to address this comment.

⁵⁴ Exhibit 6.

⁵⁵ First Draft Resource Report 10 (Feb. 11, 2015) at 10.

⁵⁶ DEIS at 3-16.

⁵⁷ DEIS at 3-32.

LG8 - City of Valdez (cont'd)

The DEIS also contains no data comparing the impacts of the mainline routes for the Nikiski Alternative and the Valdez Delivery Option, which would reveal the substantial environmental advantages of the Valdez Delivery Option associated with its collocation with existing ROW. These advantages, including minimizing greenfield construction, utilization of existing work pads, camp pads, access roads, and airstrips, are well documented in previous FERC approved EIS's for the Valdez Delivery Option. Unlike the Valdez Delivery Option, which would "use existing camp pads except at Anderson Bay," the Nikiski Alternative would require construction of gravel camp pads at all construction camp sites.⁵⁸ By using existing gravel work pads, the Valdez Delivery Option "would mitigate a substantial portion of the adverse impacts expected from material extraction and placement."⁵⁹ Similarly, for the Valdez Delivery Option:

[A]ll of the proposed pipeline construction camps except Prudhoe Bay and Sourdough Creek would utilize former TAPS construction camp sites . . . [and] [a]pproximately 100 miles of existing access roads, permanent or abandoned, would be repaired for reuse and approximately 34 miles of new access roads would be constructed.⁶⁰

While the Valdez Delivery Option is estimated to require approximately 34 miles of new access roads for the entire project, the Nikiski Alternative will require approximately 120 miles of new access roads south of Livengood alone.⁶¹

⁵⁸ Exhibit 1, Appendix D at 7.

⁵⁹ *Id.* at 10.

⁶⁰ *Id.* at 4.

⁶¹ Appendix F to Second Draft Resource Report 1 at Table 1 (120 miles calculated by totaling all new access roads south of mile 401 where Livengood is located.).

LG8-20

Section 3.8.1.1 of the final EIS has been updated to address this comment.

CC-465

LG8 - City of Valdez (cont'd)

In order to satisfy the requirements of NEPA and ensure that the least impactful alternative is selected, the cost-saving and environmental benefits associated with utilizing existing infrastructure must be taken into consideration. Accordingly, Valdez requests that FERC require AGDC to provide project impact data necessary to allow an objective comparison of the Nikiski Alternative and Valdez Delivery Option (without aggregated Palmer Spur Data) including miles and/or acres of greenfield construction, miles of new access roads required, acres of new work and camp pad required, and other data required to objectively compare the environmental impacts of the mainline for each alternative.

LG8-21

LG8-21 Section 3.8.1.1 of the final EIS has been updated to address this comment.

Failing to determine whether use of an existing ROW like the TAPS Utility Corridor is impracticable renders an EIS deficient for “failing to consider and important aspect of the problem.”⁶² Nevertheless, AGDC has failed to provide the data necessary to analyze the comparative advantages of utilizing the TAPS Utility Corridor, and FERC has made no analysis regarding whether the Valdez Delivery Option is impracticable. Absent a finding that the use of the existing TAPS utility corridor is impracticable, FERC cannot legally issue permits for the Alaska LNG Project utilizing the Nikiski Alternative.⁶³

LG8-22

LG8-22 Comment noted.

VII. CONCLUSION

In order to comply with NEPA, FERC’s environmental analysis of the Alaska LNG Project must present the impacts associated with each alternative in a manner that allows the public and decision makers to determine what impacts are associated with the Palmer

LG8-23

LG8-23 See the responses to comments LG8-2 and LG8-8 and the updates to section 3.8.1.1 of the final EIS.

⁶² *Sierra Club, Inc. v. U.S. Forest Serv.*, 897 F.3d 582, 509 (4th Cir. 2018), citing *DeFs. of Wildlife*, 762 F.3d at 396.

⁶³ *Id.*

CC-466

LG8 - City of Valdez (cont'd)

Spur and what impacts are associated with the Valdez Delivery Option mainline. By combining impacts of the Palmer Spur and the Valdez Delivery Option, AGDC obfuscates the true nature of the comparative impacts of the Nikiski Alternative and the Valdez Delivery Option. Specifically, AGDC has presented the environmental impact data in Table 10.4.3-1 in a manner that suggests the Valdez Delivery Option has far greater environmental impacts than the Nikiski Alternative when in reality it has substantially less environmental impacts when Palmer Spur impacts are removed. In doing so, AGDC has made it impossible to compare the environmental impacts of the Valdez Delivery Option and Nikiski Alternative. Valdez requests that AGDC update Table 10.4.3-1 by removing environmental impacts associated with the Palmer Spur from the data used to analyze the Valdez Delivery Option. Moreover, FERC's analysis of the Valdez Delivery Option must consider only those impacts that are reasonably foreseeable, which requires exclusion of impacts associated with the Palmer Spur in the DEIS.

LG8-23

FERC's reliance on AGDC's unsupported assertions regarding impacts associated with the Valdez Delivery Option render the DEIS inadequate.⁶⁴ AGDC is required to provide sufficient data and analysis to establish the veracity of purported impacts and feasibility issues associated with the Valdez Delivery Option particularly in light of previous instances where exclusionary factors asserted by AGDC were unfounded.⁶⁵ Accordingly, Valdez also requests that FERC require production of sufficient analysis and

LG8-24

LG8-24

Comment noted.

⁶⁴ See, e.g., *Van Abbema v. Fornell*, 807 F.2d 633, 639-43 (7th Cir. 1986); *Sierra Club*, 714 F. Supp. at 586-87, 589-90.
⁶⁵ Assertion that Wild and Scenic River corridors were exclusionary factor was proven unfounded.

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LG8 - City of Valdez (cont'd)

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data to establish impacts attributable to the Valdez Delivery Option, including excavation estimates and marine impacts, with enough certainty “to permit a reasoned choice of alternatives as far as environmental aspects are concerned.” LG8-24

Finally, Valdez requests that AGDC provide the data necessary to evaluate advantages associated with the Valdez Delivery Option’s collocation with existing ROW. This data is required for FERC to satisfy its NEPA mandated duty to “[r]igorously explore and objectively evaluate all reasonable alternatives” and “[d]evote substantial treatment to each alternative considered in detail including the proposed action so that reviewers may evaluate their comparative merits.”⁶⁶ LG8-25

Respectfully Submitted this 3rd day of October, 2019.

By //Jake W. Staser//

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(907) 258-2000P / (907) 258-2001 F **Attorneys for the City of Valdez**

LG8-25 Comment noted.

⁶⁶ 40 C.F.R. § 1502.14.

LG9 – City of Soldotna

20191015-0006 FERC PDF (Unofficial) 10/11/2019



City Manager
177 North Birch Street
Soldotna, AK 99669
907.262.9107
www.soldotna.org

Wednesday, October 2, 2019

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

Re: Letter of support for the Alaska LNG Project
Project Docket Number CP17-178-000

RECEIVED
2019 OCT 11 10 49 AM
SECRETARY OF ENERGY
WASHINGTON DC

Dear Ms. Bose:

In December 2018, the Soldotna City Council passed Resolution 2018-047, supporting the Alaska Gasline Development Corporation's work on the Alaska LNG Project. The resolution specifically supported the selection of Nikiski, Alaska as the preferred site for the Liquefied Natural Gas (LNG) facility and marine terminal.

A copy of the resolution is enclosed for your consideration. Thank you for the opportunity to provide public comments, in response to the Draft Environmental Impact Statement.

Sincerely,

Stephanie Queen
City Manager, City of Soldotna

Cc: Soldotna City Council Members
Shellie Saner, Soldotna City Clerk

LG9-1

LG9-1

Comment noted.

CC-469

LG9 - City of Soldotna (cont'd)

20191015-0009 FERC PDF (Unofficial) 10/15/2019

CP17-178

FILED
SECRETARY OF THE
CITY OF SOLDOTNA
2019 OCT 15
2019 OCT 15 A P 08

Introduced By: Mayor
Date: December 12, 2018
Action: Adopted
Vote: 5 Yes, 0 No, 1 Absent

CITY OF SOLDOTNA
RESOLUTION 2018-047

A RESOLUTION OF SUPPORT FOR THE ALASKA GASLINE DEVELOPMENT CORPORATION'S SELECTION OF NIKISKI, ALASKA AS THE TERMINUS OF THE ALASKA LNG PROJECT, AND LOCATION OF A LIQUEFACTION PLANT AND MARINE TERMINAL

WHEREAS, the history of Alaska Gasline Development Corporation (AGDC) dates to 2009 when declining Cook Inlet gas supplies caused concern in communities throughout Southcentral Alaska; and

WHEREAS, in 2013 the Alaska State Legislature formally established AGDC to advance an in-state natural gas pipeline; and

WHEREAS, in 2014 the mission and authority of AGDC expanded to include having primary responsibility for developing an Alaska liquefied natural gas (LNG) project on the State's behalf; and

WHEREAS, in April 2014 AGDC joined with ExxonMobil, BP, and ConocoPhillips to become a twenty-five (25) percent owner in the AK LNG Project; and

WHEREAS, in December 2016 AGDC assumed one hundred (100) percent of the responsibility to progress an Alaska LNG project to build the infrastructure necessary to monetize North Slope natural gas resources; and

WHEREAS, in April 2017 AGDC filed its application with the Federal Energy Regulatory Commission (FERC) to construct and operate the Alaska LNG project; and

WHEREAS, the application submitted to FERC identifies Nikiski, Alaska, as the preferred location for the LNG plant and marine terminal; and

WHEREAS, the Alaska LNG project will bring great benefits to the people of Alaska in revenues to the state and municipalities, guaranteed supplies of gas for in-state use, jobs for Alaskans and Alaska business through construction and operation, and continued in-state exploration for natural gas;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SOLDOTNA, ALASKA:

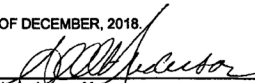
- Section 1. That the City Council of Soldotna, Alaska, supports AGDC's application to FERC with the siting of the LNG plant and marine terminal in Nikiski, Alaska.
- Section 2. That copies of this resolution be sent to U.S. Senator Lisa Murkowski, U.S. Senator Dan Sullivan, U.S. Congressman Don Young, Alaska Governor Mike Dunleavy, Alaska Senator Peter Micciche, Alaska Representative Gary Knopp, and Kenai Peninsula Borough Mayor Charlie Pierce.
- Section 3. This resolution shall become effective immediately upon its adoption.

CC-470

LG9 - City of Soldotna (cont'd)

20191015-0009 FERC PDF (Unofficial) 10/15/2019

ADOPTED BY THE CITY COUNCIL THIS 12TH DAY OF DECEMBER, 2018.


Neil Anderson, Mayor

ATTEST:

Michelle M. Sane, MMC, City Clerk

Yes: Ruffridge, Cox, Cashman, Chilson, Whitney
No: None
Absent: Parker

CC-471

LG9 - City of Soldotna (cont'd)

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LG10 – Kenai Peninsula Borough

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

Alaska Gasline Development Corporation) Docket No. CP17-178-000

**ANSWER OF THE KENAI PENINSULA BOROUGH
IN OPPOSITION TO
MAT-SU MOTION FOR SUPPLEMENTAL DEIS**

Pursuant to Rule 213 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission ("FERC" or the "Commission"), the Kenai Peninsula Borough ("Kenai Borough") files this answer in opposition to the Motion by Matanuska-Susitna Borough ("Mat-Su") to Issue Supplemental Draft Environmental Impact Statement (the "Mat-Su Motion"), filed in this proceeding on September 27, 2019. This proceeding involves an application by the Alaska Gasline Development Corporation ("AGDC"), which is owned by the State of Alaska, for approval of the Alaska LNG project. The draft environmental impact statement ("DEIS") for the Alaska LNG project was issued by the Commission Staff on June 28, 2019, after due consideration of comments and recommendations from cooperating agencies and the public, including Mat-Su. The final environmental impact statement ("FEIS") is scheduled to be issued by March 6, 2020.¹

As demonstrated below, there is no need for a supplement to the DEIS as requested by Mat-Su. Instead, the Commission Staff should analyze all comments and information filed after issuance of the DEIS, including the information filed by AGDC and Mat-Su, under the process required by the National Environmental Policy Act ("NEPA"), and proceed to issuance of the FEIS by March 6, 2020.

¹ Notice of Revised Schedule for Environmental Review of the Alaska LNG Project (Feb. 28, 2019).

CC-473

LG10 - Kenai Peninsula Borough (cont'd)

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ANSWER

I. **The FERC Staff's Analysis in the DEIS of the Port MacKenzie Site Location Promoted by Mat-Su as an Alternative to the Nikiski Location Proposed by AGDC Has Been Fulsome.**

LG10-1

LG10-1

Comment noted.

Mat-Su contends that, in the DEIS, the Commission Staff performed only a " cursory" review of Port MacKenzie as an alternative site for the Alaska LNG export terminal.² This contention is incorrect. The Commission Staff conducted the necessary NEPA analysis in concert with cooperating federal agencies, including the United States Army Corps of Engineers ("USACE"), leading to its conclusion in the DEIS that the Nikiski location is the appropriate site for the Alaska LNG export terminal.

In formulating the DEIS, the Staff reviewed the extensive information filed by AGDC and Mat-Su regarding the Port MacKenzie alternative.³ The information provided by AGDC and Mat-Su which was considered in the formulation of the DEIS included:

- Resource Report No. 10 to AGDC's Section 3 Application, dated April 17, 2017, which included an initial summary of AGDC's predecessors' extensive screening analysis of Mat-Su's proposed site conducted during and prior to the pre-filing process.
- Mat-Su's Motion to Intervene Out-of-Time and Comments, filed January 9, 2018.
- AGDC's Answer to Mat-Su's Motion to Intervene Out-of-Time and Comments, filed January 23, 2018.
- Environmental Data Request No. 20 from FERC Staff, dated February 15, 2018, which sought clarity from AGDC on 14 questions regarding the Port MacKenzie site.
- AGDC's response to FERC's Environmental Data Request No. 20, filed July 13, 2018, which provided over 20 pages of responses to FERC's questions about the Port MacKenzie site.
- Mat-Su's Comments, filed September 14, 2018.
- AGDC's Answer to Mat-Su's Comments, filed October 2, 2018.

² Mat-Su Motion, pp. 2, 7.

³ DEIS, pp. 3-34, 3-36 – 3-39.

LG10 - Kenai Peninsula Borough (cont'd)

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- Environmental Data Request Nos. 51 and 52 from FERC Staff, dated October 2, 2018, which included numerous follow-up questions regarding the Port MacKenzie site.
- Mat-Su's Response to AGDC's Answer, filed October 16, 2018.
- AGDC's response to FERC's Environmental Data Request Nos. 51 and 52, filed October 22, 2018, which included follow-up responses regarding the Port MacKenzie site.
- AGDC's response to FERC's Environmental Data Request No. 52, filed November 20, 2018, which included multiple pages of follow-up analysis regarding Port MacKenzie.
- Mat-Su's Comments regarding AGDC's Data Response, filed January 25, 2019.
- AGDC's Answer to Mat-Su's Comments, filed February 13, 2019.
- AGDC's supplemental response to FERC's Environmental Data Request No. 52, filed February 19, 2019, which corrected a figure from its November 20, 2018 response.

LG10-1

In addition, on October 3, 2019, Mat-Su filed extensive information in response to the DEIS. This additional information will of course be considered by the Commission Staff along with any responses from AGDC and others in the Staff's formulation of the FEIS. As can be seen, there is extensive information in the record of this proceeding on the Port MacKenzie location.

In reality, Mat-Su's contention is not so much a complaint about the extent of the review by the Commission Staff of the Port MacKenzie location, as it is a complaint about the conclusion reached by the Staff in the DEIS that the Port MacKenzie alternative "would not provide a significant advantage over the proposed Nikiski site".⁴ Accordingly, there is no need to supplement the DEIS. The Commission Staff is proceeding appropriately.⁵

⁴ DEIS, p. 3-39.

⁵ AGDC was created by Alaska statute and delegated the authority to select the site for the Alaska LNG export terminal. Mat-Su is questioning the decision of the State of Alaska.

LG10 - Kenai Peninsula Borough (cont'd)

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II. Mat-Su's Argument that the Record in this Proceeding Is Not Sufficient Support for the Required U.S. Army Corps of Engineers Authorizations under the Clean Water Act Does Not Withstand Scrutiny.

LG10-2

LG10-2

Comment noted.

Mat-Su correctly notes that the USACE must determine whether to permit the Alaska LNG project to discharge dredge or fill material into waters of the United States under Section 404 of the Clean Water Act ("CWA"). Mat-Su also correctly notes that the USACE can do that only after it evaluates alternatives to the proposed project to determine if they are practicable, and then further evaluates those alternatives found to be practicable to determine whether the applicant's proposed project as configured is the least environmentally damaging practicable alternative ("LEDPA") from an aquatic resources perspective.⁶ Where Mat-Su goes awry is in its contention that the USACE cannot make a LEDPA finding because the record supporting the DEIS and the resulting alternatives analysis prepared by the FERC Staff are allegedly not sufficient as to the Port MacKenzie alternate location.⁷

Mat-Su's argument immediately fails because, as noted above, extensive information has been filed in the record of this proceeding regarding the environmental impacts of both the Nikiski site and the Port MacKenzie alternate location (as well six other possible locations)⁸ and considered in detail in the DEIS. As stated in the DEIS, "[a]s required by NEPA and Commission policy, and in cooperation with the [USACE] per its responsibilities under the CWA ... [FERC Staff] identified and evaluated reasonable alternatives to the Project and its various components to determine whether any such alternatives would have significant environmental advantages over the proposed action", including "Liquefaction Facilities alternatives..."⁹ As the DEIS notes, "[m]ultiple comments were received in support of an alternative LNG terminal site ... at Port Mackenzie," including those noted above by Mat-Su, and "[a]ll comments received

⁶ See DEIS pp. 1-6, 3-1.

⁷ Mat-Su Motion, p. 9.

⁸ DEIS, Table 3.8.1-1.

⁹ DEIS, p. 3-1. See DEIS Section 3.0.

LG10 - Kenai Peninsula Borough (cont'd)

before issuance of this draft EIS were considered and addressed as appropriate in our analysis.¹⁰ | LG10-2

Mat-Su's argument also fails because the ongoing NEPA process will be further informed by the additional information filed by AGDC and Mat-Su in response to the DEIS before the federal agencies render their final statement and before USACE makes its LEDPA finding. As one of nine cooperating federal agencies already involved in this ongoing NEPA review, the public comment process and the development of the resulting FEIS will provide the USACE with a detailed and informed assessment on which to base its LEDPA determination. Indeed, as FERC itself notes, "[a]lthough the cooperating agencies provided input to the conclusions and recommendations presented in the draft EIS, the agencies will present their own conclusions and recommendations in their respective Records of Decision for the Project",¹¹ including the USACE's CWA Section 404 permitting decision. | LG10-3

LG10-3 Comment noted.

In any event, an alternative project is not "practicable" and therefore need not be considered in a LEDPA determination if the alternative is not "available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes".¹² As explained below, the Port MacKenzie site cannot meet one of the Alaska LNG project's purposes, that is, to provide a gas pipeline interconnect on the Kenai Peninsula. Nor will the USACE need to consider an alternative project in its LEDPA determination if the alternative would have "other significant adverse environmental consequences".¹³ As demonstrated below, FERC concluded that the Port MacKenzie location | LG10-4

LG10-4 Comment noted.

¹⁰ DEIS, p. ES-3.

¹¹ Notice of Availability of Draft Environmental Impact Statement for the Proposed Alaska LNG Project, p. 1 (June 28, 2019).

¹² 40 C.F.R. § 230.3(f) (2019), and as noted in DEIS p. 1-6.

¹³ 40 C.F.R. § 230.10(a) (2019).

CC-477

LG10 - Kenai Peninsula Borough (cont'd)

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would create other significant adverse environmental consequences that do not exist at the Nikiski location. | LG10-4

III. The Nikiski Location for the Alaska LNG Export Terminal is Environmentally Preferable to the Port MacKenzie Alternative.

As concluded in the DEIS, the Port MacKenzie site "would not provide a significant environmental advantage over the proposed Nikiski site".¹⁴ After nearly three single-spaced pages discussing the Port MacKenzie alternative, FERC Staff properly weighed the environmental advantages of the alternative: | LG10-5

Overall, the Port MacKenzie site offers certain environmental advantages, which include a shorter mainline pipeline length, avoidance of the Cook Inlet pipeline crossing, and elimination of the need to relocate the Kenai Spur Highway. Impacts on wetlands would be reduced by about 27 acres, and by avoiding a Cook Inlet pipeline crossing, short-term impacts on beluga whales during construction would be reduced.¹⁵

But FERC then compared those advantages to the Nikiski site's environmental advantages:

The proposed Project is superior in certain other respects to the Port MacKenzie Alternative. Beluga whale impacts associated with operation of the liquefaction facilities would be greater with the Port MacKenzie Alternative, and these impacts would persist for the life of the Project, as opposed to the short term impact presented by the Cook Inlet pipeline construction for the proposed route. Operational air emissions would be greater for the Port MacKenzie Alternative owing to the increased shipping distances. Additionally, ice conditions in Upper Cook Inlet could hamper the ability to meet the proposed export volumes required to meet the Project's principal commercial objective. Moreover, the Port MacKenzie Alternative would allow for only two of the three currently identified gas delivery points within the state.¹⁶

Having properly weighed the alternatives -- both in terms of their environmental impacts and whether Port MacKenzie is even a practicable alternative -- FERC concluded that the Port MacKenzie alternative would both prevent the Project from meeting one of its goals (discussed below) and that the Nikiski site will have less impact on the environment:

Consequently, although the Port MacKenzie Alternative would be technically feasible, it would not allow the Project to meet all its objectives. Moreover, its environmental

¹⁴ DEIS, p. 3-39.

¹⁵ *Id.*

¹⁶ *Id.*

LG10-5 Comment noted.

CC-478

LG10 - Kenai Peninsula Borough (cont'd)

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advantages are not sufficiently great to offset operational environmental impacts stemming from the increased vessel traffic in Upper Cook Inlet. Therefore, we conclude that it would not provide a significant environmental advantage over the proposed Nikiski site.¹⁷

LG10-5

IV. Providing a Natural Gas Pipeline Interconnection on the Kenai Peninsula Is One of the Purposes of the Alaska LNG Project.

Mat-Su argues that providing a natural gas pipeline interconnection on the Kenai Peninsula is not one of the purposes of the Alaska LNG project.¹⁸ Mat-Su apparently feels compelled to make this argument because locating the Alaska LNG Project at Port MacKenzie would deprive the Kenai Peninsula of this direct benefit.

LG10-6

LG10-6

Comment noted.

Mat-Su concedes that one of the purposes of the Alaska LNG project, as stated in the DEIS, is to "provide interconnections along the pipeline to allow for in-state gas deliveries, benefiting Alaska gas users and supporting long-term economic development."¹⁹ It also concedes that AGDC has stated that: "[a]long the Mainline route, there would be at least five gas interconnection points [. . . including at] MP 807 to serve the Kenai Peninsula."²⁰ Mat-Su contends that the Kenai gas interconnect is not an "integral component" of the Alaska LNG project because AGDC stated that none of the third-party facilities used to condition or transport natural gas away from the interconnection point with the AGDC's pipeline are part of the project.²¹ Mat-Su's contention misses the mark.

¹⁷ *Id.* See also DEIS, p. 3-38 – 3-39 ("The Port MacKenzie site is near the City of Anchorage, where over 50 percent of the state's population lives. In addition, the LNG carriers would pass near the Port of Alaska, which, because it receives material and supplies for the Elmendorf Air Force Base, is classified as a strategic port by the Department of Defense. Whether the LNG vessel transits would be compatible with the operation of Elmendorf Air Force Base and with the dense commercial and population centers associated with Anchorage would need to be assessed during the determination of suitability of the waterway for LNG marine traffic by the Coast Guard").

¹⁸ Mat-Su Motion, pp. 3-6.

¹⁹ Mat-Su Motion, p. 4, citing DEIS, p. 1-3.

²⁰ *Id.*, citing the AGDC Section 3 & 7 Application.

²¹ *Id.*

LG10 - Kenai Peninsula Borough (cont'd)

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AGDC has not said that the Kenai interconnect is not part of the project; in fact, as quoted above, AGDC has stated the opposite. AGDC is only saying the facilities downstream of the interconnect are not part of its project. Those downstream facilities will likely be owned by a third-party, perhaps by ENSTAR, but they are not part of the Alaska LNG project. The interconnect on the Kenai Peninsula will be a direct benefit from the project as proposed, a benefit that will not exist if the Alaska LNG export terminal were located at Point MacKenzie.

LG10-6

Mat-Su alternatively contends that gas service from an interconnect at Port MacKenzie, with a gas line of the ENSTAR distribution system in the Anchorage area, could serve the Kenai Peninsula.²² This contention lacks sufficient detail to be considered. It is unknown whether ENSTAR has any plans for such interconnection and service, what contractual constraints ENSTAR may have, what ENSTAR facilities would have to be installed to deliver additional gas supplies to the Kenai Peninsula, and whether the gas service via Port MacKenzie to ENSTAR to the Kenai Peninsula would be affordable, practicable or viable compared to gas service from the Kenai interconnect and even current options.

V. The Draft EIS Does Not Need to Be Supplemented as the FERC Staff Can Include Any Additional Analysis It Feels Necessary in the FEIS.

Even if what Mat-Su contends is somehow correct (which it is not for the reasons discussed above), an opportunity to supplement the record of this proceeding became available once the DEIS was issued. In fact, Mat-Su has already taken the opportunity to file extensive comments on the DEIS which the Commission Staff will consider along with any responses by AGDC and others. There is simply no need to require a supplement to the DEIS. Requiring a supplement to the DEIS will only slow down the process and delay a Commission ruling on AGDC's application for the Alaska LNG project, a delay that is not in the public interest.

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Comment noted.

²² *Id.*, p. 5.

LG10 - Kenai Peninsula Borough (cont'd)

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As the Mayor of the Kenai Peninsula Borough explained, locating the Alaska LNG export terminal in Nikiski will place the terminal in an area where "LNG has been safely manufactured and shipped . . . to world markets for over 40 years".²³ The extensive information in the record of this proceeding bears out the benefits of the Nikiski location and supports the finding that the other proposed alternatives would not have any significant environmental advantage over the Nikiski location.

LG10-8

LG10-8 Comment noted.

²³ Letter from Honorable Charlie Pierce, Mayor of the Kenai Peninsula Borough, dated October 2, 2019, page 2.

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LG10 - Kenai Peninsula Borough (cont'd)

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CONCLUSION

WHEREFORE, for the foregoing reasons, the Kenai Borough respectfully requests that the Commission deny the Mat-Su Motion and that the Commission Staff proceed, as it has, to analyze the proposed Alaska LNG project site in Nikiski, Alaska and proceed to the issuance of a Final Environmental Impact Statement by March 6, 2020, consistent with the above.

Respectfully submitted,

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Dated: October 15, 2019

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CERTIFICATE OF SERVICE

Pursuant to Rule 2010 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.2010, I hereby certify that I have on this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, DC. this 15th Day of October, 2019.

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LG11 – Matanuska-Susitna Borough

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

In the Matter of the Application of:) Docket No. CP17-178-000
)
Alaska Gasline Development Corporation)

**MOTION FOR LEAVE TO FILE RESPONSE AND RESPONSE OF
MATANUSKA-SUSITNA BOROUGH TO ANSWER OF
ALASKA GASLINE DEVELOPMENT CORPORATION
AND KENAI PENINSULA BOROUGH**

Pursuant to Rules 212 and 213 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“FERC” or “Commission”), 18 C.F.R. §§ 385.212 and 385.213 (2019), the Matanuska-Susitna Borough (“MSB”) hereby requests leave to submit this response and responds to the Answer of Alaska Gasline Development Corporation (filed on October 11, 2019) (“AGDC Answer”) and Answer of the Kenai Peninsula Borough (filed on October 15, 2019) (“Kenai Answer”) to MSB’s Motion for a Supplemental Draft Environmental Impact Statement (“DEIS”) for the Alaska LNG Project (“Project”) (filed on September 27, 2019) (“MSB Motion”). MSB submits this response to correct certain errors contained in the AGDC Answer and Kenai Answer and to assist the Commission with its understanding of the key issues in this proceeding.

AGDC and Kenai both argue that the DEIS adequately analyzes the Port MacKenzie site alternative and that the MSB Motion lacks merit. The Commission should ignore such conjecture, since the U.S. Army Corps of Engineers (“USACE”), a cooperating agency on the Project, has filed comments that flag the same deficiencies as MSB regarding the DEIS. In fact, USACE’s comments note that the DEIS Alternatives Analysis contains certain statements that may be “inaccurate,” “misleading,” and even “indicate[] an extreme bias on FERC’s part for the

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LG11-1 Comment noted.

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LG11- Matanuska-Susitna Borough (cont'd)

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proposed Project.”¹ Therefore, the Commission should grant MSB’s Motion for a Supplemental DEIS to address these shortcomings and errors now in order to prevent delay for the Project in the future. | LG11-1

I. Motion for Leave to Respond

MSB respectfully requests leave to file this response to the AGDC and Kenai Answers pursuant to Rule 213(a)(2). 18 C.F.R. § 385.213(a)(2). While MSB recognizes that answers to answers are generally not permitted, the Commission has permitted such answers upon a showing of good cause and when such answers will not cause undue delay of the proceeding or prejudice to other parties.² Good cause, as defined by the Commission, exists in this case. As shown below, AGDC and Kenai have made numerous factual misstatements and mischaracterizations that require clarification and/or correction. Therefore, this response “will facilitate the decisional process [and] aid in the explication of issues,”³ “clarify the issues in dispute and...ensure a complete and accurate record,”⁴ aid in resolving complex issues,⁵ “correct factual misstatements,”⁶ and provide “useful and relevant information to the Commission

¹ Comments of USACE on Alaska LNG DEIS, Docket No. 17-178-000 (Document No. 20191003-5133), Comment Nos. 18, 20 & 21 (Oct. 3, 2019) (hereinafter “USACE Comment”).

² See *SPPP, L.P.*, 127 FERC ¶ 61,312 at P 17 (2009) (accepting an answer to an answer “as further elucidating the issues”); see also *Buckeye Pipe Line Co.*, 45 FERC ¶ 61,046, at 61,160 (1988); *Tennessee Gas Pipeline Co.*, 137 FERC ¶ 61,105, at P 16 (2011) (allowing answers to answers “because doing so will not cause undue delay and they may assist us in our decision-making process.”); *El Paso Natural Gas Co.*, 132 FERC ¶ 61,155, at P 60 n.55 (2010); *High Island Offshore System, L.C.C.*, 113 FERC ¶ 61,202 at P 8 (2005); *Transcon. Gas Pipe Line Co., LLC*, 130 FERC ¶ 61,019 at P 9 (2010) (“[T]he Commission may waive its procedural rules to accept such answers when doing so will not unduly delay the proceeding or prejudice any party, and the answer will clarify the issues and assist the Commission in its decision making”).

³ *Transwestern Pipeline Co.*, 50 FERC ¶ 61,211, at 61,672 n.5 (1990).

⁴ *Transcon. Gas Pipe Line Corp.*, 68 FERC ¶ 61,338, at 62,354 (1994).

⁵ *Ohio Power Co.*, 46 FERC ¶ 61,180, at 61,595 (1989).

⁶ *S. Minnesota Mun. Power Agency v. N. States Power Co.*, 57 FERC ¶ 61,136, at 61,494 (1991).

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which...assist[s] in the decision-making process."⁷ In addition, this response will not cause any delay whatsoever to this proceeding or prejudice to any party. Accordingly, MSB respectfully requests that the Commission grant MSB leave to respond to the AGDC and Kenai Answers.

II. The Port MacKenzie Alternative Meets the Project's Objectives

The MSB Motion noted that the Port MacKenzie site alternative was excluded from a full analysis in the DEIS based on an erroneous finding that it could not accommodate an interconnect at the Kenai Peninsula. AGDC and Kenai both continue to defend this portion of the DEIS Alternatives Analysis. See Kenai Answer at 5 ("the Port MacKenzie site cannot meet one of the [Project's] purposes, that is, to provide a gas pipeline interconnect on the Kenai Peninsula"); AGDC Answer at 3 ("The absence of a specific reference to a future 'Kenai Peninsula interconnection' in the Purpose and Need Statement is immaterial").

Neither AGDC nor Kenai acknowledge that USACE, a cooperating agency for the Project, is in agreement with MSB and identified the same flaw in the DEIS Alternatives Analysis. USACE's comments, submitted to the Commission before the AGDC and Kenai Answers, states in relevant part:

FERC defines the Project objective as, "...to commercialize North Slope natural gas reserves by treating and liquefying the gas and then exporting it to foreign markets, while also providing for in-state deliveries." This stated objective does not define how many or where those in-state deliveries would be. **Therefore, the Port MacKenzie Alternative meets the stated Project objective.** If FERC is going to use the lack of a Kenai Peninsula intertie as a reason to dismiss the Port MacKenzie Alternative, then the Project objective needs to be revised.⁸

The DEIS acknowledges that the Port MacKenzie site alternative would allow for connections to the existing ENSTAR pipeline system and would accommodate all contemplated

⁷ *Transwestern Pipeline Co.*, 50 FERC ¶ 61,362, at 62,090 n.19 (1990).

⁸ USACE Comment No. 22 (emphasis added).

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See the updates to sections 1.1 and 3.8.1.1 of the final EIS.

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in-state deliveries. See DEIS at 3-37 (“The mainline pipeline to the Port MacKenzie site would, like the proposed Project, connect to ENSTAR’s distribution system, which serves the Municipality of Anchorage as well as the MSB and Kenai Peninsula Borough”). AGDC’s and Kenai’s attempts to incorporate a Kenai Peninsula interconnect as a Project objective would define the Project so narrowly that only the Nikiski site would satisfy it; this is a blatant attempt to eliminate all reasonable alternatives in order to rig the process in favor of Nikiski. *Citizens Against Burlington, Inc. v. Busey*, 938 F.2d 190, 196 (D.C. Cir. 1991) (“an agency may not define the objectives of its action in terms so unreasonably narrow that only one alternative from among the environmentally benign ones in the agency’s power would accomplish the goals of the [project], and the EIS would become a foreordained formality”).

LG11-2

The Commission should not give credence to AGDC’s and Kenai’s *post-hoc* efforts to shoehorn a Project objective into the DEIS that does not currently exist. A potential future interconnect location at the Kenai Peninsula is not a Project objective and therefore cannot be used to weigh the DEIS Alternatives Analysis against the Port MacKenzie site alternative.

LG11-3

LG11-3

See the updates to sections 1.1 and 3.8.1.1 of the final EIS. An interconnect on the Kenai Peninsula was identified in AGDC’s application to FERC as one of the proposed locations for future in-state deliveries of natural gas.

III. The DEIS Alternatives Analysis Is Inadequate and Based on Incorrect Information

AGDC argues “the DEIS fully analyzes and compares the environmental impacts of the Nikiski and Port MacKenzie sites.” AGDC Answer at 4. This is absurd. As noted by AGDC, the DEIS “includes approximately three pages of analysis of the Port MacKenzie site” (AGDC Answer at 2 (emphasis added)) while committing hundreds of pages to the direct and indirect environmental impacts associated with the Nikiski site. This does not come close to satisfying the requirement that “[t]he degree of analysis devoted to each alternative in the EIS is to be substantially similar to that devoted to the proposed action.”⁹ See also *Ctr. for Biological*

LG11-4

LG11-4

Comments noted. See the updates to section 3.8.1.3 of the final EIS.

⁹ Council on Environmental Quality, *Forty Most Asked Questions Concerning CEQ’s National Environmental Policy Act Regulations*, 46 Fed. Reg. 18026, 18028 (Mar. 23, 1981).

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Diversity v. United States, 623 F.3d 633, 642 (9th Cir. 2010) (“every EIS must rigorously explore and objectively evaluate all reasonable alternatives...The existence of reasonable but unexamined alternatives renders an EIS inadequate”) (internal quotations and citations omitted).

Contrary to the contentions of AGDC and Kenai, USACE agrees that the DEIS Alternatives Analysis provides an inadequate assessment of Port MacKenzie. USACE’s comments recommend “further discussion in this analysis about the conditions at [Port MacKenzie], what measures would be needed in order to operate there safely due to [tidal and ice] conditions, and whether or not implementation of those measures are reasonable and practicable.” USACE Comment No. 23.

Moreover, the DEIS Alternatives Analysis is based on erroneous information. Correction LG11-4 of these errors could alter the Commission’s preferred alternative and will undoubtedly impact USACE’s LEDPA analysis. For example, as noted in MSB’s comments, the DEIS incorrectly states that 700,000 cubic yards of dredging annually would be required in Knik Shoal to allow LNG vessels to access Port MacKenzie.¹⁰ USACE also has flagged this error and commented that this is a “misleading statement, and should be removed or revised from the EIS. The Corps doesn’t annually dredge the shoal, although they do monitor the shoal for assessing dredge requirements.” USACE Comment No. 18. Once this correction is incorporated into the DEIS, Table 3.8.1-1 (the Comparison of Alternative Sites) will show that the dredging required for Port MacKenzie is less than for Nikiski.¹¹

¹⁰ Comments of MSB on DEIS, Docket No. CP17-178-000 (Document No. 20191003-5195), Part A, page 5 (Oct. 3, 2019).

¹¹ As discussed in MSB’s comments (see Part A, page 5), the correct amount of dredging required for Port MacKenzie is approximately 91,500 cubic yards, which is substantially less than required for Nikiski (800,000 cubic yards). However, even if the only change made to Table 3.8.1-1 is to subtract the erroneous inclusion of 700,000 cubic yards, the dredging amount required for Port MacKenzie is less than for Nikiski.

LG11-4 Comments noted. See the updates to section 3.8.1.3 of the final EIS.

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USACE also noted the DEIS's misleading statement that the Nikiski alternative would result only in short-term Beluga whale impacts, while such impacts would persist for the life of the Project if the liquefaction facility were located at Port MacKenzie. USACE called this finding "an inaccurate, or misleading, summary:"

FERC's discussion of beluga whale impacts was a statistical analysis of the probability of beluga whale strikes and construction in beluga whale critical habitat. [The DEIS] summary makes it seem as though after construction of the Cook Inlet crossing, impacts to beluga whales would cease for the proposed Project; ... Impacts to beluga whales would persist throughout the life of the Project no matter the location (in Cook Inlet). The impacts, or likelihood of impacts, are just at different degrees.

USACE, Comment No. 21 (emphasis added).

AGDC and Kenai rely heavily on the DEIS's finding that Port MacKenzie would not provide a significant environmental advantage over the proposed Nikiski site. AGDC Answer at 5; Kenai Answer at 3. However, as noted above, this conclusion is based on an inadequate analysis that does not rigorously explore the Port MacKenzie site alternative in the same manner as Nikiski. Moreover, for the brief analysis contained in the DEIS, MSB and USACE have noted multiple substantive errors that undoubtedly have impacted FERC's analysis. These errors are especially relevant to USACE's LEDPA analysis. In order to ensure the DEIS withstands judicial scrutiny, the Commission should correct these errors now so that these inadequacies do not result in challenges in the future.

Finally, Kenai's own comments also show that the DEIS was premised upon erroneous information. The first line in Kenai's bullet point list of materials relied upon in the DEIS reads "Resource Report No. 10 to AGDC's Section 3 Application, dated April 17, 2017, which included an initial summary of AGDC's predecessors' *extensive screening analysis of Mat-Su's proposed site conducted during and prior to the pre-filing process.*" Kenai Answer at 2 (emphasis added). As shown by MSB's earlier filings, and in particular its Motion to Intervene

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Out of Time, the site which received “extensive screening” was not Port MacKenzie. Rather, it was a site near Mule Creek approximately 2 miles to the north of Port MacKenzie. Kenai’s assertion that an analysis of a wrong site will satisfy the regulatory process is an assertion which strains credulity. LG11-4

IV. Conclusion

MSB respectfully requests that FERC grant MSB’s Motion for a Supplemental DEIS to ensure FERC and all cooperating agencies satisfy their statutory obligations in the most efficient manner possible and avoid unnecessary disputes in the future regarding the adequacy of the DEIS’s Alternatives Analysis.

Respectfully Submitted,

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Dated: October 18, 2019

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