

The Oregonian

Federal regulators OK environmental review for Oregon LNG terminal

Energy - Regulators sign off on an environmental review, but legal challenges loom for the terminal from an array of critics

Saturday, June 07, 2008

TED SICKINGER

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In a decision that could have long-lasting implications for Oregon's energy supply, federal regulators gave their environmental endorsement Friday to a controversial proposal to build a liquefied natural gas terminal on the lower Columbia River.

The Federal Energy Regulatory Commission found that the Bradwood Landing terminal, 20 miles upriver from Astoria, would have "limited adverse environmental impacts." Those impacts, the agency added, would be substantially reduced by environmental measures proposed by the project's backer, Houston-based NorthernStar Natural Gas Inc., as well as 110 additional recommendations from FERC.

FERC's action drew a rebuke from Gov. Ted Kulongoski, who has criticized the agency's laissez-faire regulatory approach and had requested a more thorough analysis of the state's gas needs and the project's effects.

"We will be looking at this report closely and will use all legal options available to us," an e-mailed statement from Kulongoski said. "FERC's decision to move this project forward merely represents more of the same . . . irresponsibly considering this project only from the supply-side of the marketplace."

Brent Foster, executive director of the environmental group Columbia Riverkeeper, asserted that the FERC review didn't meet the most basic legal requirements of the National Environmental Policy Act, as it didn't quantify specific environmental effects and offered only vague recommendations about steps to address them.

"FERC should have had an attorney look at this thing before they sent it out because if you're thinking about it in terms of a legal challenge, you couldn't have asked for a better analysis," Foster said.

Nevertheless, Bradwood is the first LNG terminal among nearly a dozen proposed on the West Coast of the United States to receive a final environmental impact statement from FERC. The regulatory step provides documentation to support a licensing decision by FERC's three commissioners, who are widely expected to issue a conditional approval of the project in coming months. As such, the action gives NorthernStar a major boost in the horse race to import vast quantities of foreign natural gas to the region.

"FERC's acceptance of our comprehensive environmental commitment is a testament to the thoroughness with which we have approached the development of this project," NorthernStar Chief Executive William "Si" Garrett, said in a statement. "We have been sensitive to the concerns of local counties, the state of Oregon, and the public."

FERC's analysis does not, however, constitute a go-ahead for the project.

In addition to a final vote by FERC commissioners, Bradwood needs permits from state agencies under the Clean Air, Clean Water and Coastal Zone Management acts, and a determination by federal fishery and wildlife agencies that the project doesn't jeopardize endangered salmon.

Those may not be quickly forthcoming.

State natural resource agencies have complained since last fall that FERC's draft environmental review of Bradwood was deeply flawed. Last month, the governor asked FERC to redo it based on newly available information, including a study by the Oregon Department of Energy concluding that the state doesn't need LNG and could meet its future gas needs more economically and with less pollution by importing more gas from Wyoming.

The FERC analysis gives short shrift to Kulongoski's request that it include a programmatic review of six proposals to bring more gas to the state, as well as a full-blown analysis of the terminal's greenhouse gas emissions.

State reviews FERC

Kulongoski has sought advice on the state's legal options from Attorney General Hardy Myers about whether FERC opted against addressing his concerns. The analysis is due from the state Department of Justice in coming weeks.

The governor's natural resources policy director, Mike Carrier, said a deficient environmental review could form the basis for a legal challenge to the project, but the governor wouldn't take action until FERC's commissioners issue a final licensing decision.

"Until the agency takes an action, what's your complaint -- that they did sloppy work?" he said. "What's actionable is a decision point reached by the federal agency."

At least one of FERC's 110 recommendations could become a headache for NorthernStar. The review recommended that NorthernStar develop a plan within 30 days to assure that all LNG tankers using Bradwood screen the river water they suck up for ballast so that they don't kill juvenile salmon.

NorthernStar originally proposed a ballast-water screening system to overcome harms to fish. The company's problem, however, is that it can't guarantee all carriers would use it.

NorthernStar told FERC in an April legal opinion that "over time," the company expected LNG carriers regularly visiting Bradwood would use an on-site ballast-screening system. "However, to date, there are no LNG carriers configured to accept filtered ballast and cooling water from an on-site water system."

The company says it will offer incentives to tanker owners under long-term contracts to retrofit their ships with intake screens. But it isn't confident that all vessels would be retrofitted. Instead, it has proposed to implement a performance standard measuring the impact on the fish.

Ballast-intake screens aren't required for other ships that use the Columbia, and the concept is untested. As a result, the impact on salmon hasn't been measured -- another flaw in the federal review, opponents say.

NorthernStar, meanwhile, has asked FERC to keep options open until federal fisheries agencies deliver a biological opinion on the project, which would presumably determine the effect on salmon with or without screens.

"We will work with FERC on this," NorthernStar spokesman Charles Deister said Friday. "This is not an impossible hurdle."

Effective lobbyist

Indeed, NorthernStar has proved an effective lobbyist with federal agencies. In February, the company persuaded officials at the National Marine Fisheries Service to issue a clarification letter backing off a preliminary recommendation that the Army Corps of Engineers deny a dredging permit for Bradwood. The recommendation had said the impact on salmon was heavy and NorthernStar's application was deficient.

"NorthernStar has a bevy of good attorneys, and they'll figure their way out of this," said Julie Carter, an attorney for the Columbia River Inter-Tribal Fish Commission.

The National Marine Fisheries Service has expressed major concerns about ballast water intake as well as salmon being beached by the wake of big ships using the site. Bradwood Landing is adjacent to Clifton channel, an important shallow-water habitat for juvenile fish. The terminal also would fill an old log pond at an abandoned mill site that is periodically filled by river overflow and contains fish.

In addition, NorthernStar faces challenges at the local level.

Opponents say the company has yet to finalize its public-safety plans for the terminal, and they have challenged Clatsop County's zoning approvals for the projects to the state Land Use Board of Appeals. Residents in Clatsop County have launched a ballot measure to prohibit the company from using county-owned parkland for routing its pipeline.

Ted Sickinger: 503-221-8505, tedsickinger@news.oregonian.com