

State asks court to toss Bradwood site's approval

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The state of Oregon asked the 9th U.S. Circuit Court of Appeals on Monday to overturn federal regulators' approval of the Bradwood Landing liquefied natural gas terminal, proposed for a site 20 miles east of Astoria on the Columbia River.

The appeal is the first legal move by the state after a four-year administrative process by the Federal Energy Regulatory Commission that resulted in a conditional approval of the facility in September.

Gov. Ted Kulongoski, members of Oregon's congressional delegation and state natural resources agencies have complained that FERC's process was incomplete and flawed. But the agency declined earlier this month to rehear the case.

Monday's appeal does not constitute an objection to an LNG terminal in Oregon, per se. Rather, the governor, Attorney General John Kroger and state agencies contend that the regulatory commission's approval was procedurally flawed -- mainly that it was granted before necessary state permits had been processed or a sufficiently rigorous analysis of its environmental impact was completed.

Bradwood's developer, Houston-based NorthernStar Natural Gas Inc., can file for intervenor status in the case, but the lawsuit largely relegates it to observer status in what could be a drawn-out state's rights fight between Oregon and the federal government.

NorthernStar spokesman Joe Desmond said the company had always anticipated the possibility of a federal court appeal and built it into project development plans. The company will carry on with state permitting and its consultation with the National Marine Fisheries Service while the court case plays out.

Such a delay could prove costly, however. NorthernStar originally hoped Bradwood would be fully permitted and free to start construction by the end of 2007. Not only has it been delayed well past that date, but also the 9th Circuit can take a year to schedule oral arguments in a new case, and potentially 18 months to two years to resolve it.

If the court sides with Oregon and remands the case back to the regulatory commission, the state concerns could receive a friendlier hearing.

President Barack Obama last week appointed Jon Wellinghoff as the acting head of FERC. Wellinghoff issued a strongly worded dissent to FERC's Bradwood approval in September. He was the lone holdout in a 4-1 decision, but opponents believe he may now be in a position to sway the process in Oregon's direction.

Bradwood is one of three proposed LNG terminals in Oregon. The terminals propose to offload cargoes of natural gas that have been condensed into liquid for shipment across the Pacific, rewarm them into gas, and distribute the product throughout the West Coast by pipeline.

Backers cite benefits

Backers of the projects contend that Oregon would do well to diversify its gas supply and that LNG will help drive down gas prices as supplies in the United States and Canada -- where Oregon gets most of its gas -- get tighter in the future.

A significant delay for Bradwood might give time to the two competing LNG projects to catch up in the permitting process. Bradwood is the first U.S. LNG project on the West Coast to receive federal approval. Most experts think only one LNG terminal, if any, will ever be built in Oregon, which has turned the regulatory process into a horse race.

Opponents, who contend Bradwood is an unnecessary environmental catastrophe in the making, are hoping the project will suffer death by a thousand cuts.

In addition to the state appeal of FERC and the numerous state permits Bradwood needs, the Oregon Land Use Board of Appeals is scheduled to decide today on a challenge by conservation and tribal groups of Clatsop County's land-use approval for Bradwood.

The National Oceanic and Atmospheric Administration, the parent agency of the fisheries service, also must determine whether Bradwood jeopardizes endangered salmon on the Columbia. NOAA's new chief, Jane Lubchenco, is a marine biologist from Oregon State University.

Palomar project waits

The state suit against FERC also could leave the proposed Palomar pipeline project in limbo. Palomar is a joint venture between TransCanada and the holding company for the Portland-based gas utility Northwest Natural Gas.

The 217-mile pipe would connect Bradwood to NW Natural's gas storage wells in Mist, to the utility's customers in the Willamette Valley, and to an interstate pipeline in central Oregon that could ship the imported gas south to consumers in California.

NW Natural and TransCanada contend they will build the eastern portion of Palomar, between NW Natural's regional distribution hub in Molalla and the central Oregon town of Madras, whether or not Bradwood is built. NW Natural says it needs a more diverse supply of natural gas and could reduce its reliance on an existing pipeline through the Columbia River Gorge by building a cross-Cascades pipe through the Mount Hood National Forest.

Yet the ability to serve as the shipper for the vast quantities of gas from an LNG terminal is a lucrative opportunity for NW Natural. And before investing in a smaller pipe for its own needs, it will wait to see whether Bradwood gets the go-ahead.